

UK: Denial of access to justice following Legal Aid cuts

Dennis Moore
27 December 2018

One million people live in areas where there is no Legal Aid provision for housing, with another 15 million in areas where there is only one provider. This information was found in Ministry of Justice (MoJ) data analysed by the BBC's Shared Data Unit.

Since April 2013, with the introduction of the Legal Aid, Sentencing and Punishment of Offenders Act (LAPSO) (2012), large swathes of the Legal Aid system were radically changed with many cut off from access to basic democratic rights. It impacted many areas of civil law in England and Wales, with civil Legal Aid work only made available for a limited number of cases, stricter means-test criteria introduced, and automatic eligibility for those in receipt of means-tested benefits scrapped.

Data compared with 2011-2012 showed that there are 1,000 fewer Legal Aid providers being paid for civil Legal Aid work, with up to a million fewer Legal Aid claims being processed each year.

Wales and South Wales are now covered by just 4 Legal Aid providers, while only 41 cover London and the South East.

The number of solicitor's firms in the South West offering Legal Aid has fallen from 327 in 2011/2012 to 197 in 2017/2018. Richard Miller, head of justice at the Law Society, said provision of legal advice across England and Wales was disappearing, creating "Legal Aid deserts."

MoJ figures show that the year before LAPSO was introduced, Legal Aid was granted to 925,000 cases a year. After it came into force, this figure had dropped to 497,000 cases, a fall of 46 percent.

An analysis of the figures, when broken down into specific areas of the law, show a significant impact. In 2012-2013 welfare law included 88,378 cases that received Legal Aid funding. Following LAPSO, it

dropped to just 145 cases, a 99 percent reduction. Family cases fell by 60 percent and housing cases by 50 percent.

The lack of Legal Aid and access to representation in the courts has resulted in a fivefold increase of people representing themselves. Volunteers from the Personal Support Unit, working to assist people in the courts, reported helping around 65,000 people last year. Just six years ago it was 10,000.

There are growing concerns that some of the most vulnerable people are now representing themselves in courts and are clearly ill-equipped to do this. Rachel Francis, a barrister, explained, "I have seen people in court attempting to represent themselves when they lack capacity, have very significant learning difficulties or are otherwise incapable of representing themselves effectively."

Since 2011/2012, the town of Swindon has seen a fall in Legal Aid spending of £2.5 million in civil cases and a fall of £350,000 in criminal cases. These cuts have had a major impact on cases, including housing, welfare benefits, and domestic violence.

Olwen Kelly, director of Swindon Women's Aid, said, "It's a failure in the justice system, we are failing to protect the most vulnerable people in our society ultimately. These cuts are really biting, and the victims are paying the price for it."

Cuts to Legal Aid funding disproportionately affect the poorest in society, who are often affected by issues such as poor housing, unfair welfare benefit decisions, and debt—and not able to pay for legal help, or representation.

The government claims that those most in need can still access free legal help through the not-for-profit sector, and via Exceptional Case Funding (ECF). ECF was set up to help provide a safety net to some of the

most vulnerable people. However, these areas of legal help are not provided at an early stage when someone starts to experience problems, when many people could have had their problems resolved. According to Amnesty International, evidence suggests that ECF is failing the most vulnerable and marginalised in society.

Pete Moran, head of the Cumbrian Law Centre, said, “The pervading rhetoric in recent years has been about intervening early in the development of a person’s socio-economic problems, before things get very difficult and more expensive to rectify, but the current system does the opposite. It’s much more difficult now for people to get early advice; they have to wait until their situation becomes critical before they can access help.”

A good illustration of this is the problems people face when trying to challenge Housing Benefit decisions. Housing Benefit is a means-tested welfare benefit to help meet costs for rented accommodation. Following the introduction of LAPSO, Legal Aid funding for Housing Benefit cases was removed. This was critical in those cases where there was an issue with accruing rent arrears, which if resolved at an early stage of the proceedings could help to prevent possession proceedings and evictions.

Cuts to Legal Aid have led to an increased demand on those agencies that are left, many of which are based in the not-for-profit sector. Though research is scant, those organisations Amnesty International spoke to report having to turn people away because they could not take on the case.

The cuts have prevented agencies being able to provide advice holistically, with many people experiencing interconnected legal problems. Following the introduction of LAPSO, agencies reported that they were only able to deal with one or two issues that someone may present with, and the underlying cause of the problems was not addressed.

The mental health charity Mind found that up to half of people facing legal problems, who were not entitled to legal help following the introduction of LAPSO, had mental health problems.

Spending on Legal Aid has fallen by £600 million since 2013, with the number of providers falling by 1,200 for civil cases, and 800 for crime.

In a March 2013 report, the UN Special Rapporteur on the Independence of Judges and Lawyers

commented, “Legal Aid is an essential component of a fair and efficient justice system founded on the rule of law. It is also a right in itself and an essential precondition for the exercise and enjoyment of a number of human rights, including the right to a fair trial and the right to an effective remedy.”

In the five years since, the vast scale of Legal Aid cuts in the UK was noted by the United Nations Special Rapporteur on Extreme Poverty and Human Rights, Philip Alston. In his report last month following a recent visit, Alston wrote, “There have been dramatic reductions in the availability of Legal Aid in England and Wales since 2012 and these have overwhelmingly affected the poor and people with disabilities, many of whom cannot otherwise afford to challenge benefit denials or reductions and are thus effectively deprived of their human right to a remedy. The LASPO Act...gutted the scope of cases that are handled, ratcheted up the level of means-tested eligibility criteria, and substituted telephonic for many previously face-to-face advice services.”



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact