



**Nowhere else to turn: one year on  
A follow up study addressing the impact of legal aid cuts on MPs'  
ability to help their constituents**

**Young Legal Aid Lawyers**

**August 2013**

## 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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## INTRODUCTION

In 2011, Young Legal Aid Lawyers (YLAL) conducted a survey of 45 MPs and caseworkers across England and Wales. The aim was to examine the possible impact of proposals in the Legal Aid, Sentencing and Punishment of Offenders (LASPO) bill on MPs' ability to help their constituents with legal problems.

The results of the survey were published in March 2012 in our report, "*Nowhere else to turn: The impact of legal aid cuts on MPs' ability to help their constituents*"<sup>1</sup>. The findings of the report were that<sup>2</sup>:

1. MPs are frequently the last resort for constituents with legal problems.
2. MPs devote significant time and resources to helping their constituents.
3. MPs lack the expertise and resources to deal with complex legal problems.
4. MPs are reliant on free local sources of legal advice.
5. Free local sources of legal advice are becoming increasingly scarce.
6. The issues which constituents take to MPs correspond with cuts to the scope of legal aid; the most common legal issues that constituents needed help with were benefits, asylum/immigration and housing (not including homelessness).

On 4 December 2012, the *Low Commission on the Future of Advice and Legal Support*<sup>3</sup> was launched. The objective of the Commission, chaired by Lord Colin Low, was to develop a strategy for access to advice and support on social welfare law in England and Wales. To assist the work of the Commission, YLAL was asked to carry out a follow up study to assess the impact on MPs following the coming into force of the LASPO Act 2012 on 1 April 2013<sup>4</sup>. To do this, we returned to those MPs who had taken part in the original survey and asked them to answer a series of five supplementary questions using an online survey tool<sup>5</sup>. Twenty-nine of the original MPs and caseworkers agreed to take part in this follow-up survey. This report, "*Nowhere else to turn: one year on*", sets out and discusses the answers to these questions.

As with the original survey, this report is not intended to provide an authoritative statement of the impact of the legal aid cuts. Rather, it is a "snapshot", giving an indicator of the current trends and difficulties facing MPs and their constituents in the context of ongoing cuts to legal aid. Two points in particular should be borne in mind in when considering the findings of this report. The first is that the cuts to legal aid were only implemented around four months ago. No doubt it will take some time before the changes bed in and their impact can be gauged definitively. Second, the cuts to legal aid represent one aspect of significant and ongoing changes to the welfare state, including reforms to housing benefit (such as the so-called "bedroom-tax"), the abolition of council tax benefit and its replacement with council tax reduction schemes, and the forthcoming introduction of Universal Credit. These changes are playing out in a difficult economic climate. It should therefore be recognized that cuts to legally aided advice and representation are not the only factor which will impact on the advice needs of constituents and the issues which they take to their MPs. On this note of caution, the findings of this report are as follows:

**(i) There has been a growth in demand for advice in areas affected by LASPO.**

Eighty six per cent of respondents reported an increase in demand for advice since 1 April

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<sup>1</sup>[www.younglegalaidlawyers.org/sites/default/files/YLAL\\_Nowhere\\_else\\_to\\_turn.pdf](http://www.younglegalaidlawyers.org/sites/default/files/YLAL_Nowhere_else_to_turn.pdf)

<sup>2</sup> The executive summary of the report has been reproduced at Appendix 1.

<sup>3</sup>[www.lowcommission.org.uk/](http://www.lowcommission.org.uk/)

<sup>4</sup> A summary of the cuts contained within LASPO is set out at Appendix 2.

<sup>5</sup> The questions are set out in full in Appendix 3.

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2013. The areas for which demand had increased are areas which are no longer within scope of legal aid, or where scope has been restricted. This reflects the conclusion reached in our 2012 report; that constituents may raise more issues with their MP when they are not able to seek redress via the provision of legally aided advice. While some respondents stated that it was too early to notice the impact of LASPO, other respondents were already seeing significant trends in the issues being raised by their constituents. This increase in demand for advice and assistance, particularly in certain areas, has placed an increased burden on MPs and their caseworkers.

