

## **Office of the Children's Commissioner**

# The impact of Legal Aid changes on children since April 2013

---

## Participation work with children and young people

**September 2014**

**Joel Carter**

# Contents

About the Office of the Children’s Commissioner.....	3
About Just for Kids Law.....	4
Acknowledgements.....	6
Executive summary.....	7
Introduction.....	9
1. Context and Scope.....	11
2. Methodology.....	13
3. Case studies.....	21
4. Key Findings.....	30
Conclusions.....	53
References.....	54
Appendix A: Interview transcripts .....	55
Appendix B: Characteristics of interviewees.....	68
Appendix C: Participation findings and feedback.....	71

# About the Office of the Children's Commissioner

The Office of the Children's Commissioner (OCC) is a national public sector organisation led by the Children's Commissioner for England, Dr Maggie Atkinson. We promote and protect children's rights in accordance with the United Nations Convention on the Rights of the Child and, as appropriate, other human rights legislation and conventions.

We do this by listening to what children and young people say about things that affect them and encouraging adults making decisions to take their views and interests into account.

We publish evidence, including that which we collect directly from children and young people, bringing matters that affect their rights to the attention of Parliament, the media, children and young people themselves, and society at large. We also provide advice on children's rights to policy-makers, practitioners and others.

The post of Children's Commissioner for England was established by the Children Act 2004. The Act makes us responsible for working on behalf of all children in England and in particular, those whose voices are least likely to be heard. It says we must speak for wider groups of children on the issues that are not-devolved to regional Governments. These include immigration, for the whole of the UK, and youth justice, for England and Wales.

The Children and Families Act 2014 changed the Children's Commissioner's remit and role. It provided the legal mandate for the Commissioner and those who work in support of her remit at the OCC to promote and protect children's rights. In particular, we are expected to focus on the rights of children within the new section 8A of the Children Act 2004, or other groups of children whom we consider are at particular risk of having their rights infringed. This includes those who are in or leaving care or living away from home, and those receiving social care services. The Act also allows us to provide advice and assistance to and to represent these children.

## **Our vision**

A society where children and young people's rights are realised, where their views shape decisions made about their lives and they respect the rights of others.

## **Our mission**

We will promote and protect the rights of children in England. We will do this by involving children and young people in our work and ensuring their voices

are heard. We will use our statutory powers to undertake inquiries, and our position to engage, advise and influence those making decisions that affect children and young people.

**This report is © The Office of the Children's Commissioner 2014**

Please reference this report as follows: Carter, J. (2014) *The impact on children of legal aid changes since April 2013: Participation work with children and young people*. London: Office of the Children's Commissioner

## About Just for Kids Law

Just for Kids Law delivers holistic, client-led support to vulnerable children and young people from crisis to stability and onwards into independence. We do this through our innovative youth advocacy, specialist legal representation, and opportunities programme. We also drive systemic change through strategic litigation and policy reform. We aim to be the UK's leading experts in youth justice law, sharing our knowledge, expertise and model across the UK and beyond. For more information visit: [www.justforkidslaw.org](http://www.justforkidslaw.org).

### Project team

**Joel Carter** is a JNC qualified Youth Worker and is employed as Youth Projects Manager at Just for Kids Law. He works with children and young people on non-legal matters as an advocate, youth worker and mentor. He has experience of facilitating groups of young people to produce youth-led responses to consultations including those on the care and youth justice systems.

**Teresa Redman** is an experienced youth worker and mentor for children and young people. She is employed at Just for Kids Law as an advocate for young parents and also supports young people in education and work. She has previously managed youth-led projects with young people who are in unstable accommodation.

**Chrisann Jarrett** is a Just for Kids Law youth ambassador and is currently undertaking an internship in Criminal Justice with the charity. She has experience of consulting young people and drafting responses to government consultations.

**Shani Taggert** is a volunteer at Just for Kids Law as well as a Just for Kids Law youth ambassador. She has experience of consulting young people.

## Acknowledgements

We are grateful for comments on drafts of this report by Charlie Rolfe and Sally Ireland (Office of the Children's Commissioner).

We especially thank all of the children and young people who were involved with the project in so many different ways, including: focus group participants, interviewees and research collaborators. We also thank parents who were interviewed and adult professionals who participated in the professionals' focus group.

We finally thank the advocates, solicitors and other members of staff and volunteers at Just for Kids Law who assisted throughout the project.

# Executive Summary

This research into the impact on children and young adults of the changes to Legal Aid since April 2013 was conducted by Just for Kids Law. The research was commissioned by the Office of the Children's Commissioner (OCC) and findings will form the qualitative evidence base for a Child Rights Impact Assessment to be undertaken by the OCC.

The changes to Legal Aid since April 2013 were chosen by the OCC as a topic for a Child Rights Impact Assessment due to:

*The potential serious impacts not only on access to justice for children but also on a wide range of substantive rights due to the number of areas of law affected. The ability of the courts to protect the rights of children is seriously threatened by these changes (OCC, 2013a).*

## **Changes to Legal Aid since April 2013**

In April 2013, the Legal Aid provisions of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) came into effect and, as a result, a variety of legal support was taken out of the scope of Legal Aid. In addition to this, further changes are forthcoming – and some have already taken place – as a result of the 2013 Ministry of Justice consultations Transforming Legal Aid: Creating a more credible and efficient system (September 2013), Transforming Legal Aid: Next steps (February 2014) and Judicial Review: Proposals for Further Reform (February 2014).

