



**Nowhere else to turn:**

**The impact of legal aid cuts on  
MPs' ability to help their  
constituents**

**Young Legal Aid Lawyers**

**March 2012**



## ABOUT YLAL

Young Legal Aid Lawyers (YLAL) is a group of junior lawyers who are committed to practising in those areas of law, both criminal and civil, that have traditionally been publicly funded.

YLAL members include students, paralegals, trainee solicitors, pupil barristers and qualified junior lawyers based throughout England and Wales.

We believe that the provision of good quality publicly funded legal help is essential to protecting the interests of the vulnerable in society and upholding the rule of law.



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# FOREWORD

The extent to which millions of households live on the edge - economically, socially, personally - is quite inadequately understood by the media, policy makers and the wider public. Even before the storm of recession hit there was already an unmet need for advice and representation.

Yet now the storm is truly raging. Unemployment and underemployment have risen, and massive cuts to tax credits and social security are biting. Homelessness has risen by 14% just in the last year. Inevitably, as this report makes clear MPs are increasingly part of the front-line when it comes to helping and advising desperate people faced with debt, homelessness and similar crises.

I am not alone as an MP in being able to count on the outstanding work done by my local Law Centre, Citizens Advice Bureau and other advice agencies and solicitors, much of whose work is underpinned by legal aid funding. Like many Parliamentary colleagues, I know and value the commitment of legal aid lawyers, and

can see for myself how tight is the margin they operate on.

But as local government funding comes under ever greater pressure, and the threat posed by the Legal Aid, Sentencing and Punishment of Offenders Bill becomes legislative reality, I fear for the future.

I believe MPs and other elected representatives will be facing a rising tide of need, and whilst we should indeed be made aware of the reality of people's lives, and can provide valuable assistance to our constituents, we are neither trained nor resourced to replace specialist advice and legal representation. And it won't be too long before it becomes obvious that the absence of effective representation and early intervention in debt, housing and other cases will end up costing more than is being shaved from the social welfare legal aid bill.

This report powerfully illustrates all these arguments, and more. The Government would be wise to absorb its message.

**Karen Buck MP**



# EXECUTIVE SUMMARY

## Background

The legal aid scheme in England and Wales allows individuals on low incomes to receive free or affordable legal advice and assistance in a range of areas of civil law. In November 2010, the Government published its proposals to reform the scheme.<sup>1</sup> The stated aim was to reduce the legal aid budget by £350m, with the majority of this amount coming from a drastic reduction in the scope of the legal aid scheme. The Legal Aid, Sentencing and Punishment of Offenders Bill (LASPO), once enacted, would be the enabling statute to these cuts that promise to bring about the most radical change to the legal aid scheme since it was conceived in 1949.

Under LASPO, legal aid will no longer be available for legal advice in a range of areas including immigration (non-asylum) matters, employment disputes, private family cases (except in limited circumstances), welfare benefits matters or debt or housing (except where there is an immediate risk of homelessness). Research by the Legal Action Group (LAG) in 2011 estimated that at least 650,000 people would lose out on free advice per year

if LASPO is enacted without any amendments.<sup>2</sup> This vast reduction in the scope of legal aid begs the question: what will those 650,000 individuals do without legal aid to help them resolve their problems?

## Aim

Against this backdrop our study aims to examine what impact the legal aid reforms will have on MPs and their ability to help their constituents. It is not intended to be a comprehensive research project: rather it is a “snapshot” study to indicate current trends and future challenges.

## Methodology & data spread

We contacted all MPs who represent constituencies in England and Wales to ask if they would take part in the study. The responses come from MPs and caseworkers in 45 constituencies from across the political spectrum in both urban and rural settings across England and Wales. The study also incorporates responses from 128 constituents in 30 of those constituencies. The data was

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<sup>1</sup> “Proposals for the Reform of Legal Aid in England and Wales” Ministry of Justice, Consultation Paper CP12/10, November 2010

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<sup>2</sup> [\*The Real Impact of Legal Aid Advice Cuts\*](#), Jessica Freitas and Steve Hynes, LAG, 17 March 2011, p.2



collected from July to November 2011. Researchers were trained to be aware of ethical issues, data protection and confidentiality. Interviews were conducted in private so far as possible and the constituents gave their consent to proceed. All names of constituents have been anonymised. Responses have also been anonymised when requested by MPs or caseworkers.

## Findings

### Finding 1

Constituents frequently turn to MPs as a last resort when they have been unable to resolve their legal problems. In the six-month period preceding the study, 38.4% of MPs' casework had involved legal issues. Eighty point five per cent of constituents had already tried to resolve these issues elsewhere before going to their MP and the vast majority (86.5%) of constituents expected their MP to take action to resolve these issues following the surgery.

### Finding 2

MPs dedicate significant time and resources to assisting their constituents in resolving their problems. Twenty per cent of MPs estimated that they dealt with 200-500 constituent inquiries per month and 13% estimated this figure as over 500. Surgeries are held on a regular basis, usually weekly, and a third of MPs spent between half and three-quarters

of their time resolving their constituents' issues.

### Finding 3

There is a limit to the assistance that MPs are able to provide their constituents. Put simply, MPs lack the resources and the expertise to assist with complex legal problems.

### Finding 4

In order to assist their constituents, MPs are reliant on publicly funded sources of legal advice such as legal aid solicitor firms, Law Centres and Citizens Advice Bureaux (CABx). During the six months preceding the study, 71.1% of MPs had needed to refer constituents to a legal adviser. Breaking this down, 66.7% of MPs had referred constituents to CABx for generalist advice; 64.4% had referred constituents for specialist advice from a dedicated not-for-profit organisation such as a Law Centre; and 60% of MPs had referred constituents to legal aid solicitor firms.

### Finding 5

Local advice services are already strained. This means that constituents are increasingly turning to MPs because they cannot find other help locally. Concurrently, it means that MPs options for referring constituents on to specialists are limited. Both of these factors are adversely impacting on the ability of MPs to help their constituents.



## **Finding 6**

The areas of law that are to be removed from the scope of legal aid correspond closely with those areas for which constituents habitually turn to their MPs for assistance. Overall, 56.2% of the issues that constituents wanted to raise with their MP would not receive legal aid funding if LASPO is enacted. The logical inference is that MPs will be faced with more such issues if the cuts come into force.

## **Conclusion**

Many MPs spend considerable time and resources helping their constituents. Our study indicates that constituents who are affected by the legal aid cuts are likely to seek assistance from their MPs. The increase in workload may be amplified by the wider reforms which are taking place across Government. This is likely to place increased pressure on the time and resources of MPs. There is a risk that MPs will struggle to deal appropriately with this pressure and that constituents will be adversely affected as a result. This was a view shared by many MPs who participated in the study. Ultimately, it is constituents who will lose out as these changes take effect.



# BACKGROUND TO THE STUDY

The background to this study is the Government's proposed reforms to legal aid in England and Wales. The legal aid scheme allows individuals on low incomes to receive free or affordable legal advice and assistance in a range of areas of civil law. In November 2010, the Government published its proposals to reform the scheme.<sup>3</sup> The stated aim was to reduce the legal aid budget by £350m, with the majority of the savings coming from a significant reduction in the scope of the legal aid scheme.

The Legal Aid, Sentencing and Punishment of Offenders Bill (LASPO),<sup>4</sup> once enacted, would be the enabling statute behind these cuts, which promise to bring about the most radical change to the legal aid scheme since it was conceived in 1949. Under LASPO legal aid will no longer be available for legal advice in a range of areas including immigration (non-asylum) matters, employment disputes, private family cases (except in limited circumstances), welfare benefits matters or debt or housing (except where there is an immediate risk of homelessness). Concurrently, it

is the Government's intention to tighten the financial eligibility criteria for legal aid.

These changes do not take place in a vacuum. Their effect must be considered in the context of wider Government reforms, such as those contained in the Welfare Reform Bill and the Localism Act 2011, which impact on those areas of law for which legal aid has traditionally been available. In the short term, such changes are likely to generate an increased need for legal help.

Research by the Legal Action Group (LAG) in 2011 estimated that at least 650,000 people each year would lose free advice if the proposals contained in LASPO are enacted.<sup>5</sup> It has been reported that 50% of legal aid firms<sup>6</sup> and one in three Law Centres risk closure as they will no longer be financially viable.<sup>7</sup> The Government has estimated that the not-for-profit sector as a whole will lose an estimated 75% of its funding as a

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<sup>3</sup> "Proposals for the Reform of Legal Aid in England and Wales" Ministry of Justice, Consultation Paper CP12/10, November 2010

<sup>4</sup> [Legal Aid, Sentencing and Punishment of Offenders Bill 2010-2011](#)

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<sup>5</sup> [The Real Impact of Legal Aid Advice Cuts](#), Jessica Freitas and Steve Hynes, LAG, 17 March 2011, p.2

<sup>6</sup> [Cuts to put half of legal aid firms at risk of closure](#), Catherine Baksi, Law Society Gazette, 24 February 2011

<sup>7</sup> [Legal Aid, Sentencing and Punishment of Offenders Bill, Briefing by The Law Centres Federation](#), Law Centres Federation, p.2





result of the cuts.<sup>8</sup> LAG has expressed concern that up to 80% of not-for-profit providers will be forced to leave legal aid.<sup>9</sup>

It is an inevitable consequence of these changes that a proportion of individuals will no longer be able to get free legal advice to help them resolve their disputes and enforce their rights. This begs the question: who will these individuals turn to? One possible answer is that they will turn to their MPs. It is against this backdrop that this study aims to examine the impact that the legal aid cuts will have on the ability of MPs to help their constituents.

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<sup>8</sup> [\*Reform of Legal Aid in England and Wales: Equality Impact Assessment \(EIA\)\*](#), Ministry of Justice, 21 June 2011, page 28, para 1.40

<sup>9</sup> [\*Social welfare law: what the public wants from legal aid\*](#), Steve Hynes, LAG, March 2012, p.3



# FINDINGS

## Finding 1: MPs are frequently the last resort for constituents with legal problems

***The first finding to emerge from the study was that constituents commonly turn to their MPs as a last resort when they have been unable to resolve their legal problems. As a result, MPs are frequently faced with legal issues.***

The role of the MP as the remedy of last resort is recognised by the House of Commons brief guide for constituents which states that “constituents often take a problem to their MP because they do not know who else could help them”.<sup>10</sup> For many MPs, performing this function is a valued part of their job. Research in 2004 addressed the importance that MPs attach to particular roles. The researchers noted “...how highly MPs rate constituency duties, and especially that of conducting casework”, going on to observe that:

*“Almost 90% of MPs considered that ‘helping solve constituents’ problems’ was ‘very important’. This compared to 67.2% of members who considered that holding government to account was very important, and 61% who*

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<sup>10</sup> [You and Your MP](#), House of Commons Information Office, August 2011, p.3

*said the same about work on parliamentary committees.”<sup>11</sup>*

This aspect of MPs’ roles was highlighted by the Parliamentary and Health Service Ombudsman (PHSO) in late 2011. The PHSO noted that “respondents from all sectors acknowledged the important role that MPs can play in resolving their constituents’ grievances”.<sup>12</sup>

Dealing with constituents’ complaints may also be regarded as a key part of the machinery of administrative justice, serving a discrete constitutional function in keeping MPs aware of the needs of their constituents. As Harlow and Rawlings noted, “complaints to MPs serve a ...critical function; they keep the representatives of the people in touch with their constituents, helping to

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<sup>11</sup> [The Local Work of Scottish MPs and MSPs: Effects of Non-coterminous Boundaries and AMS, Report to the Commission on Boundary Differences and Voting Systems](#), J Bradbury, M Russell, University of Swansea and UCL, May 2005, p.10

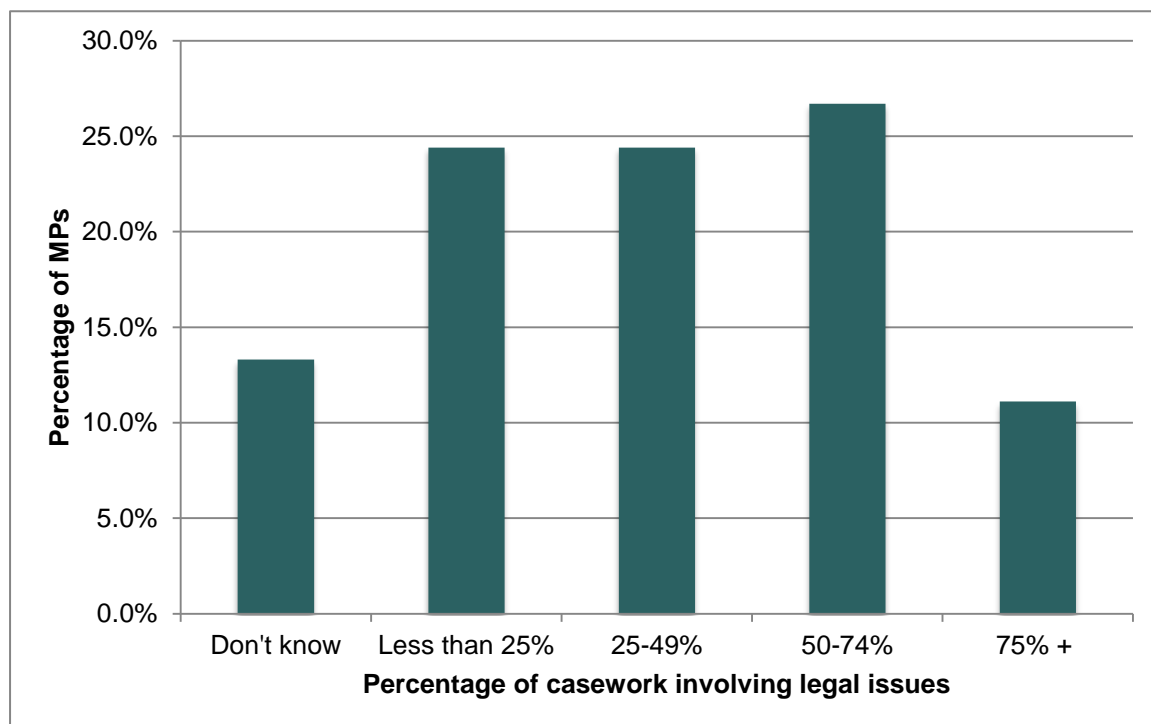
<sup>12</sup> [Report on the consultation on direct access to the Parliamentary Ombudsman](#), PHSO (November 2011), p.24, para 3.2



show them where the regulatory shoe pinches”.<sup>13</sup>

Our study showed that a significant level of MPs’ casework involves legal issues. In the six-month period preceding the study, on average 38.4% of MPs casework had involved legal issues.

However, within this the most common response (received from 26.7% of MPs) was that 50-74% of casework involved legal issues. Twenty four point four per cent said that 25-49% of casework involved legal issues. This question encompassed different timeframes for different MPs. However, acknowledging the fluctuations in the amount and type of work received by MPs throughout the year, the findings indicate that a substantial level of problems raising legal issues appear in everyday casework.



**Fig. 1: Percentage of casework involving a legal issue over the preceding six months**

<sup>13</sup> *Law and Administration*, C Harlow and R Rawlings (CUP, 2009) pp445-6



Among the constituents who took part in the study, many brought their legal issue to their MP as a last resort. Approximately 80.5% of constituents said they had tried to resolve their problem elsewhere before going to the MP. The majority (73.4%) had never visited their MP before.

Constituents:

***“This is the last person I know to ask”***

***“I have tried everyone but nobody will help me”***

In seeking to resolve their issues prior to turning to their MP, constituents had asked for help from a variety of sources. The figures below show the percentage of participants who had tried to seek help from different places:

- 20.6%** Statutory agency (e.g. the Jobcentre, local authority etc)
- 19.6%** Law firm (legal aid)
- 15%** Family/friends
- 15%** CAB (generalist advice)
- 10.3%** Law firm (no legal aid - paid for)
- 9.4%** Local councillor
- 6.5%** Community group/ other charity (not specialising in advice)
- 2.8%** Not for profit provider (CAB – specialist advice, Law Centre)
- 1%** Telephone line

When asked why the other source could not solve the problem, the most common answers were that they had insufficient expertise (25.3%) or that they were still working on the problem (26.3%). Seven point four per cent of respondents explained they had come to their MP when they had reached an impasse in dealing with person or agency that lay at the root of the dispute. A number of constituents looked on their MP as a figure of power: a person whose status could be used to extricate them from their problem.

***“It’s the only choice I have got – to have someone high up help me.”***

Constituent

***“She has tried to handle the matter on her own, but feels she needs help from somebody in authority with power.”***

Note on interview with constituent

Of the constituents who participated in the study, the overwhelming majority (86.5%) wanted their MP to take action on their behalf following the surgery. In answer to the question, “What are you going to do if you cannot get help for your problem?” the most common response (40.3%) was that the constituent would return to their MP.



## Finding 2: MPs devote significant time and resources to helping their constituents

*The second finding to emerge from the study was that MPs dedicate a significant amount of their time and resources to assisting constituents in resolving their problems. Surgeries are held on a regular basis, usually weekly, and many MPs deal with several hundred problems a month, occupying up to three quarters of their time.*

The House of Commons brief guide for constituents records that “MPs are very generous at giving help and advice” but that:

*“...since he or she has, on average, around 90,000 constituents to look after, and many Parliamentary duties to attend to, this will place limits on the amount of time which can be spent in the constituency... It is important that they spend their time dealing with problems they can have an impact on rather than queries that could be more effectively dealt with elsewhere.”<sup>14</sup>*

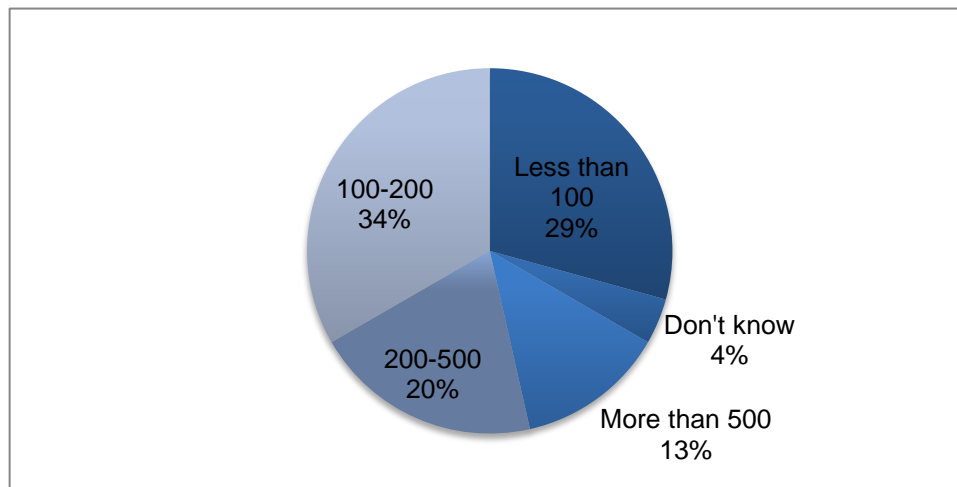
The more time that is spent in the constituency, the less time an MP has available to attend to other Parliamentary duties.

**33% of MPs receive between 100 & 200 new casework enquires each month; 20% receive between 200 & 500**

The study indicated that 33% of MPs received on average between 100-200 new casework queries a month. This included any issue of concern raised by a constituent by any means, whether by letter, email, in person or over the telephone. 20% of respondents estimated that they received between 200-500 queries per month and 13% estimated they received over 500 enquiries.

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<sup>14</sup> [You and Your MP](#), House of Commons Information Office, August 2011, p.3



**Fig. 2: Number of new problems raised by constituents each month**

This level of work has an impact on staffing needs. 49.7% of the staff and volunteers employed by MPs who participated in the study were dedicated to dealing with problems raised by constituents, whether legal or non-legal. In some constituencies it was necessary for MPs to employ up to four office members to deal with this work.

MPs also spend a large proportion of their own working time in dealing with constituents' problems. For 33.3% of MPs, constituency work occupied between 50-74% of their time and 35.7% spent between 25-49% of their time resolving constituents' issues.

**For 33.3% of MPs, constituency work occupied between 50-74% of their time**

The overwhelming majority of MPs questioned held surgeries on a regular basis. Fifty two point three per cent of respondents held surgeries at least once per week, 29.6% at least fortnightly and 18.2%, once per month.

MPs would hold surgeries either in or out of their constituency office; for example, in a public forum like a supermarket or shopping centre to encourage people to approach them. However, casework staff also reported handling queries by telephone, email, letter and face-to-face appointments throughout the week, outside designated surgery times. Some also reported having to deal with queries raised through social media such as Facebook and Twitter.



## Finding 3: MPs lack the expertise & resources to deal with complex legal problems

*The third finding to emerge from the study was that there is a limit to the assistance that MPs are able to provide their constituents. Though MPs generally endeavour to solve issues in-house, they lack the resources and the expertise to assist with complex legal problems.*

### **MPs do not generally give legal advice:**

Convention dictates that MPs should not give legal advice and most MPs and caseworkers were keen to stress to us and their constituents that they could not provide legal assistance.<sup>15</sup>

*“There may be cases when someone needs specific legal advice. I wouldn’t attempt to do that and it would be wrong of me to unpick something when I am not qualified.”*

Jason Read, Caseworker for Paul Blomfield, Labour MP, Sheffield Central

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<sup>15</sup> Kelly, R, House of Commons Library, [Members and Constituency Etiquette](#), SN/PC/02028, 30<sup>th</sup> January 2012, p.9. And see for instance the website of Daniel Kawczynski MP <http://www.daniel4shrewsbury.co.uk/help.php?var=4> “Parliamentary protocol does not permit Daniel to become involved in matters which relate to legal issues and his background experience is not in the legal profession” or the website of Mark Reckless MP <http://markreckless.com/contact> “please note that Members of Parliament are unable to offer legal advice.”

*“We cannot give advice on law. We don’t want to misinform constituents.”*

Rebecca Lynch, caseworker for Vernon Coaker, Labour MP for Gedling

*“During my caseworker training we were advised that if a constituent comes in with a legal problem we should stay away from it! We should advise that we can’t help with their case.”*

Office Manager for Conservative MP

### **MPs endeavour to resolve problems in-house:**

However, the convention did not stop MPs and caseworkers from trying to resolve their constituents’ legal problems in-house where this was commensurate with their expertise and resources. In fact, there was a clear preference among the MPs and their caseworkers who participated in the study to resolve constituents’ problems in-house wherever possible.

*“When we can, we try and help people and be responsive.”*

Tom Hunt, Caseworker for Paul Blomfield, Labour MP for Sheffield Central

*“[W]e aim to help the constituent by pointing out any error by the relevant authority and get it dealt*





***with, through correspondence or on the phone, rather than necessarily referring on for other legal advice.”***

Sue Shutter, caseworker for Fiona Mactaggart, Labour MP for Slough

In some instances it was clear that MPs were better placed than other agencies to resolve their constituents' issues. As one caseworker commented, “MPs act as complementary service to lawyers – for example, they have a direct line to government departments.” This was particularly the case in instances where MPs or caseworkers were able to take advantage of dedicated MPs' “hotlines” to Government agencies.

The study disclosed that these hotlines are available for several Government departments. Respondents commented that the most heavily used were those to the Home Office, HM Revenue and Customs, the Department for Work and Pensions (DWP) and the Child Support Agency. Sixty four point four percent of MPs cited the availability of these hotlines as a reason for trying to resolve issues in-house.

Community links built up by the MP over their time in office were also a key factor in deciding whether to deal with cases in-house.

***“Our office has a good relationship with housing officers in the Council***

***– we can usually discuss cases with officers there”***

Daisy Goodman, caseworker for Karen Buck, Labour MP for Westminster North

***“Partly because he has been an MP as long as he has and partly because ... he has built up such good effective contacts, it's easy for us [to resolve problems]. [The city] is very close knit”***

Caseworker for Labour MP

MPs would also keep cases in-house in instances where they or their caseworkers could draw on their own experience from working within the constituency or from previous roles. A number of caseworkers who participated in the study had worked in advice roles previously, for example, in a CAB or trade union. Of those MPs surveyed, 37.8% said that one reason for keeping cases in-house was that they had caseworkers with specialist skills.

***“I am fortunate to have a specially trained and experienced advisor on benefit, immigration and child support issues (a volunteer!). In conjunction with the specialist House of Commons research library information, the office can tackle problems in most areas.”***

Chris Ruane MP, Labour MP for Vale of Clwyd

***“We have an experienced caseworker for benefits advice. She understands the issues and can***





***write representations for constituents.”***

Tom Brake, Liberal Democrat MP for Carshalton and Wallington

### **There is a limit to the help that MPs can provide:**

While the trend that emerged from the study was for MPs to deal with cases in-house where possible, it was clear that when MPs and caseworkers spotted that a constituent required specialist legal advice they would advise the constituent to try to get this legal help. Many MPs and caseworkers who participated in the study indicated that there were instances where they wanted to help their constituents, but lacked the expertise or resources to do so.

Respondents confirmed that they would refer cases out when work reached a level where they were unable to find a solution themselves. Typically this was when cases required specialist expertise or had reached an advanced level of proceedings, such as appeals. In total, 44.8% of respondents said that the main reason for referring out was that expert advice was needed.

***“Benefits - about half of cases are clear cut, for example, if someone disputes a medical assessment we can approach someone senior at the DWP and say they think something is wrong and ask them to look into it. Because we have***

***good contacts with most agencies nationally e.g. pension service, then we go straight to them pretty much with everything. But there are things that are not easy for us to do e.g. calculate someone's entitlement to benefits, where rules are complex and constantly changing.”***

Note from interview with caseworker for Labour MP

***“Debt where home at risk - depends how serious - some are very difficult to resolve by just writing a letter. 50% of these type of cases we refer out to CAB.”***

Caseworker for Conservative MP

***“[In employment cases] in general we'd probably advise them to get a lawyer – we refer out 50-75% of these type of cases.”***

Caseworker for Conservative MP

### **The particular problem of immigration advice:**

MPs most frequently referred out legal cases that concerned issues of asylum, immigration, benefits, housing and debt. (This is proportionate to the make-up of their caseload - see finding six). However, a number of respondents commented on the particular difficulties surrounding immigration cases.



***“We always say we can’t provide legal advice – particularly for immigration cases.”***

Tom Brake, Liberal Democrat MP for Carshalton and Wallington

***“In a large majority of housing and immigration cases specialist advice would be recommended to supplement any representations made by the MP... Immigration law is complex and the impact of misinformation or wrong advice is huge.”***

Liz Collis, caseworker for Caroline Lucas, Green MP for Brighton Pavilion

***“The vast majority of cases where we have had to refer a case to a legal adviser are immigration/asylum matters.”***

John Leech, Liberal Democrat MP for Manchester Withington

There were more referrals for immigration and asylum work than any other area, including housing, indicating that asylum and immigration work is more likely to reach a level of complexity that goes beyond the skills and capacity of staff in the office. Statutory constraints are also placed on the provision of immigration advice. Usually, those who provide immigration advice in the course of a business “whether or not for profit” must be a solicitor, a barrister, or regulated by the Office of the Immigration Services Commissioner

(OISC) otherwise they commit a criminal offence.<sup>16</sup> The House of Commons Library explains the application of the statute to MPs as follows:

*“Many immigration, nationality and asylum enquiries come from constituents who really need professional advice. The Library cannot try to be a substitute for this, not least because it is a criminal offence for a person who is neither registered, authorised nor exempt to provide immigration or asylum advice or representation in the course of a business. Neither the Library nor Members’ staff are registered; nor are we specifically exempt, though we may not be considered to be acting in the course of a business. Authorisation refers to professional regulation of solicitors and barristers, etc.*

*We must nevertheless be careful to keep the information general rather than trying to suggest specific solutions for individual cases. If in doubt, we must refer the constituent to a specialist solicitor or immigration adviser. This may seem unhelpful, but a constituent will be helped much more by correct professional advice.*

*Where our work is on the borderline of what could be considered to be ‘immigration advice’ in this context, we*

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<sup>16</sup> [Immigration and Asylum Act 1999](#), s.84



*need to make it clear that we are simply providing general information.”*

<sup>17</sup> [Emphasis in original]

Under the OISC scheme, Level 1 advisers can make applications within the Immigration Rules. They are not permitted to undertake any substantive asylum work so would be limited to work such as notifying the UK Border Agency of a change of address or assisting with a travel document application. They are not permitted to advise on issues surrounding illegal entry, overstaying visas or periods of leave, family reunion, or appeal, tribunal and court work. The OISC guidance states:

*“Where a case becomes complicated or an application is refused, such an adviser must refer the client as soon as possible to an adviser authorised to practice at a higher Level. A case may become complicated, for example, where a client has entered or remained in the UK at any time in breach of their conditions of entry or leave to remain. Level 1 advisers can work on Leave to Remain applications only where the client has extant leave.”<sup>18</sup>*

Level 1 advisers are also expected to have a certain amount of basic knowledge of immigration law. The combined effect of the regulatory framework is that if it is necessary for MPs to deal with immigration queries to meet the needs of their constituents, they should employ appropriately qualified or accredited staff.