### **(ii) There are increased difficulties in referring constituents to local advice providers.**

Over 50% of respondents indicated that they had experienced difficulties in locating advice services to which they could refer constituents since our 2011 research. Respondents noted an increase in waiting times at Citizens Advice Bureaux (CABx), specifically for Welfare Benefits and Debt advice. Overall, respondents reported reduced levels of assistance at CABx, law centres, and other advice services. These service providers were described as overstretched with high workloads and scaled down resources and funding; some advice centres have closed down as a result. Respondents reported that they are running out of options for constituents who are unable to pay privately for legal advice.

### **(iii) MPs are concerned about the future.**

A significant proportion of respondents expressed concern about the changes to legal aid and how they might affect their constituents and the work of MPs and caseworkers in the future.

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### QUESTION 1: DO YOU THINK THERE HAS BEEN AN INCREASE IN DEMAND FOR ADVICE SINCE 1 APRIL 2013?

1. Do you think there has been an increase in demand for advice in any of the following areas, since 1 April 2013?	Number of respondents who agreed	Percentage
a. housing;	20	69.0%
b. debt;	13	44.8%
c. asylum;	5	17.2%
d. any other immigration problem;	8	27.6%
e. family law;	7	24.1%
f. welfare benefits;	23	79.3%
g. asylum support;	2	6.9%
h. education;	3	10.3%
i. criminal injuries compensation appeals;	1	3.4%
j. employment;	8	27.6%
k. consumer issues;	1	3.4%
l. clinical negligence;	1	3.4%
m. None of the above;	4	13.8%
n. Other (please give details).	0	0.0%

The areas of law listed in this question 1 correspond with those which have been removed from the scope of legal aid by LASPO, or where scope has been restricted<sup>6</sup>. Note that a number of respondents indicated that there had been an increase in demand in more than one area, meaning that the sum total in column 3 is greater than 100%. The greatest increase in demand by a significant margin has been in the area of welfare benefits.

### QUESTION 2: FURTHER OBSERVATIONS ON THE INCREASE IN DEMAND

In response to the question "Please set out any further observations you have in relation to your answer to question 1?" the following responses were received<sup>7</sup>:

- Largest increase relates to Department of Work and Pensions & Benefit related claims.
- Following the changes to Housing Benefit for social tenants introduced on 1 April 2013, we have seen an increased demand for advice with Housing and Welfare Benefits. We have also seen an increase in the number of constituents who have had their benefits sanctioned and are struggling with debt.
- We have seen an increase in the number of constituents contacting our office about family and asylum issues.
- People are very much struggling for money - there is a lack of jobs and people are being given the sack because of the changes.
- There has been a very drastic increase in demand for advice on welfare and housing. There has also been an increase in people saying that they have been advised that they will not get legal aid for certain immigration issues.

<sup>6</sup> For example, in respect of housing, legal aid is still available where an individual is being evicted from their home (paragraph 33 LASPO part 1 schedule 1) but is no longer available to provide assistance with disrepair unless there is a serious risk of harm (paragraph 35 LASPO part 1 schedule 1).

<sup>7</sup> Minor spelling mistakes have been corrected for a few of the responses.

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- We have recently measured the number of emails received, which increased by 25% in the last twelve months, but do not keep statistics on the overall number of enquiries, including by telephone, post and at face-to-face appointments. There are a number of advice agencies in Harrow who have been able to secure some alternative funding to maintain their services so there has not been an obvious increase in demand specifically since April 2013.
- There has been little real change, but far more reporting of it.
- The changes made by Government have resulted in increased demand for help on the above issues. This is compounded by the Legal Aid changes and the loss of funding to many local advice agencies. It leaves many with nowhere to go other than to approach the MP.
- There has been a sharp increase in the number of constituents approaching me for help with housing issues. This is not only because of national changes to housing legislation, but also local changes.
- A general increase in problems related to benefit cuts which have had an impact on housing provision.
- Huge increase in welfare-related problems - the bedroom tax, Employment and Support Allowance (ESA)/Work Capability Assessment (WCA) stock, plus council tax benefit changes.
- It is really too early to tell much.
- The timescale for change is extremely short, so a survey of this kind would gain greater credence after six months from the 1st April. It is a good idea!
- Case loads seem to be growing quite rapidly with more live cases at any one time since the 2010 election.
- Bedroom tax is a major issue as are benefits issues. More people are contacting us with debt problems. Also child contact issues re family law.
- There has been an increase in requests for advice on welfare matters; in the other areas noted, it is more that they are only other issues we have been contacted about since 1st April 2013.
- The 'bedroom tax' has caused a vast increase in cases coming into the office and this combined with changes to Council Tax Benefit has led to a dramatic increase in the level of debt casework.
- Particular increase in concerns surrounding changes to housing benefit payments i.e. Bedroom Tax.
- Immigration enquiries down sharply.
- The legislative changes introduced by the Government in the areas of housing and benefits have compounded the situation by apparently increasing the numbers of people seeking advice at the same time as provision is being reduced.
- The only noticeable increase we have had in work due to the changes in legal aid (so far, and I wouldn't expect any significant changes at such an early stage) have been due to lawyers writing to us to let us know their views on the matter.

### Key themes:

1. The largest and most significant increase in demand has been for advice on Housing, Welfare Benefits and Debt Law matters. This increase is cited as a result of national and local changes to housing provision, alongside the combined effect of LASPO in these three areas.
2. However, some respondents indicated that they were unable to notice changes over such a short period and that any changes would be observable once LASPO has had time to bed in.
3. The demand for debt advice has increased due to the impact of the bedroom-tax, compounded by the changes to ESA/WCA and changes to council tax benefit.

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4. There has been a substantial increase in Family and Immigration inquiries, many of which are new inquiries as an increasing number of constituents are finding that they are ineligible for legal aid.
5. Constituents are struggling financially, due to the combined impact of benefit sanctions, job losses, and the poor financial climate.

### QUESTION 3: SINCE OUR 2011 RESEARCH, HAVE YOU EXPERIENCED ANY ADDITIONAL DIFFICULTIES IN LOCATING ADVICE SERVICES TO WHICH YOU CAN REFER CONSTITUENTS?

**3. Since our 2011 research, have you experienced any additional difficulties in locating advice services to which you can refer constituents?**

	<b>Number</b>	<b>Percentage</b>
Yes	15	51.7%
No	14	48.3%

### QUESTION 4: PLEASE PROVIDE DETAILS.

In response to the question "Please provide details e.g. what issues have arisen and when?", the following responses were received:

- Large increase in casework since November 2012.
- The Community Legal Advice Centre in Hull closed on 1 April 2013. There is no longer a provider of free legal advice for immigration and asylum issues in Hull.<sup>8</sup>
- I have heard from constituents that there are long waiting times for appointments with the CAB on issues such as debt and employment.
- The Welfare Rights service, formerly run by the Community Legal Advice Centre, is now run by Hull City Council. There was a delay of several weeks when the service transferred to the Council on 1 April 2013, but this now appears to have been resolved.
- Several national advice services have closed recently due to a lack of funding, including the helpline for parents run by the Advisory Centre for Education.
- Advice agencies overstretched - unable to take on particular cases.
- When we exhaust all the options for people there typically only tends to be a legal route for people to explore. With the lack of legal aid funding people are really struggling and we are powerless to help them.
- Many people have said that they struggle to see the CAB as quickly as they used to because of cuts and when people have been advised that they cannot receive legal aid for family issues or immigration issues, it is hard to know what advice to give as they would require a legal challenge.
- We have been contacted by a number of constituents who would like to make applications to the Home Office outside the Immigration Rules, but are unable to afford to pay for legal advice. Anecdotally, we have been told that a number of private firms providing immigration advice are closing down, and it has become very difficult to find organisations to refer constituents to if they have an immigration rather than an asylum case.
- We now have no specialist resource in the area for advice on disability issues.
- We are having problems due to lack of clarity about the rules. I am due to go and see one of our local solicitors to discuss this which should resolve a lot. Initially we were working to a CAB document which said that Legal Aid for homelessness had gone,

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<sup>8</sup> Since the survey, Howells has been able to offer legal aid appointments for asylum advice in Hull.

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that of course has now been corrected. Since the end of the LSC it is no longer clear locally who can and will take the cases. Like a lot of the 1 April 2013 changes (the health service being the worst) we are fumbling and finding out as we go along.

- Many housing advice agencies have closed in the local area. In the past I would have regularly referred constituents to these organisations, but this option no longer exists.
- Some of the services have been scaled back/forced to close because of cuts.
- Difficulties in obtaining face to face legal advice.
- It has always been difficult to refer with confidence.
- It is increasingly the case that advice services refer to us because they are under the most enormous strain.
- We have been okay so far but further cuts will start to hit our providers even more soon.
- Fewer services for immigration advice, CABx are overloaded, law centre likewise, Immigration advice services have closed.
- It has been more difficult to refer constituents to our local law centre; however, we have improved our own in-house expertise.
- The CABx and local advice services are over stretched making it difficult for these to provide the same levels of assistance which they were previously able to offer.
- The local CABx have too many cases and are finding it difficult to take anymore cases.
- No, in fact we are aware of more local advice services that we were two years ago.

### Key themes:

1. There is a reduction in the levels of assistance available at CABx and advice centres; many are suffering with increased workloads and are overstretched. Respondents reported that many advice agencies have been scaled back and are offering a reduced service. Others have closed down.
2. These issues are felt most acutely in the areas of Welfare Benefits and Debt advice.
3. As private firms close down or clients cannot afford to pay privately for advice, there are very few places to refer constituents with immigration inquiries.

### QUESTION 5: DO YOU HAVE ANY OTHER COMMENTS ABOUT HOW CHANGES TO LEGAL AID MIGHT AFFECT CONSTITUENTS AND YOUR WORK IN THE FUTURE?

In response to the question “Do you have any other comments about how changes to legal aid might affect constituents and your work in the future?”, the following responses were received:

- We would like to see an increase in free advice sessions for constituents from lawyers.
- Lack of money/reduction in benefits causing great stress to all families.
- I am concerned about the proposed changes to criminal legal aid, which will remove the right to choose a solicitor for defendants in receipt of legal aid.
- We have started to receive correspondence from qualified solicitors and trainee solicitors who are concerned about their future employment prospects due to the cuts to proposed changes to criminal legal aid.
- I expect that the introduction of Universal Credit from Autumn 2013 will lead to an increased demand for Welfare, Debt, and Housing advice.
- I am concerned about the choice issue.<sup>9</sup>

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<sup>9</sup> The “choice issue” refers to price competitive tendering for criminal legal aid contracts which, as originally proposed in the Government consultation paper *Transforming Legal aid: delivering a more credible and efficient*

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- I am very anxious that more people will be coming to their MP for advice on issues which can only be resolved legally.
- There are a number of organisations in Harrow who are able to provide advice to constituents, however, we have noticed that there is increased demand for their services, and have been told that a number of them have long waiting lists. In terms of our work, in addition to the increase in volume of enquiries, we have also noticed that the cases we are dealing with are more complex in nature, which may reflect the increased demand for advice that existing advice agencies are struggling to meet.
- The real problem is that people who cannot afford to pay will receive a sub-standard service, and not be able to choose who provides it, if plans for criminal legal aid go ahead.
- We now have an extra member of staff and a system where the formal advice surgery session with [the MP] has been reduced to a minimum to cope with the flow of e-mails, telephone calls and callers at the office door.
- More and more constituents are reporting problems when they approach law centres, as there is no way they can get funding. I only see this getting worse as more and more people require help.
- The changes have made it increasingly difficult for people on low incomes to access legal advice and assistance. This has resulted in an increased workload even though referral to other agencies, if possible, is still preferred when dealing with legal matters.
- I expect the demand on MPs' staff will increase.
- I see this as a potential disaster area as justice cannot be delivered and equality under the law achieved if it is dependent on the income of the citizen!
- It will be more difficult for them and they will lose out in many ways because they won't get the support they need.
- We are being contacted more frequently because constituents cannot afford legal advice. There are particular concerns about housing and landlord/tenant relations and welfare benefit advice.
- I am mostly concerned about retaining the local link of legal representation that legal aid allows.
- The changes to legal aid will increase the number of welfare cases coming into the office, particularly complex cases which are going to appeal as they do not have the support which they previously may have had and this combined with the additional reassessments for the Personal Independence Payment (PIP) and the continued issues with the WCA will mean more people will need support. This will also lead to an increase in people struggling with debt and pay-day lenders.
- Marital matters seem perennially difficult.
- We are starting to see instances of delays/waiting times for constituents trying to access advice services and often there is a deadline for submitting appeals etc.
- We may refer more people to advice services in the future, but I would not expect a significant workload increase. Other factors are increasing MPs' workload, such as the increased use of subscription based mass emails by organisations such as 38 Degrees.

### Key themes:

1. There is concern about the impact on access to justice for those on low incomes.
2. There is concern that the burden placed on MPs and their caseworkers and the demand for their services is likely to increase.

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*system* April 2013, would have removed the ability of defendant's to choose their solicitors. This proposal has subsequently been adapted so that an element of client choice will be retained in any new tendering system, see *Transforming Legal Aid: Next Steps*, September 2013.

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### CONCLUSIONS AND ANALYSIS

The results of the survey indicate that there has been an increase in demand for advice in areas affected by LASPO. Most respondents had experienced difficulties in referring constituents for specialist free advice. Further, many respondents were concerned about the future.

#### **(i) Increase in demand**

In 2012 we found that 56.2% of the issues that constituents wanted to raise with their MP would not receive legal aid funding if LASPO was enacted. We concluded that it was likely that MPs would be faced with more such issues if the cuts came into force.

In 2013, respondents reported an increased demand for advice since 1 April 2013 in several areas. The greatest need was for areas no longer in scope for legal aid, or where that scope has been restricted. In particular:

- 23 respondents (79.3%) welfare benefits
- 20 respondents (69.0%) housing
- 13 respondents (44.8%) debt
- 8 respondents (27.6%) employment, other immigration (not asylum)
- 7 respondents (24.14%) family cases

While some respondents did not think that there had been any problems so far, or took the view that it was too early to tell, it was notable that despite the short interval between the implementation of LASPO and our survey, some respondents had already seen significant trends, reflecting other changes at national and local level. This can be seen in the following responses:

- The 'bedroom tax' has caused a vast increase in cases coming into the office and this combined with changes to Council Tax Benefit has led to a dramatic increase in the level of debt casework.
- There has been a very drastic increase in demand for advice on welfare and housing. There has also been an increase in people saying that they have been advised that they will not get legal aid for certain immigration issues.
- The legislative changes introduced by the Government in the areas of housing and benefits have compounded the situation by apparently increasing the numbers of people seeking advice at the same time as provision is being reduced.
- Following the changes to Housing Benefit for social tenants introduced on 1 April 2013, we have seen an increased demand for advice with Housing and Welfare Benefits. We have also seen an increase in the number of constituents who have had their benefits sanctioned and are struggling with debt.
- We are being contacted more frequently because constituents cannot afford legal advice. There are particular concerns about housing and landlord/tenant relations and welfare benefit advice.

This increase in demand has clearly placed an increased burden on those MPs and caseworkers affected, as is borne out in the following selection of responses:

- Caseloads seem to be growing quite rapidly with more live cases at any one time since the 2010 election.
- The changes made by Government have resulted in increased demand for help on the above issues. This is compounded by the Legal Aid changes and the loss of funding to many local advice agencies. It leaves many with nowhere to go other than

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to approach the MP.