Since the changes have come into effect, Just for Kids Law – alongside other organisations – have provided, and continue to provide, free legal support and advocacy for children and young adults who have been unable to access Legal Aid for a range of issues. Despite this, little research has so far been undertaken into the impact of the changes on children and young people.

## **About the study**

The aim of this research was to obtain the views and experiences of children and young adults in order to assess the impact of the changes to Legal Aid since April 2013. A key requirement of this research, for both the Children's Commissioner and in relation to Just for Kids Law's organisational ethos, was the participation of young people, who were involved as research collaborators, as well as research subjects, throughout.

The research was undertaken over a three month period, starting in February 2014. Qualitative data was collected from children and young people as well as professionals working with children and young people. This was collected

via focus groups and one-to-one semi-structured interviews. Nineteen one-to-one, semi structured interviews were conducted with children – or their guardians – and young adults, aged 12 to 22, with relevant experience of accessing legal support.

The interview cohort included children and young adults who had been unable to access Legal Aid for issues they faced as well as those who would or may in future be unable to access legal support. The types of cases and areas of law covered were: immigration, education, family contact, judicial review and alternative remedies. Included in the report are 16 brief case studies as well and three extended case studies and the three corresponding interview transcripts.

## **Findings**

The research draws attention to the fact that:

- The majority of interviewees did not know that the issue they faced was potentially a legal matter, capable of being resolved by recourse to the law.
- Interviewees discovered the issue was a legal matter only after chance encounters and subsequent referrals to legal advice projects, sometimes years after first encountering the issue.
- The majority of interviewees did not know that they could access Legal Aid or even that Legal Aid existed.
- Interviewees were unable to resolve their cases without legal support and litigation, despite repeated attempts to do so unsupported.
- Alternative remedies were only effective and appropriate in limited circumstances.
- Being a litigant in person had a negative impact on proceedings as well as a long term impact on wellbeing.
- Without legal intervention, those exercising public functions would have been likely to continue to fail to undertake their duties towards young people. It took recourse to law to force local authorities and others to meet their statutory duties towards often extremely vulnerable children and young adults.
- Where Legal Aid had been removed, children and young adults relied upon charitable donations and pro bono legal projects in order to access necessary legal support.



# Introduction

In April 2013, the Legal Aid provisions of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) came into effect and, as a result, a variety of legal support was taken out of the scope of Legal Aid. In addition to this, further changes to the system are forthcoming – and some have already taken place – as a result of the 2013 Ministry of Justice consultations Transforming Legal Aid: Creating a more credible and efficient system (September 2013), Transforming Legal Aid: Next steps (February 2014) and Judicial Review: Proposals for Further Reform (February 2014).

In January 2014, Just for Kids Law was commissioned by the Office of the Children’s Commissioner (OCC) to assess the impact on children and young people<sup>1</sup> of the changes to the Legal Aid system since 1 April 2013, by involving and engaging them in a qualitative study. The evidence provided here is to be used by the OCC, along with quantitative research and legal analysis – neither of which will be undertaken here or by Just for Kids Law – to produce a Child Rights Impact Assessment (CRIA) of the changes to Legal Aid.

The study had three stages:

- A focus group for young people with experience of accessing legal support exploring their understanding of the issues and terminologies (Focus Group A).
- A focus group for legal and non-legal professionals working with young people who access legal support exploring their views and experiences of the impact of the changes to Legal Aid (Focus Group B).
- Semi-structured interviews with children, young people and other actors who have accessed legal support relevant to this study, exploring their views and experiences of accessing this support.

## Aims

The overarching aim of the project is to assess the impact on children and young people of the changes to the Legal Aid system since 1 April 2013.

The research objectives are:

---

<sup>1</sup> OCC’s remit includes all children under 18 in England, or in other parts of the UK for reserved matters, and young adults aged 18–24 who fall within Section 9 Children Act 2004 (broadly speaking, care leavers and those with an Education, Health and Care Plan or a learning disability).

1. To obtain the views and experiences of children in relation to the changes to Legal Aid and other forms of advice for legal problems since April 2013.
2. To assess what the impacts have been on children of these changes (both direct impacts, and those felt as a result of behavioural changes by other actors such as parents/carers as a result of those changes).

### **Structure of report**

Chapter 1 undertakes a brief analysis of the policy context before clarifying the scope of this research project. The methodology is presented in Chapter 2 and in Chapter 3 we present extended case histories of three of the interviewees<sup>2</sup>, as well as brief case histories of the remaining interviewees.

In Chapter 4, we will address research questions posed by the OCC in their invitation to tender. We will present our key findings in relation to each of these research questions and provide evidence from interviews and from the professionals' focus group to support our analysis. We will then present our conclusions.

---

<sup>2</sup> Extended excerpts of the corresponding interview transcripts can be found in Appendix A.

# 1. Context and scope

## Context

The changes to the Legal Aid system associated with LASPO, Transforming Legal Aid: Delivering a more credible and efficient system (September 2013), *Transforming Legal Aid: Next Steps* (February 2014) and Judicial Review: Proposals for Further Reform (February 2014) have, or could in future, remove a variety of legal support from the scope of Legal Aid. The removal of this free legal support has the potential to impact children and young people's access to justice as well as a range of substantive rights.

*The ability of the courts to protect the rights of children is seriously threatened by these changes, in particular since children by virtue of their age and capacity are less likely to be able to participate effectively, in legal proceedings without professional advice and assistance (OCC, 2013a).*

Commentators have highlighted the specific vulnerabilities of children and young adults in this context:

*No exceptions are being made for children who, by their developmental nature are legally recognised as fundamentally different from adults and cannot navigate a complex legal system on their own (Children's Society, 2013).*

It is in this context that this qualitative study seeks to explore the views and experiences of children and young adults regarding the changes to the Legal Aid system.

## Scope

We will engage children, young adults and other actors who have accessed legal support for cases and areas of law impacted, or due to be impacted, by the changes to Legal Aid. All areas of law impacted by the changes since 1 April 2013 are thus potentially within the scope of this study. OCC's Child Rights Impact Assessment will include civil and prison law Legal Aid but not criminal law outside the prison context, and we mirror that exclusion. Due to the scale of the project and the size of the interview cohort there will inevitably be other areas of law that are not covered here.

In relation to the changes that have already taken place as a result of LASPO, relevant cases could include: employment; debt; immigration; education; welfare benefits; clinical negligence; private law and criminal injuries compensation. We will not comment on the impact of changes in relation to civil merits but will focus instead on cases and areas of law where Legal Aid is

no longer available as a result of the changes.

In relation to changes associated with the two Transforming Legal Aid consultations and Judicial Review: Proposals for Further Reform, we will again focus on cases and areas of law where support is not or may in future be no longer available as a result of the changes to Legal Aid. As such, this will include prison law as well as impacts resulting from changes to judicial review.

With regard to the Legal Aid Residence Test proposed in Transforming Legal Aid, although the potential impact is within the scope of this study, we will not address this change in isolation. Our findings in relation to specific cases and areas of law can be generalised to understand the potential impact of a test that could remove an even greater range of support for individuals.<sup>3</sup>

It has been noted that, in addition to the specific areas of law that have been impacted, the changes to Legal Aid will also have a wider impact on access to advice services for young people.

*Even where types of cases remain in scope of Legal Aid, it will be harder for young people to access advice and representation. For example: The number of voluntary sector advice agencies undertaking Legal Aid work is likely to fall from 270 to a few dozen (Just Rights, 2012).*

Although the reduction in the availability of advice services is relevant to this study and the potential impact will be implicitly covered in our findings, we will not focus specifically on this issue.

---

<sup>3</sup> Following the judgment in *R (Public Law Project) v Lord Chancellor* [2014] EWHC 2365 (Admin), in which OCC intervened and the Divisional Court found that the proposed residence test was ultra vires LASPO and unlawfully discriminatory, the statutory instrument introducing the residence test has been withdrawn and it is therefore uncertain whether the test will ever come into effect.

## 2. Methodology

The methodology was agreed with the OCC prior to the commencement of the research. All activities were undertaken by staff and volunteers who are not legally qualified and who work on non-legal issues at Just for Kids Law. Prior to the commencement of the research, a brief desk study was undertaken to assess existing research and to avoid duplication. Following this, there were three main components to the research:

- Focus group A – the young people’s focus group
- Focus group B – the professionals’ focus group
- Semi-structured interviews with children and young adults or their parents/guardians.

### **Focus Group A – Young people’s focus group**

Focus group A was a structured half-day workshop attended by nine young people – four males and five females – aged between 15 and 20, with opportunities for discussion throughout. The session was designed and led by two facilitators and was observed by a third member of staff, who also took notes.

#### ***Aims of focus group A***

To educate participants and to gauge young people’s understanding of the Legal Aid system and of children’s rights, in order to inform the semi-structured interviews.

#### ***Participants***

Participants had accessed advocacy or legal support at Just for Kids Law. In this way, they were broadly representative of the interview cohort and had experiences that were relevant to this study.

#### ***Methodological challenges***

Participants had accessed legal support for a wide range of issues, including criminal representation, immigration and community care. This factor, as well as the broad range of ages involved and the fact that several participants did not speak English as their first language, meant that participants had different levels of understanding of terminology and concepts. Facilitators were conscious of this beforehand and planned the workshop accordingly.

#### ***Analysis of findings***

The facilitators evaluated learning with participants at the end of the session. In addition to this, the facilitators undertook a further evaluation with the

observer after the session had ended. Findings from this focus group<sup>4</sup> were used to inform the content and delivery of the semi-structured interviews.

### **Focus group B – Professionals’ focus group**

Focus group B was a structured focus group attended by legal and non-legal professionals who work directly with children and young adults. There were 11 participants so the group was split into two smaller groups of five and six. Each group had a mix of legal and non-legal professionals, a facilitator and an observer, who also took notes. Topics of discussion were based around the OCC’s original research questions, as addressed in detail in chapter 4. Audio recordings were taken of each focus group and transcripts of these recordings were later obtained for detailed analysis.

#### ***Aims of the focus group***

To gain an understanding of the impact on children and young adults of the changes to Legal Aid, as observed by professionals working with children and young adults.

#### ***Participants***

Participants with relevant experience of working with children and young adults around legal and quasi-legal issues were targeted and approached. A total of 35 potential candidates, with a range of experiences and from a range of professional backgrounds, both legal and non-legal, were identified and invited to attend. Of these, 15 agreed to attend and 11 did attend the focus group. Attendees worked with children and young adults in the following capacities:

- local authority personal advisor
- prison law caseworker
- immigration solicitor
- immigration solicitor working on young people’s advice line
- family and child lawyer
- domestic violence advocate
- housing advisor
- criminal barrister specialising in youth justice
- youth advocate
- education and community care solicitor
- youth homelessness caseworker.

#### ***Methodological challenges***

Although we approached a number of professionals who were responsible for exercising public functions – including social workers and other local authority personnel – and several did agree to take part in the focus group, only one local authority personal advisor was able to attend on the day. Likewise,

---

<sup>4</sup> A brief summary of findings from Focus Group A, as well as young people’s feedback on this and other participation opportunities, can be found in Appendix C.

professionals working in other areas relevant to research questions – including a family mediator – were unable to attend on the day. It was felt, however, that a broad enough cross-section of opinions and expertise had been gained from attendees.