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<sup>17</sup> [Constituency casework: immigration, nationality and asylum](#), Melanie Gower, House of Commons Library information note, SN/HA/3186, 3<sup>rd</sup> November 2011, p.2

<sup>18</sup> OISC, Guidance on Competence, [Level 1 – Initial Advice](#)



## Finding 4: MPs are reliant on free local sources of legal advice

***The fourth finding to emerge from the study is that in order to assist their constituents, MPs are reliant on publicly funded sources of legal advice such as Law Centres, Citizens Advice Bureaux and legal aid solicitors.***

Following on from finding three, where MPs and caseworkers recognised that their constituent required legal help, there was a tendency to refer them on to a publicly funded source of advice in the local area. Over the six months preceding the study, 71.1% of MPs had needed to refer constituents to a legal adviser.

Breaking this down:

- 66.7% of MPs had referred constituents to Citizens Advice Bureaux for generalist advice;
- 64.4% had referred constituents for specialist advice from a dedicated not-for-profit organisation such as a Law Centre<sup>19</sup>; and
- 60% of MPs had referred constituents to legal aid solicitor firms.

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<sup>19</sup> This category also encompassed referrals made to CABx with advisers specialising in particular areas for specialist, as opposed to generalist, advice.

Many MPs and caseworkers were wary of being seen to recommend private firms of solicitors and were more willing to refer the constituent to a not-for-profit agency. MPs and caseworkers praised the service provided by free advice services in the local area, recognising the added value they could give in terms of specialist legal advice and extra time to go through problems in detail with constituents. They also noted that they could provide ancillary services such as interpreting.

***“It is quite helpful to be able to send people to the Law Centre, they will tell you if you have a chance or not... If people are experienced lawyers they can say this is a good argument in law and this isn’t. We just don’t have that sort of knowledge.”***

Roberta Crawley, caseworker for Martin Horwood, Liberal Democrat MP for Cheltenham

***“[The MP] supports the work of Law Centre. It’s an extremely good and useful thing for [the city]. [The MP] thinks [the local] Law Centre in particular is pretty good and valuable.”***

Parliamentary Researcher for Conservative MP



***“We refer constituents to the CAB and local not-for-profit providers, including Law Centres. We do not make referrals to for-profit providers, but if urgent we give out details for Community Legal Advice, and suggest constituents contact local law firms. The local Law Centre has a dedicated part-time asylum claims adviser.”***

Caseworkers for a North London MP



## Finding 5: Free local sources of legal advice are becoming increasingly scarce

***The fifth finding to emerge from the study was that local advice services are already strained and that this is adversely affecting the ability of MPs to help their constituents. This manifests itself in two ways. Firstly, it means that constituents are increasingly turning to MPs as they cannot find other help locally. Secondly, it means that MPs are limited in their options when referring constituents onto specialists.***

As finding four confirmed, MPs and caseworkers in our study were reliant on publicly funded sources of advice to help resolve their constituents' legal problems. This finding is supported by the response from constituents themselves. When constituents were asked whether they could afford to pay for legal advice 61.2% said they could not afford to pay for this help at all. However, the study shows that it is becoming increasingly difficult for individuals to find local sources of free legal advice.

Not only is the difficult economic climate creating an increased demand for these services, but organisations themselves are struggling to survive in the market place: notably the last year

has seen the closure of two large providers of publicly funded legal advice, the Immigration Advisory Service (IAS) and Law for All both in July 2011, owing to financial difficulties. Within the context of our study the reduction in the availability of free local legal advice manifested itself in two ways.

First, it has resulted in an increased burden on MPs' surgeries. One constituent who had found himself at his MP's surgery seeking help with his immigration issues indicated that the only local sources of legal help were prohibitively expensive: "It costs £500 to do an initial assessment. I don't know where to go for legal aid lawyers at all." Another noted that there were "no solicitors in my area with experience in these matters." This was echoed by Mike Gapes, Labour MP for Ilford South, who noted that: "We have taken on more and more extensive case work as local agencies have had funding withdrawn. There are all too often no other options in this area."

Second, it has meant that for MPs and caseworkers, there are reduced options for referring constituents to specialist advisers. Seven





respondents said that they were forced to attempt to resolve legal cases in-house because there were no advisers to refer to locally. Nine respondents said that any advisers that did exist were operating at full capacity and so, could not accept referrals.

***“Threshold [housing] advice centre closed in the last year. The Law Centre is struggling with quantity of cases/referrals”...“We would genuinely struggle to find another affordable/legal aid advice provider if the Law Centre closed down.”***

Iain Cassidy, caseworker for Andy Slaughter, Labour MP for Hammersmith

***“Since “Law for All” ceased operating last year we have tried to assist constituents with issues of a legal nature. We have referred some cases to “Community Legal Advice” but this is only a telephone helpline. Unfortunately there is no CAB in the London Borough of Ealing and this makes the situation worse but we do try to do everything we can to help.”***

Stephen Pound, Labour MP for Ealing North

***“We are already finding that organisations that we usually refer to, such as the CAB, do not have the capacity to assist everyone who approaches them. This is a problem***

***that is likely to get worse, and we are already discussing how to refer cases in the future.”***

Caseworkers for a London MP

***“In Bristol we’ve also been affected by IAS going into administration recently; they arrived in Bristol a few years ago and made a real difference to the availability and quality of advice for asylum seekers.”***

Kerry McCarthy, Labour MP for Bristol East

***“The closure of the IAS has left a ‘big hole’, particularly as they are still receiving email enquiries about its immigration services and have to advise constituents to seek expert legal advice. They are currently monitoring events to assess the full impact of IAS’ closure so they know where to refer cases in the future.”***

Note on interview with Lesley Bagshaw, Office Manager for Gisela Stuart, Labour MP for Birmingham Edgbaston

In both of these scenarios – where MPs face an increased burden on their surgeries and when there are limited referral options - the end result is the same: it is becoming increasingly difficult for MPs to effectively meet the needs of their constituents.



## Finding 6: Issues which constituents take to MPs correspond with the cuts to the scope of legal aid

***The areas of law which are to be removed from the scope of legal aid under LASPO, correspond closely with those areas for which constituents habitually turn to their MPs for assistance.***

MPs and caseworkers were asked to estimate what proportion of their casework in the previous six months involved particular categories of legal issues (see figures three and four below). The most frequent legal issues that MPs had to deal with were welfare benefits, asylum and immigration detention, other immigration issues and housing (where there was no risk of homelessness).

- For fifteen respondents (33.3%), 25% or more of their caseload consisted of welfare benefits issues;
- For fourteen respondents (31.1%), 25% or more of their caseload

consisted of asylum or immigration detention issues;

- For twelve respondents (26.7%), 25% or more of their caseload consisted of other immigration issues;
- For eleven respondents (24.4%), 25% or more of their caseload consisted of housing issues (where the home was not at risk).

Under LASPO, legal aid will remain available for asylum and immigration detention. However, legal aid will not be available for most other immigration issues, for welfare benefits or for housing (unless there is a risk of homelessness). Since, as can be seen, constituents already turn to MPs for help in these areas, it is natural to assume that this trend would continue when the legal aid cuts come into force and that there will be increased demand placed on MPs for assistance with these issues.



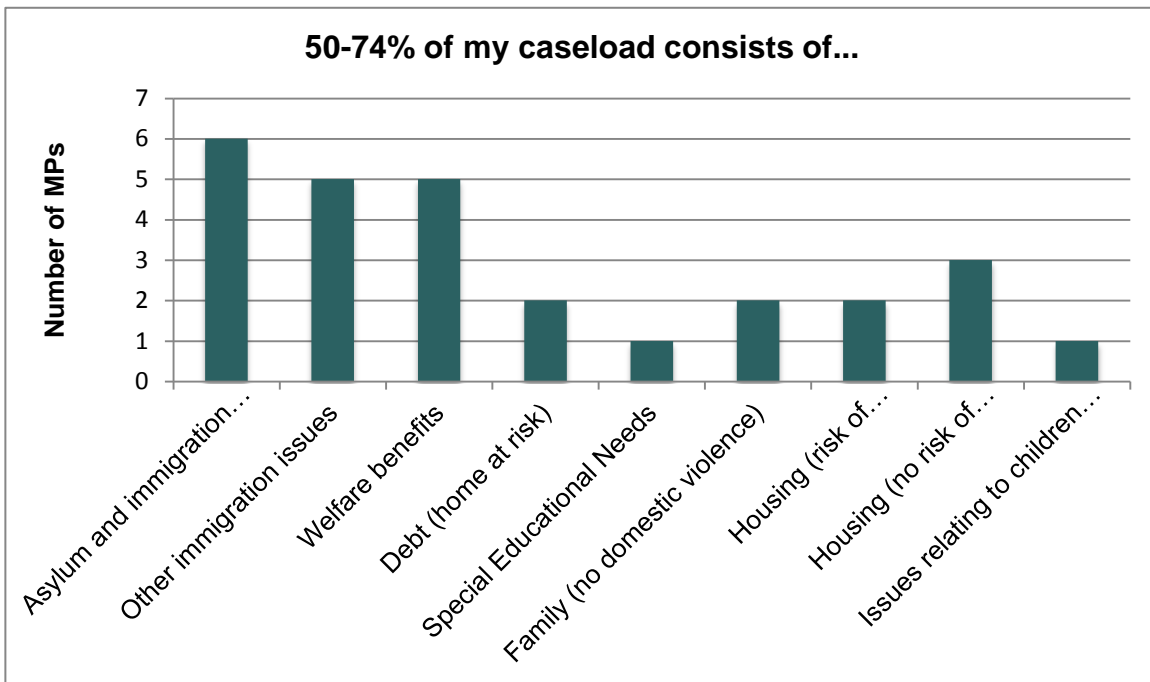


Fig 3: Breakdown of issues occupying between 50-74% of MPs' caseloads

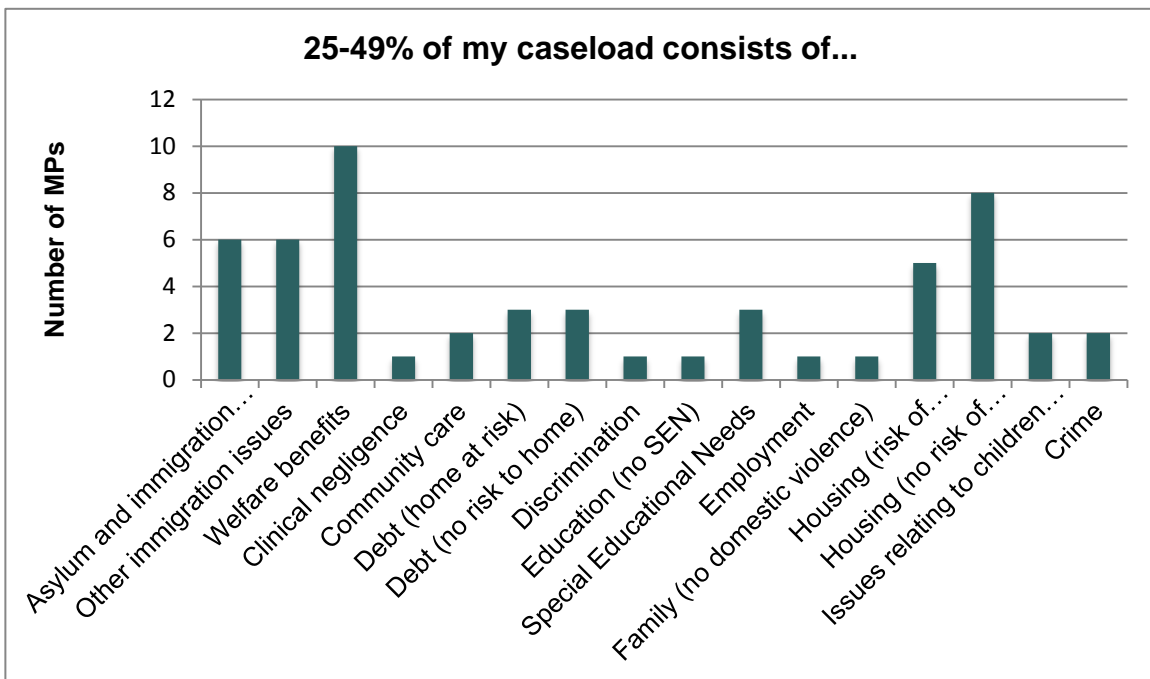


Fig 4: Breakdown of issues occupying between 25-49% of MPs' caseloads



Overall, 56.2% of the issues that constituents wanted to raise with their MP would not receive legal aid funding if LASPO is enacted.

A number of caseworkers and MPs observed many constituents had overlapping issues that would not easily fit within discrete categories. In particular, respondents recognised that there was a noticeable crossover between debt, benefit and housing cases.

***“Debt [is] often lurking in the background and linked to benefits issues. The constituent will raise a specific problem which is exacerbated by the fact they have debt.”***

Caseworker for Labour MP

In such instances though legal aid may be available for a certain aspect of a constituent’s legal issue following LASPO, this may not be sufficient to resolve their difficulties.



# CONCLUSIONS

The catalyst for this study was the Government's proposed reforms to legal aid in England and Wales contained within LASPO. If LASPO is enacted in its current form legal aid will no longer be available for many areas of civil law. As a result, around 650,000 individuals will no longer be eligible for free legal help, and there is a real risk that many local solicitors firms and advice services, which rely on public funding, will be forced to close.<sup>20</sup>

Without legal aid, or in the absence of a local solicitor or advice centre to turn to, affected individuals will be left with limited options. One option would be for them to seek the assistance of their MP. The purpose of this study was to gauge whether this is a realistic possibility, and if so, to gain an idea of whether it would provide an effective outcome for constituents.

## Will individuals turn to their MPs?

The study indicated that individuals are likely to turn to their MPs when

they are unable to access free legal help elsewhere.

When asked what proportion of their casework involved legal issues the most common response received from MPs and caseworkers was "between 50-74%". Approximately 80.5% of constituents who took part in the study said they had tried to resolve their problem elsewhere before going to their MP. These trends formed the basis of finding one of the study: constituents who cannot solve their legal issues elsewhere, look to their MPs for help.

Finding six of the study disclosed a correlation between the particular legal issues that constituents take to their MPs and the areas of law which are to be removed from the scope of legal aid. Overall, 56.2% of the issues that constituents wanted to raise with their MP would not receive legal aid funding if LASPO is enacted. The most prevalent legal issues that MPs had to deal with were welfare benefits, asylum and immigration detention, other immigration issues and housing (where there was no risk of homelessness). Of these four areas, only asylum and immigration detention will remain within the scope of legal aid. This finding demonstrates a clear

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<sup>20</sup> See *Background to the study*.



willingness on the part of constituents to seek the assistance of their MP with these issues.

Taking these findings together it seems likely that constituents who are affected by the legal aid cuts will seek assistance from their MPs. This was a view taken by a number of those who participated in the study.

***“People who come to their MP would do so as a last resort, but now they may come as a first resort. Inevitably it will lead to an increased caseload.”***

Conservative MP

***“We already see lots of people who say they don't qualify for legal aid and that's why they come to us. I expect we might get more people [coming to us].”***

Caseworker for Conservative MP

***“[The] MP is [seen as] a last line of attack for most issues. If the necessary legal help isn't available we will receive far more constituent problems.”***

Sarah Russell, caseworker for Chris Williamson, Labour MP for Derby North

This effect may be amplified by the wider reforms which are taking place across Government such as those contained within the Welfare Reform Bill and the Localism Act 2011. The former will fundamentally change the

shape of the welfare benefits system. The latter makes significant changes to the allocation of social housing and the rules governing security of tenure. These reforms are likely to generate an increased level of legal need, at least in the short term, yet legal aid will not be routinely available to meet this need.

## **How will this affect MPs?**

This is likely to place considerable pressure on the time and resources of MPs. As set out in finding two, MPs currently receive a significant number of constituent casework inquiries each month – 20% of respondents estimated that they received between 200-500 queries per month and 13% estimated they received over 500 enquiries – and it was clear that many MPs spend a large amount of time trying to resolve these issues. Fifty two point three per cent of respondents held surgeries at least once per week and for a third of MPs dealing with their constituents' issues occupied between 50-74% of their time.

These statistics were reflected in the expectations of constituents. Of the constituents who participated in the study, the overwhelming majority (86.5%) expected their MP to take action on their behalf following the



surgery and 40.3% intended to return if their problem was not resolved.

An increase in the number of constituents turning to their MP for help to resolve their legal issues will inevitably increase these pressures.

***"If local advice services were drastically scaled back we would see a big increase in the number of people coming to see us. With the current staffing levels it is unlikely we would be able to deal with this."***

Tom Hunt, caseworker for Paul Blomfield, Labour MP for Sheffield Central

For those MPs who dedicate additional time and resources to meet the added burden, there is a risk that this will impact in turn on the performance of their wider Parliamentary duties. For those who do not, the impact is likely to be felt by the constituents. This dilemma was encapsulated by one caseworker for a Labour MP who observed that "we could not on the one hand walk away because it would be wrong, but equally, we could not undertake to fill the gap."

Again it is important to consider the wider context of this issue. In this instance, the effect may be amplified by the proposed boundary changes. The boundary review will introduce reform intended to reduce the number

of constituencies from 573 to 532 in England and Wales meaning that there will be fewer MPs.<sup>21</sup> It follows that the additional burden of dealing with an increased number of constituents' legal problems, will be borne by a reduced number of MPs.

## How will this affect constituents?

The likelihood is that it will be constituents who will lose out as these changes take effect. Finding three of the study was that MPs, however desirous they may be to help their constituents, lack the expertise and the resources to resolve complex legal issues. It was for this reason – as set out in finding four – that MPs habitually referred constituents on to specialist legal advisers.

In the six-month period prior to the study, 60% of MPs had referred constituents to legal aid solicitor firms; 66.7% of MPs had referred constituents to Citizens Advice

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<sup>21</sup> The number of constituencies in England will reduce from 533 to 502. ([A guide to the 2013 Review](#), Boundary Commission for England and Wales, 2011, p.5) Constituencies in Wales will reduce from 40 to 30. ([2013 Review of Parliamentary Constituencies in Wales – Information Booklet](#), Boundary Commission for Wales November 2011, p. 10) The reductions are based on the formula set out in the Parliamentary Constituencies Act 1986, schedule 2 (as amended by the [Parliamentary Constituencies and Voting Act 2011](#))



Bureaux for generalist advice; and 64.4% had referred constituents for specialist advice from a dedicated not-for-profit organisation such as a Law Centre. This system of referring out to free local sources of legal advice is integral to the ability of MPs to effectively meet the needs of their constituents.

***“If the CAB shut down we’d be quite stuck. It’s an essential service.”***

Rebecca Lynch, caseworker for Vernon Coaker, Labour for Gedling

***“It would be a disaster for the CAB to go, thousands of constituents... would have no advice at all.”***

Kate Green, Labour MP for Stretford and Urmston

However, as noted at finding five, these local advice services are already strained and this is adversely affecting the ability of MPs to help their constituents – in the absence of a specialist equipped to solve a constituent’s legal problem, that problem will remain unsolved. It is clear that this situation will deteriorate as the legal aid cuts bite and individuals are no longer eligible for free legal advice. Indeed, that is the central premise of this study. This creates a vicious cycle. The cuts to legal aid will increase the number of constituents who turn to their MPs for assistance. At the same time the

ability of MPs to meet the needs of those constituents by referring them on to specialist legal advice will be heavily restricted.

The prospect of legal aid firms and advice centres closing will accentuate these issues. The closures of Law for All and IAS were cited by a number of MPs as factors exacerbating the difficulties they faced in assisting their constituents (see finding five). This is of particular concern as there are likely to be more such closures; a number of organisations have raised concerns over the sustainability of legally aided firms and advice centres if LASPO is enacted unamended.<sup>22</sup>

Though the extent of the difficulties which lie ahead cannot be quantified, for a number of MPs who took part in the study, the future, it seems, is stark.

***“I have had to listen to the extremely tough circumstances faced by immigrants in my constituency and the legal aid changes could be very brutal for some people who need professional legal advice.”***  
Conservative MP

***“People will be left in the lurch... I think they will be hit particularly in housing cases.”***

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<sup>22</sup> See *Background to the study* above



Iain Cassidy, caseworker for Andrew Slaughter, Labour MP for Hammersmith

***“Islington North lies in the eighth most deprived local authority area in England. Currently many vulnerable people in Islington rely on access to decent legal advice Without this vital early intervention from advice agencies and legal aid solicitors, people will slip through the net.”***

Jeremy Corbyn, Labour MP for Islington North



# METHODOLOGY

## Sample

This study has focused on the experiences of MPs, caseworkers and constituents. We contacted all MPs in England and Wales to ask if they would like to take part in the project. The responses in this report come from MPs and caseworkers in 45 constituencies across England and Wales (seven point nine per cent of the constituencies in England and Wales), covering both rural and urban areas. In terms of political make-up 29 of the constituencies were Labour, ten were Conservative, five had Liberal Democrat MPs and one was Green. Constituency staff often conduct a great deal of day-to-day problem-solving work for MPs, and for this reason we have included the responses they gave alongside or instead of MPs. Some of those comments were given in their own capacity as caseworkers or office managers and not on behalf of their MP.

Wherever possible, we also spoke to constituents. Although third parties can refer problems to an MP, most casework queries come straight from constituents themselves. We wanted to include constituents in the study because their voices are not often

heard at a policy level. We also hoped to gain a better understanding of their attitudes to problem-solving.

In some constituencies, there was a lack of suitable surgeries for us to attend, and some MPs did not feel it appropriate for us to speak to constituents directly. However, in total, we spoke to 128 constituents in 30 constituencies: of which, 24 were represented by Labour MPs, one by a Conservative MP, four by Liberal Democrats and one by a Green.

We were keen to obtain information from a variety of constituencies, so we could include experiences from across the political spectrum in both urban and rural settings across England and Wales.

## Method

We have used two questionnaires in the study.

One was designed to record data from MPs and caseworkers and the other was specific to constituents. We adopted a flexible approach towards data collection in order to maximise the number of respondents. Data was collected in three ways: face-to-face, over the telephone or by post.





However, the majority of data was gathered by a volunteer taking the respondent through the questions, as this allowed them to clarify terms if needed and obtain further qualitative data where possible.

## Meaning of “legal problems”

Our study focussed on people and problem-solving behaviour that may be affected by the legal aid reforms. Therefore we have focused on those problems which raised legal issues or which might have a legal remedy, which follows the definition of a “justiciable event” used by Hazel Genn in her survey of public attitudes to the civil justice system in 1999.<sup>23</sup> The definition was applied even if people did not categorise the problem as legal themselves and regardless of whether any action had been taken to deal with the problem through the justice system. For simplicity in the MPs’ questionnaire, the term “legal cases” was used instead of “justiciable event”, after the definition was explained.

## Data collection

Our researchers were recruited from the YLAL membership. Everyone took

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<sup>23</sup> Hazel Genn, *Paths to Justice*, Hart Publishing, 1999, pp.12-13

part on a voluntary basis and received no payment other than for occasional travel expenses. All researchers went through training on the project and research methods.

The data was collected from July to November 2011. The volunteers attended surgeries by arrangement with MPs and their offices. In the surgery, researchers would go through questionnaires with constituents, MPs and casework staff. All constituents were given an information leaflet about the project before they made up their mind whether to take part. The leaflets outlined the purpose of the study, what the constituents’ involvement would entail and information about YLAL. The leaflets also explained that all personal details taken from constituents would be kept confidential, that all results of the questionnaire would be anonymised and that their data would be stored on a password protected database.

## Ethics, Confidentiality & Data Protection

All of our volunteers were trained to be aware of ethical issues, data protection and confidentiality. Before the research was carried out, sample questionnaires were sent to constituency offices along with information leaflets. When volunteers



conducted the research they explained to constituents:

- (i) That participation was voluntary and there was no obligation on them to take part. It was made clear that the study was independent from the advice they were seeking from their MP;
- (ii) How the data would be used;
- (iii) The reasons behind the collection of the data; and
- (iv) That the interviewee could withdraw from the study at any point.

Each interviewee was asked to sign a consent form agreeing to participate in the study before any data was collected from them. Interviews were conducted in private areas within the surgery space so far as possible.

Whenever MPs or caseworkers have asked us to keep their replies anonymous we have done so.



## ACKNOWLEDGMENTS

This report would not have been possible without the generous participation of MPs, their staff and constituents. We are extremely grateful that they shared their time and views with us. Some volunteered to take part, but for logistical reasons it was not possible to include their contributions. We would also like to thank Gail Emerson from Justice for All and the caseworkers who discussed our research project in the initial stages as we planned our approach.

For YLAL, the project has been a team effort. We would like to thank all of the volunteers who worked on this for an immense amount of hard work and dedication: Alison Russell, Amber Walker, Andrew Jeffrey, Birgitte Hagem, Camilla Graham Wood, Carita Thomas, Caroline Wilson, Chelsea Towner, Clare Mann, Connor Johnston, Danny Smith, Deborah Broadhurst, Eurydice Cote, Ewan Bain, Gary Crothers, Harpreet Aujla, Heather Thomas, John Tippet Cooper, Karen Dorsey, Katie Brown, Kate Riley, Kate Smith, Kathryn Lill,

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Special thanks to Danny Lang for tireless help setting up, testing and troubleshooting our system to store and analyse data.

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The views expressed in this report are those of Young Legal Aid Lawyers and are not necessarily shared by those who assisted, advised or took part in the project.



# APPENDIX – QUESTIONS POSED TO MPs AND CONSTITUENTS

## Questions for MPs/caseworkers

1. How many staff and volunteers does the MP employ in total?
2. How many of the constituency based staff (paid and volunteers) are dedicated to problems raised by constituents?
3. Approximately, what proportion of the MP's working time each week is spent on dealing with problems raised by constituents?
4. Do you keep statistics on the MP's constituency problem solving work?
5. If you hold surgeries, how often are they?
6. On average, how many new casework problems do you receive each month?
7. Approximately what proportion of cases that you have seen in the last six months involved a legal issue?
8. In the last six months, approximately what proportion of legal cases that you dealt with involved the following issues?
  - Asylum/immigration detention
  - Any other immigration issue (e.g. involves Foreign Office or Home Office)
  - Benefits/tax credits
  - Clinical negligence (e.g. problems with hospital)
  - Community care (services to help people manage health in community e.g. nursing, day centres, home help)
  - Debt/money/financial problems where home at risk
  - Debt/money/financial problems where NO risk to home
  - Discrimination (e.g. sex/race)
  - Education (no special educational needs)
  - Education (special educational needs)
  - Employment (not including discrimination)



- Family where NO domestic violence
- Family where there IS domestic violence
- Housing – where risk of homelessness
- Housing – where NO risk of homelessness
- Problems with social services and children
- Crime (victim of crime or accused)
- Other (please state)

9A. In the last six months, approximately what proportion of legal cases have you referred out to legal advisers?

9B. Of those cases that you have referred out to a legal adviser in the last six months, approximately what proportion would involve these issues?

*(List of issues as for question 8)*

9C. What were the main reasons why legal cases were referred out?

9D. What were the main reasons why legal cases were kept “in house”?

10. Over the last six months, what proportion of legal cases have you referred to the following places?

- Non legal aid law firm
- Legal aid law firm
- CAB (generalist advice)
- CAB (specialist advice – deals with complex queries in same way as solicitor or advice centre)/Law Centre/other independent free advice agency
- Statutory agency e.g. Jobcentre plus/local authority
- National telephone helplines (please state which referred to in notes)
- Other (please state)

11. What would you do if the main provider(s) of free legal advice in your area closed down or were unable to accept referrals (due to lack of capacity or legal aid no longer being available for that type of case)?

12. Approximately what proportion of the annual constituency office budget do you think is spent on case work with a legal dimension?

13A. Is your constituency boundary likely to change before the next election?



13B. If yes, do you think this will affect the volume of queries you receive?

13C. If yes, do you think this will affect the type of queries you receive?

14A. Do you know about the Government's plans to change legal aid?

14B. If yes, does the MP support the proposals?

15A. Do you think the Government's proposals will affect you and your constituents?

15B. Why/why not?

## Questions for constituents

1A. Why have you come to see your MP today? What issue(s) would you like your MP to help you with?

*(constituents could choose from a list of issues as set out at question 8 of the MPs' questionnaire)*

1B. Can we ask your MP about the outcome to your problem?

2A. In an ideal world who would you ask to help you with this problem?

2B. Do you think you need specialist legal advice?

3A. Is this the first time you have contacted your MP about this problem?

3B. Have you contacted your MP about any other problems in the past?

4A. How long has it been since the problem started?

4B. Have you asked anyone else to help you with this problem?

4C. If yes, who?



4D. If you tried to get someone to help you, why were they not able to help resolve your problem?

5. What do you expect to happen after today?

6A. What do you think will happen if your problem is not resolved?

6B. After today, if you need legal advice, can you afford to pay?

6C. If you still need help – how would you like to receive it (ie face-to-face, via telephone etc)?

6D. What are you going to do if you cannot get help for your problem?

6E. If you cannot find a legal adviser then do you feel confident you can deal with this problem yourself?

7A. Were you aware of the Government's plans to change legal aid before today?

7B. What do you think about them?