

Cuts to legal aid deny hundreds of thousands access to justice in the UK

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20 November 2013

The cutting of legal aid funding and the denial of access to justice are integral to the ever-increasing attacks on civil liberties and the denial of democratic rights, amid escalating attacks on the living conditions of millions of people in the UK.

In April the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LAPSO) came into force. It seeks to reform the legal aid system in England and Wales with the aim of saving £350 million a year.

The modern system of Legal Aid in the UK was created by the Legal Advice and Assistance Act 1949. This was part of the establishment of the welfare state by the post-war Labour Party government and was the first coherent attempt to provide a comprehensive system of state-funded legal aid. Prior to this, legal advice for poorer litigants was either non-existent or relied heavily on the good will of lawyers.

Legal Aid was formed from proposals by the Rushcliffe Committee, which reported to Parliament in May 1945. The proposals included legal aid being available in all courts and in such a manner as to enable people in need to have access to the professional help they require. Legal aid provision was not to be limited to those who are normally classed as poor, but to include a wider income group. Incorporated into the scheme was the concept that those too poor to pay anything for legal aid should receive it free of cost.

The LAPSO legislation ends this framework, stipulating that numerous types of cases are no longer eligible for public funding, including welfare benefits, employment law, child contact, divorce, clinical negligence debt and housing law, except in very limited circumstances. Prior to the implementation of these changes many in the legal profession had warned that the cuts to legal aid can only lead to many having no access to justice at all.

The government admits that over 600,000 cases a year will no longer be funded.

A report, “The Impact of Legal Aid Cuts on Advice-Giving Charities in Liverpool: First Results” has been written by Jennifer Sigafoos and Debra Morris from the Charity Law & Policy Unit, University of Liverpool. It shows a stark picture of services under threat of closure and clients not being able to access legal help.

It was carried out via an online survey of 80 respondents, including the Citizens Advice Bureau (CAB) and a number of independent advice charities in Liverpool. The respondents worked across a range of advice-giving in areas including welfare benefits, housing, employment, mental health, debt, family, children and domestic abuse.

Respondents reported that there was an ever-growing need for advice, brought about via changes to welfare reform, and this need could not be met by current services. Eighty-six percent of respondents reported that there was an unmet need for advice services and 95 percent said that this was acute need in the area of welfare benefits advice, closely followed by debt and housing. Ninety-one percent of respondents said that they now provided worse services.

There has been a general reduction in the level of specialist advice services that can be provided, leading people to be seen by a general adviser who may not have the expertise of a specialist.

Advice agencies are reporting they are now being limited in the types of advice they can provide, with nowhere else they can refer people to when they cannot help someone.

There are also concerns raised at the lack of advisers able to assist clients who have a problem with an early intervention. This leads to matters escalating, with clients having to represent themselves at welfare

benefits tribunals.

The impact of the cuts to legal aid funding will have a significant effect on many across Liverpool. It is the most deprived area of the UK, with 51 percent of its districts among the most deprived in the country.

The effects of welfare changes and the inability of people to seek legal redress are devastating. In the past, with the provision of legal aid funding, advice agencies have assisted people who have been incorrectly denied welfare benefits through improper application of eligibility criteria. The National Audit Office reported that 38 percent of challenges to decisions regarding the Employment and Support Allowance, a benefit paid to people who are sick, were successful when they were appealed.

A report published this year by the Centre for Human Rights in Practice, "The State of the sector: The impact of cuts to civil legal aid on practitioners and their clients," showed the findings of a survey carried out between January 29 and March 3 and included responses from 674 individuals working in the advice giving sector.

The report highlighted the impact of the cuts across the UK. In the North of England 50 percent of respondents said their service was "very likely to close completely in 2013." An inordinate number of respondents from the South West of England stated that their agency would cease to provide specialist casework entirely. The Midlands is the area where services are most at risk of closure, with 22.1 percent of respondents saying their service was likely to close within the next two years.

Some of those interviewed described areas of the UK becoming "advice deserts."

Cuts to legal aid will affect the most disadvantaged and vulnerable, including those with disabilities and children and those living in rural areas. They will mean some law firms/solicitors will not be able to continue in practice.

Tooks Chambers announced its dissolution in September and is no longer taking instruction. In a statement Tooks Chambers said it "has a proud record of defending the rights of the under privileged and the oppressed. From its early days of defending miners and their communities during their year long strike, consistently tackling miscarriages of justice such as the Birmingham Six and representing the family of Stephen

Lawrence, to its current involvement in landmark cases such as the Hillsborough Inquests and the AHK judicial review, members of chambers have sought to hold the state to account."

It added, "The dissolution of Chambers is the direct result of government policies on Legal Aid. The public service we provide is dependent on public funding. 90 percent of our work is publicly funded. The government policies led by Justice Secretary Chris Grayling are cumulatively devastating the provision of legal services and threatening the rule of law."

Maura McGowan QC, chairwoman of the bar, told BBC Radio there was clear evidence that basic legal standards were now at risk. "The fees that are paid to people who do these cases have been reduced by almost as much as 40 percent already, before the planned reductions," she said. "It will drive people out of the system and will mean those who depend on publicly funded representation run the risk of getting a lower standard."



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