### ***Analysis of findings***

The facilitators and observers evaluated learning at the end of the session. In addition to this, further evaluation was undertaken once transcripts of the focus groups were obtained. Findings from the focus groups – referred to collectively throughout this report as focus group B – were used to inform our responses to the research questions in chapter 3.

### **Semi-structured Interviews with young people**

The semi-structured interviews were one-to-one interviews with children and young adults or other actors<sup>5</sup> who had experience of accessing legal support for areas of law impacted by the changes to Legal Aid. The interviews were conducted by youth workers with extensive experience of working with young people around sensitive issues, including those that require legal support. Audio recordings were taken of interviews and transcripts of these recordings were subsequently obtained.

### ***Aims***

To obtain the views and experiences of children in relation to the changes to Legal Aid and other forms of advice for legal problems since April 2013.

### ***Participants***

Participants were drawn primarily from the service user group at Just for Kids Law. This ensured that interviewees had had relevant experiences and that accounts could be verified

A target of 15–20 interviews was agreed with the OCC and 40 young people with a range of experiences – in relation to their reason for requiring support as well as the outcomes of their case – of accessing legal support for areas of law impacted by the changes to Legal Aid were identified. Young people were selected only if their cases had been resolved – or if they were in a relatively settled position – and it was felt they would be able to safely reflect upon their experiences.

Several of those candidates originally identified were either unavailable or were not interested in taking part in the study. Initial consent was obtained from the remaining candidates, pending full, informed consent to participate. Several candidates became unavailable during the project and the interview cohort was altered accordingly. Nineteen interviews were completed and

---

<sup>5</sup> On two occasions, it was decided more appropriate to interview parents of children who had accessed legal support. This was due to the age of the children involved (both were twelve years old) and their level of understanding of the issues involved. This decision was taken jointly with parents.

casework and areas of law covered included:

- education exclusion
- non-asylum immigration
- judicial review
- family contact
- alternative remedies.<sup>6</sup>

The interview cohort included six young people and actors who had accessed legal support – for the primary issue in the context of this study – after LASPO had come into effect and who were directly impacted by the changes to Legal Aid as a result. The remainder of the interviewees had not been impacted by the changes – having accessed legal support prior to their taking place – but could in future be unable to access legal support for the same issues. Two interviewees had accessed legal support prior to LASPO coming into effect and three had been able to access support prior to LASPO but had ongoing cases. As well as this, seven accessed legal support for areas of law that could in future be taken out of the scope of Legal Aid by Transforming Legal Aid. In addition to this, one interviewee employed an alternative remedy. It should also be noted that 14 of the interviewees would have failed – or would have been unable to provide documentary evidence to satisfy – the proposed residence test and could in future be unable to access legal support as a result.

### **Interviews**

We employed one-to-one semi-structured interviews to ensure young people felt safe<sup>7</sup> and to enable participants to '*feel they are taking part in a conversation or discussion*' (NCB, 2011). Full, informed consent<sup>8</sup> was obtained prior to the commencement of interviews and monitoring information was also gathered at this point. Interviewees were initially shown a list of issues for which it is or has been possible to access Legal Aid. They were then asked whether they themselves had accessed legal advice or support for any of these issues and invited to expand upon their responses. Interviewers subsequently asked open questions that encouraged participants to chronicle their experience and to share their emotions and opinions in relation to these experiences. Interviewers also had a small number of interview questions but used these only when necessary and when participants had not already covered the topics in their previous responses. Interview questions were as follows:

- Why do you feel you needed legal advice/support?
- Did you seek any other forms of advice?
- Did you know that it was a legal matter and that you could get legal help?

---

<sup>6</sup> Although alternative remedies are not directly impacted by the changes to Legal Aid, they were included for the purpose of responding to research questions posed by the OCC.

<sup>7</sup> See Ethics for a more detailed discussion of this methodological choice.

<sup>8</sup> The template consent form from the NCB's *Guidelines for Research with Children and Young People* (2011) was adapted for the purposes of this study.



- Did you feel that you were able to voice your opinions/feelings?
- What did you think of the advice/support that you were given?
- If you had not been able to get that help, would it have been different?

Interviewees were given a £20 voucher in recognition of their contribution to the research.

After the first two interviews were conducted, transcripts were assessed by a member of staff with extensive experience of conducting semi-structured interviews. Interviewers were given feedback and the remaining 17 interviews were conducted after this feedback had been received. The interviews were conducted primarily in a six week block and at the halfway point, after ten interviews had been completed, a further review of methods and of the outputs of the interviews so far was conducted. Only minor adjustments were required at this stage.

### ***Methodological challenges***

Candidates were only selected if their cases were resolved or if they were in a relatively settled position and able to safely reflect upon their experiences. As such, whilst 18 out of 19 interviewees or dependents of interviewees were children or young adults<sup>9</sup> when they first encountered the issue for which they accessed legal support, several were in fact outside of this age bracket at the point of interview. It was felt, however, that their experiences were relevant and applicable to this study.

Although all types of casework and areas of law impacted by the changes to Legal Aid were considered when selecting research participants, it was not possible to equally represent each of these due to the limited scale of the project. Prison law, for example, was one area where it was hoped that there would be greater representation. Despite efforts to recruit participants – from the existing service user group at Just for Kids Law and through external organisations – no young people who had accessed legal support for issues in prison were eventually interviewed. Feedback in this regard revolved around the particular challenges in engaging the client group.

### ***Analysis of findings***

The two interviewers independently reviewed and identified themes from the transcripts, as did a young research collaborator. When all of the interviews were complete, these three people came together to compare their analyses and interpretations. Final themes were agreed during this meeting and the report was drafted by one of the interviewers.

---

<sup>9</sup> As defined by OCC.

## Participation

### **Background**

Providing participation<sup>10</sup> opportunities for children and young adults was a key consideration of this study, which sought to engage and involve young people as well as to consult. As such, opportunities for participation were built into the methodology and children young adults were able to become involved in the study in the following ways:

- Interviews: 14 children and young adults participated as interviewees.
- Focus group A: seven children and young adults participated in the focus group.
- Focus group B: three young people assisted with the delivery of the focus group and analysis of findings.
- Analysis of findings: two young people assisted with the analysis of the anonymised interview transcripts.
- Research: two young people assisted with desk-based research.
- Report writing: two young people contributed to the content of the final report.

For findings and young people's feedback in relation to participation opportunities, see Appendix C.

### **Methodological challenges**

There were several limitations to the opportunities available for young people to participate in this project. To guard against 'priming' and to avoid influencing the responses of interviewees, young people who were interviewed were not invited to be involved with wider participation opportunities. This included, but was not limited to, the young people's focus group.

In addition to this, and in recognition of the sensitivity of the issues being discussed, young people were not invited to contribute to the delivery of interviews – except as research subjects – and were involved with the analysis of transcripts only after these had been anonymised. The analysis provided by young people of these anonymised transcripts was, however, fully considered and incorporated into this report.

For feedback from young people who attended focus group A and in relation to other participation opportunities in this study, see Appendix B.

---

<sup>10</sup> In this context, we take participation to mean '*a process where someone influences decisions about their lives and this leads to change*' (Treseder, 1997).

## **Ethics**

Our approach was informed by the OCC's Participation strategy Ensuring the voice of children and young people in the work of the Office of the Children's Commissioner (2013b) as well as the National Children's Bureau's Guidelines for research with Children and Young People (2011). We considered the following, in particular:

- equality and diversity
- informed consent and permission
- voluntary participation
- confidentiality
- avoiding harm and safeguarding.

### ***Equality and diversity***

Researchers utilised Just for Kids Law's existing equality and diversity policies and procedures. Efforts were made to ensure our methodological approach was inclusive and considerations included refunding travel undertaken by participants and employing interpreters if needed. We worked with young people identified as priorities for engagement in the OCC's Participation strategy (OCC, 2013b) although they were not targeted primarily for this reason.

### ***Informed consent and permission***

We utilised learning from focus group A to adapt the NCB's consent checklist (NCB, 2011) and to ensure potential research participants were provided with enough information to give their informed consent to participate in the study. All research participants were aged 16 or over and so were able to give their own permission to participate in the study.

### ***Voluntary participation***

All potential research participants were made aware that participation in the study was voluntary and that they could withdraw at any point. Several young people did in fact withdraw from the research after agreeing to be interviewed.

### ***Confidentiality***

Interviewers explained the limits of confidentiality to all research participants.

### ***Avoiding harm and safeguarding***

Given the sensitivity of the issues being discussed, we selected one-to-one, semi-structured interviews as the most appropriate methodology for gaining young people's experiences and opinions. This choice was also supported by members of focus group A. Candidates were not considered if it was felt that there could be a negative impact caused by reliving past experiences – especially recent past experiences – upon mental and emotional wellbeing. Interviewers had extensive experience of working one-to-one with children and young adults around issues similar to those being discussed and utilised Just for Kids Law's existing safeguarding policies and procedures to ensure

interviews were conducted safely. Two interviewees requested triad interviews and so these were conducted with a friend or associate in the room as well.

### 3. Case histories

We will first present extended case histories of three of the interviewees. All names have been changed.

#### **Isoke (Immigration)**

Isoke came to the UK, aged four, with her family. She travelled on a visitor's visa and lived with her father, mother and brother. When Isoke was 10 years old, her mother fled the family home with Isoke and her brother after they had been the victim of sustained domestic violence at the hands of their father. A number of years passed before Isoke's father discovered where the family had moved. He visited on the day of Isoke's fifteenth birthday, when Isoke's mother was away from home. Immigration authorities had been attempting to detain Isoke's father due to his criminal offending and they came to Isoke's home soon after he arrived. They detained Isoke, her brother and their father – none of whom had lawful residence in the UK – and, despite the history of domestic violence, accommodated them in the same room. Isoke's mother did not know where they were and Isoke and her brother were unlawfully detained for one month.

Isoke and her brother were eventually placed in foster care until, months later, their mother located them and took them home. By this time, their father had been deported to Nigeria. As Isoke's mother had no right to work or to claim benefits in the UK, they survived by staying with friends and ate whatever food they could. During this time, Isoke's health and education deteriorated dramatically as she struggled to cope with the disruption and uncertainty caused by her unstable accommodation and immigration situation. Isoke's mother attempted to get help to regularise their status on several occasions but each time she was unsuccessful and lost money in the process. Eventually, when Isoke was 17, her mother, who had no means of providing for her family, decided that she had no choice but to return to Nigeria and started exploring ways of voluntarily returning. Yet Isoke and her brother did not want to leave – they had lived in the UK nearly their whole life and felt that the UK was their home. They had been educated in the UK and Isoke hoped to go to university. They spoke only English and the thought of moving to a country they could barely remember was frightening.

Isoke's mother relented and the family was referred to an advocacy and legal charity after they had visited a refugee organisation for help. A non-legal advocate referred the family to a community care solicitor, funded through Legal Aid, and the family was accommodated in a hostel room as a result. The advocate also referred the family to an immigration solicitor, funded through Legal Aid, who entered an application for leave to remain. During the process, however, Isoke turned 18 and could no longer be counted as a

dependent for the immigration application. Although her mother and brother were granted leave to remain in the UK, Isoke's application was refused. By the time Isoke made a new application for leave to remain, LASPO had come into effect and non-asylum immigration had been removed from the scope of legal aid. Isoke's advocate helped to fundraise for the legal fees and Isoke's new application for leave to remain in the UK is now pending.

### **Sacha (Education)**

From a young age, Sacha had displayed persistent disruptive behaviour at school. His mother, convinced that Sacha suffered from a diagnosable condition and that this was the root cause of his disruptive behaviour, repeatedly asked for an assessment of his needs to be undertaken. Despite these requests, no assessment was undertaken. Sacha received no extra support and he was regularly excluded from school. Sacha's mother persisted until the school finally agreed to undertake an educational psychologist assessment, when Sacha was 12 years old.

Although this assessment was completed, the school permanently excluded Sacha just days later. Sacha and his mother felt that he had not been given a chance, as it was so soon after his assessment, yet he was moved to a pupil referral unit against their wishes. At the unit, Sacha received even less support and his health and wellbeing deteriorated. He disliked the learning environment so strongly that he became severely distressed and eventually refused to attend. After a chance encounter, Sacha's mum was informed that this could be a legal matter and was referred to an advocacy and legal charity.

An education solicitor, working pro bono due to the changes as a result of LASPO, took on the case and supported Sacha and his mother throughout the appeals process. Although the exclusion from his current school was upheld, the solicitor successfully negotiated for an assessment of Sacha's needs to be undertaken. Finally, after several years of waiting, the local authority completed the assessment and Sacha was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) and Oppositional Defiant Disorder (ODD). This assessment meant that Sacha, now aged 13, was placed in a specialist school that could cater for his needs. Sacha is now attending and succeeding at his new school.

## Becky (Judicial Review)

Becky's relationship with her mother – with whom she lived alone – had started to become difficult by the time she was 11 years old. She first approached social services for help at the age of 14, before eventually returning home when they refused to take her into care. At the age of 14, Becky was diagnosed with multiple sclerosis (MS) and, when she was 15, Becky learned that her father had passed away. Becky's relationship with her mother broke down completely when she was 15, after she had been the victim of sustained physical abuse. Becky was burnt with an iron and her mother slashed her across the face with keys. Becky felt she no longer had a choice but to leave home and she presented to social services as homeless on her sixteenth birthday. Becky was informed that social services could not help and, when she refused to leave their offices, she was advised to attend the local authority's advice centre for young people. She attended this centre and a referral was made to the local authority housing department. Becky would later learn that, as a 16 year old presenting as homeless to social services, this treatment was unlawful.

Unable to return to her mother's house, Becky 'sofa surfed' while she waited for a response from the housing department. Her mother withheld Becky's passport and birth certificate and refused to provide Becky with any financial support. After two months, Becky was placed in accommodation through the housing department. Throughout this time, Becky had acted alone and without the support of independent professionals. She was still unaware that this could be a legal matter when she finally sought help. Her health had deteriorated so drastically that, after an especially bad relapse in her condition, Becky visited the college welfare officer to ask for support. It was this college welfare officer who advised Becky to seek legal advice for the way in which she was being treated and referred Becky to an advocacy and legal charity.

With the support of an advocate, and still aged 16, Becky requested to be taken into the care of social services as a looked after child, under Section 20. Despite several assessments being completed by social services, their position was maintained and Becky was not accepted as a looked after child. Becky's advocate referred the case to a community care solicitor, funded through Legal Aid, who issued judicial review proceedings. This was contested for a number of months before Becky was granted full looked after child status under Section 20. Now, at the age of 17, Becky is accommodated by the local authority in a placement that meets her needs and has support to help her manage the impact of her condition.

## **Brief case histories**

We will now present brief case histories of the remaining interviewees. All names have been changed.

### **Mark**

Mark was permanently excluded from school at the age of 12. He was offered a managed move to a pupil referral unit but his parents refused, feeling that this was unsuitable for their son's needs. Mark's mother had previously been in contact with an advocacy and legal charity regarding a different issue and contacted them again at this stage. A solicitor, working pro bono, supported the family to negotiate a managed move to a mainstream school and to have the exclusion removed from Mark's record. Mark is now attending this mainstream school.

### **Odeh**

Odeh came to the UK, aged 13, with her mother. They stayed with a woman Odeh had never met and, after a few weeks, Odeh's mother left unannounced and did not return. Odeh was regularly locked out of the house and neglected by the woman until both Odeh's school and the police contacted social services who decided Odeh would not be taken into care. Aged 16, Odeh 'sofa surfed' at a friend's house for one year until she was told she would have to leave. At the same time, Odeh's college welfare officer referred Odeh to an advocacy and legal charity for support with her immigration status. The advocate successfully argued that Odeh should be taken into the care of social services and she was provided with a foster home. The advocate also found a pro bono immigration solicitor and Odeh's application for leave to remain is now pending.