- The changes have made it increasingly difficult for people on low incomes to access legal advice and assistance. This has resulted in an increased workload even though referral to other agencies, if possible, is still preferred when dealing with legal matters.

### **(ii) Difficulties in referring constituents to advice services**

Nearly 52% of respondents had experienced additional difficulties in locating advice services to refer constituents to. A number of respondents reported that existing suppliers were over capacity and that there had been a reduction in access to specialist, free, face to face advice services. For example:

- The CAB and local advice services are over stretched making it difficult for these to provide the same levels of assistance which they were previously able to offer.
- We have been contacted by a number of constituents who would like to make applications to the Home Office outside the Immigration Rules, but are unable to afford to pay for legal advice. Anecdotally, we have been told that a number of private firms providing immigration advice are closing down, and it has become very difficult to find organisations to refer constituents to if they have an immigration rather than an asylum case.
- We now have no specialist resource in the area for advice on disability issues.
- Many housing advice agencies have closed in the local area.
- When we exhaust all the options for people there typically only tends to be a legal route for people to explore. With the lack of legal aid funding people are really struggling and we are powerless to help them.
- Many people have said that they struggle to see the CAB as quickly as they used to because of cuts and when people have been advised that they cannot receive legal aid for family issues or immigration issues, it is hard to know what advice to give as they would require a legal challenge.

Some respondents had not yet experienced problems but saw them ahead:

- We have been okay so far but further cuts will start to hit our providers even more soon.

However, some MPs had been able to deal with the increased demand in house:

- It has been more difficult to refer constituents to our local law centre; however, we have improved our own in-house expertise.
- We now have an extra member of staff and a system where the formal advice surgery session with [the MP] has been reduced to a minimum to cope with the flow of e mails, telephone calls and callers at the office door.

### **(iii) Fears for the future**

A significant proportion of those MPs and caseworkers who responded to the survey, expressed concern that the changes to legal aid might affect their constituents and their work in the future.

- More and more constituents are reporting problems when they approach law centres, as there is no way they can get funding. I only see this getting worse as more and more people require help.
- It will be more difficult for them and they will lose out in many ways because they won't get the support they need.
- I am very anxious that more people will be coming to their MP for advice on issues which can only be resolved legally.

# Nowhere else to turn: one year on

## APPENDIX 1: EXECUTIVE SUMMARY OF “NOWHERE ELSE TO TURN: THE IMPACT OF LEGAL AID CUTS ON MPS’ ABILITY TO HELP THEIR CONSTITUENTS”<sup>10</sup>

### Background

The legal aid scheme in England and Wales allows individuals on a low income 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>11</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) 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 goes through without amendment.<sup>12</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 in this study 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 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, with the constituent’s consent to proceed. All names of constituents have been anonymised. Responses have also been anonymised when requested by MPs or caseworkers.

### Findings

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.
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.

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<sup>10</sup>[http://www.younglegalaidlawyers.org/sites/default/files/YLAL\\_Nowhere\\_else\\_to\\_turn.pdf](http://www.younglegalaidlawyers.org/sites/default/files/YLAL_Nowhere_else_to_turn.pdf)

<sup>11</sup>“Proposals for the Reform of Legal Aid in England and Wales” Ministry of Justice, Consultation Paper CP12/10, November 2010

<sup>12</sup>[The Real Impact of Legal Aid Advice Cuts](#), Jessica Freitas and Steve Hynes, LAG, 17<sup>th</sup> March 2011, p.2

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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.

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.
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.
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 are limited in their options in referring constituents on to specialists. Both of these factors are impacting adversely on the ability of MPs to help their constituents.
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 impacted adversely 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.