### **Kayefi**

Kayefi came to the UK age 11 with her aunt and uncle. They claimed to be Kayefi's parents and she travelled with a fake passport. Kayefi was severely neglected, suffered domestic abuse and lived in domestic servitude until, when she was 17, she was made homeless. She presented to social services with her fake documents and revealed her true age and identity. Kayefi's aunt was contacted but she would not corroborate Kayefi's claims and Kayefi was accused of fraud. Still aged 17, Kayefi was homeless and sleeping on night buses when a friend referred her to an advocacy and legal charity. A non-legal advocate helped Kayefi be recognised as a victim of trafficking and Kayefi was accommodated as a result. Alongside this, a solicitor funded through Legal Aid helped Kayefi make an application, still pending, for leave to remain in the UK.



## **Simon**

Simon had a volatile relationship with his parents and, from the age of 13, had run away from home and presented to social services on several occasions. Aged 17, Simon was made permanently homeless and was unlawfully placed in a Bed and Breakfast by social services. Although he requested support when he was still 17, the assessment was not undertaken until after his 18<sup>th</sup> birthday. A few days after this birthday, before the assessment had taken place, Simon received a letter stating that he would have to leave the accommodation and would not receive any further support. Simon sought a solicitor and was referred to an advocacy and legal organisation. A solicitor, working pro bono, contested the actions of social services through a complaint and Simon was awarded substantial compensation and offered accommodation.

## **Sara**

Sara was permanently excluded from school at 16. It was her first exclusion and came after one incident involving the headteacher. Sara attended the governing body meeting accompanied by her 17 year-old brother where the panel decided to uphold the exclusion. Despite not wanting to experience a repeat of this meeting, Sara was convinced by her father to pursue the appeals process. She sought legal representation in order to appeal the exclusion, and was referred to an advocacy and legal charity where she was provided with a Legal Aid lawyer. She was supported by a paralegal at the review panel but the exclusion was upheld. With the help of a solicitor, she applied for permission to challenge the independent appeal panel's decision by judicial review, but this was unfortunately refused.

## **Sheldon**

Sheldon was permanently excluded from school at 14, at which point his mother sought legal support. A solicitor, provided under Legal Aid, attended the governing body meeting and the subsequent independent appeals panel (IAP) but the decision was upheld. The solicitor gained permission to challenge this decision through judicial review and the claim was upheld. The IAP re-sat with a pro bono barrister representing Sheldon and the exclusion was overturned. Sheldon's solicitor also successfully appealed the local authority's decision to refuse to undertake a statutory assessment of Sheldon's special educational needs. His solicitor obtained a report that diagnosed Sheldon with autistic spectrum disorder and he now has a statement of special educational needs ensuring he receives 20 hours of additional education support and has completed his GCSE studies.

## **Jane**

Jane was the victim of domestic abuse by her alcoholic mother. After one incident, when Jane was 17, her mother was arrested and Jane was told by the police that she could not return home. Social services were informed of the situation and Jane 'sofa surfed', pending an assessment. During this assessment, Jane was given limited information about her options and, after a number of weeks, was still sofa surfing. Her college welfare officer referred her to an advocacy and legal charity. A Legal Aid solicitor threatened legal action and Jane was placed in foster care but denied leaving care status. Because of this, as soon as Jane turned 18, she had to find independent accommodation. The solicitor issued judicial review proceedings and social services conceded, agreeing to leaving care support.

## **Adel**

Adel came unaccompanied to the UK, aged 14 and seeking asylum. He was placed under the care of social services in a foster home. Adel told his social worker his age and showed them his birth certificate but social services conducted an assessment and decided that he was 15 years old. Adel was not allocated a school place as a result of his assessed age and was instead placed in college. Adel had an immigration solicitor who was working on his asylum application and who referred Adel to a Legal Aid solicitor to challenge the age assessment. Social services agreed to undertake a new assessment and decided that Adel was two years older than the age he claimed to be. Judicial review proceedings were issued against this assessment but were not successful. Adel still disputes this assessment.

## **Peta**

Peta was made homeless aged 16 and immediately presented to social services, in fear for her safety and wellbeing. She was told to return home but, when she attempted to do so, found herself locked out of the house and her belongings scattered on the street. Peta stayed with her boyfriend who referred her to an advocacy and legal organisation. A non-legal advocate was unable to progress the case and so a Legal Aid solicitor initiated legal proceedings and threatened judicial review. Social services accepted Section 20 Children Act 1989 responsibilities and Peta is now accommodated and in receipt of leaving care support.

## **Shakir**

At the age of 19, Shakir, a foreign national, married his partner and moved to the UK on a spouse visa. Aged 20, Shakir's relationship with his wife broke down completely and, as a result, she restricted Shakir's access to their young child. Shakir experienced severe stress as a result of this and began to suffer from extreme panic attacks. Shakir's visa was also due to expire and its renewal depended on him maintaining a relationship with his child, something that was not currently possible. Shakir was referred to an advocacy and legal charity and a non-legal advocate sourced pro bono family law advice from a solicitor who helped him draw up a contact agreement. The advocate also helped Shakir find a pro bono immigration solicitor who helped make a new application for leave to remain in the UK.

## **Amy**

Amy fled her family home, aged 17, after sustained emotional and physical abuse at the hands of her parents. She initially stayed with a friend who told her to seek help from social services. Amy was informed that she had made herself intentionally homeless; that no support could be provided and to present to housing. Amy persisted and, on one occasion, a social worker suggested calling Amy's parents to corroborate her story. At this point, Amy feared for her life. Amy had been 'sofa surfing' for a number of months when she attended a homeless drop-in centre and was referred to an advocacy and legal organisation. A non-legal advocate was unable to progress the case and so a Legal Aid solicitor threatened to initiate judicial review proceedings. Social services agreed to accommodate Amy under Section 20 Children Act 1989.