## Nowhere else to turn: one year on

### APPENDIX 2: SUMMARY OF THE CUTS TO LEGAL AID CONTAINED IN THE LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

On 1 May 2012 the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) received royal assent. The Act makes vast significant changes to the provision and scope of legal aid. LASPO came into force on 1 April 2013. The key changes can be summarised as follows:

#### *The Legal Services Commission (LSC) became the Legal Aid Agency*

Under LASPO the LSC has been abolished and replaced by the Legal Aid Agency (LAA), which is an Executive Agency of the Ministry of Justice.

#### *Rules on financial eligibility*

Specific changes to the rules governing eligibility for legal aid include: stopping those on income-related benefits being automatically “passported” on to legal aid; reducing the capital thresholds beyond which individuals are not eligible for legal aid; and increasing the monthly contributions toward legal aid for those on low incomes to a maximum of 30% of disposable income.

#### *Cases for which legal aid is or is no longer available*

The most significant reforms brought about by LASPO are those restricting the scope of cases which come within the ambit of legal aid:

- Legal aid for clinical negligence cases has been removed, except for cases in which an infant has suffered neurological injury resulting in them being severely disabled during pregnancy, child birth or the 8 week postnatal period.
- No legal aid is available for employment law cases except for cases which involve a contravention of the Equality Act 2010 or if the claim arises in relation to the exploitation of an individual who is a victim of human trafficking.
- No legal aid is available for private family law cases (such as contact, residence or divorce) unless there is evidence of domestic violence or child abuse and child abduction cases. Legal aid remains available for public family law cases (such as care proceedings and adoption).
- Legal aid is only available in housing law cases where there is serious disrepair to the home (i.e. posing a “serious risk of harm”), the case involves the loss of the individual’s home or involves action being taken against the individual in the county court for anti-social behaviour.
- Legal aid for debt cases has been removed save where there is an immediate risk to the home.
- The majority of immigration work is no longer covered by legal aid, except for those in immigration detention or cases involving Art.3 ECHR or claims under the Refugee Convention.
- Only limited legal aid is available for special educational needs cases. Otherwise education law is excluded.
- No legal aid is available for welfare benefits cases except for appeals to the upper tribunal or higher courts.

## **Nowhere else to turn: one year on**

### *Exceptional Cases Funding*

If a case falls outside the scope of legal aid, funding may still be provided if the case is deemed “exceptional”. A case will be deemed exceptional under the legislation if failure to provide legal aid would be, or would result in, a breach of the individual’s rights under EU law or under the European Convention of Human Rights, providing that the criteria set out in the legislation are met.

### *Telephone Gateway*

LASPO has created a mandatory gateway through the ‘Community Legal Advice’ (CLA) helpline for those seeking legal advice in relation to debt, special education needs and discrimination claims relating to a breach of the Equality Act 2010. This means that the only way clients can obtain legal aid for these types of cases is by calling the helpline.

Telephone advice will be available in housing and family but will not be mandatory in order to obtain legal aid in these areas.

There are also exemptions to the mandatory helpline gateway in cases of an emergency and cases where the client is a child, in detention or has previously been assessed by CLA as requiring face to face advice.

## Nowhere else to turn: one year on

### APPENDIX 3: LIST OF QUESTIONS ASKED IN THE 2012 FOLLOW UP STUDY

1. Do you think there has been an increase in demand for advice in any of the following areas, since 1 April 2013?
  - a. housing;
  - b. debt;
  - c. asylum;
  - d. any other immigration problem;
  - e. family law;
  - f. welfare benefits;
  - g. asylum support;
  - h. education;
  - i. criminal injuries compensation appeals;
  - j. employment;
  - k. consumer issues;
  - l. clinical negligence;
  - m. None of the above;
  - n. Other (please give details).
2. Please set out any further observations you have in relation to your answer to question 1?
3. Since our 2011 research, have you experienced any additional difficulties in locating advice services to which you can refer constituents?
4. Please provide details e.g. what issues have arisen and when?
5. Do you have any other comments about how changes to legal aid might affect constituents and your work in the future?
6. Which party do you belong to (if you are an MP)/or does the MP you work for belong to (if you are a caseworker)?
7. Which constituency are you replying from? (This information will not be shared.)