## **Shola**

Shola came to the UK with his family, aged seven, and did not once leave the country as he grew up. He was referred to an advocacy and legal charity when he was 17 and due to be released from a Young Offenders Institution. In custody, Shola had been informed that he had no legal status in the country and that he was at risk of deportation when he turned 18. Shola was unable to enter his immigration application before he turned 18 and he was detained prior to deportation. In the absence of Legal Aid for non-asylum immigration claims, charitable funds were raised to pay for Shola's application for leave to remain. This application was rejected and Shola was deported from the UK to his country of origin, aged 18.

## **Shiv**

Shiv fled his home and borough when he was 17 due to a threat to his life. He 'sofa surfed' and intermittently slept rough for several months before presenting to social services in the local authority where he was now staying. Following a period where two local authorities disagreed over who had responsibility for his care, a social worker contacted an advocacy and legal organisation for support with the case. As a result of a non-legal advocate's intervention, Shiv was temporarily housed while an assessment of his needs was undertaken. Despite the threat to his life and the recommendations of the youth offending team, it was decided that Shiv could return to his home. Shiv's advocate referred Shiv to a Legal Aid solicitor and legal proceedings are ongoing.

## **Khitam**

Khitam came to the UK when she was three years old. She arrived with her family, who were seeking asylum, and was granted indefinite leave to remain in the UK. During Khitam's childhood, social services became involved with the family and had possession of Khitam's identification documents, including her passport and birth certificate. When Khitam requested their return, she was informed that they had been lost. By the time Khitam was 16, she was in the care of social services and had started to encounter difficulties due to her lack of documentation as she was unable to enrol on a college course. At 17, Khitam had a child and found that she was unable to open a bank account or access benefits. Khitam contacted the Home Office but was unable to resolve. Khitam was referred to a legal charity by an independent reviewing officer who assisted her in applying for a biometric residence permit.

## **Leila**

Leila fled her home, aged 17, after being abused by a family member. She stayed with her partner's family but this was unsuitable and unsustainable. When she could no longer stay there, Leila approached social services. She was still 17 years old. Leila was told that she had made herself intentionally homeless and that social services would not be able to accommodate her. Leila accessed support and temporary accommodation from a local children's charity who also referred Leila to a Legal Aid solicitor. The solicitor challenged the local authorities and Leila was accommodated and recognised as a former relevant child.

## **Fran**

Fran was 20 and a care leaver. She had suffered domestic abuse at the hands of her partner and, after ending the relationship, prevented him from having access to their child. The father challenged this and applied for the child to live with him. The child was subject to a child protection plan as a result of concerns regarding Fran's mental health. Fran was unable to obtain evidence to prove the domestic violence and was unable to access legal support due to the changes to Legal Aid. The day before the trial, Fran was told the local authority had become involved in the proceedings and would support the father's case. Fran stood as a litigant in person against the local authority barrister, supported only by her old in-care advocate. The father was awarded residence and Fran's child was removed immediately. Fran's supporters were able to find a barrister to work pro bono and they immediately appealed the decision, as a result of which the child was returned to Fran's home and an order for shared contact was made.

## 4. Key findings

We will present our key findings from the semi-structured interviews and professionals' focus group in relation to each of the research questions from the OCC's invitation to tender. The research questions are as follows:

- What have been/are likely to be the behavioural responses of (a) children and (b) other actors impacting children (e.g. adult parties to a case involving children) to the changes to Legal Aid?
- In circumstances where litigation is no longer/is likely no longer to be taking place as a result of the changes, what have been/are likely to be the impacts on children?
- Where alternatives to legal advice and litigation (e.g. non-legal advice services; mediation; informal resolution; complaints mechanisms; ombudsmen) are pursued, what have been/are likely to be the differential impacts on children?
- Have litigants in person become more frequent in cases involving children? What is the impact of this on children?
- What is the attitudinal/behavioural response of those exercising public functions to the changes to Legal Aid, for example detaining authorities; local authorities; immigration authorities? What have been/are the likely impact on children?

We will present our findings in relation to the following question in Appendix B:

- What are the characteristics of children particularly affected by these changes (e.g. socio-economic circumstances; protected characteristics under the Equality Act 2010; children in detention; children living with domestic violence; migrant children)?

We will also deal with a further research question from the OCC's invitation to tender throughout:

- What are the views of children and young people regarding these changes? What has been the experience of children and young people of the Legal Aid system since the changes in the situations listed above?

## 1. Behavioural responses

*The point of legal aid is to help you and I cannot afford to use a lawyer but I have the right to have a lawyer. When organisations like social services don't treat you right, what you gonna do?*

**Becky**

***What have been/are likely to be the behavioural responses of (a) children and (b) other actors impacting children (e.g. adult parties to a case involving children) to the changes to Legal Aid?***

We will present behavioural responses in relation to existing changes and likely behavioural responses to future changes together. We will also assess responses of children and young adults alongside those of other actors.<sup>11</sup> Key findings are as follows:

- The changes to Legal Aid did not and would not have elicited any behavioural response in interviewees leading up to the point at which they required legal support.
- At the point beyond which legal support was required, the behavioural responses of interviewees to the changes to legal aid depended upon their understanding of the legal context and fell into two categories:
  - a) No behavioural response – Interviewees who did not know the matter they faced was a legal matter until they accessed legal support would have remained unaware and would have continued trying to resolve their cases, unsupported.
  - b) Withdrawal – Interviewees who were aware that the issue they faced was a legal matter and were conscious of the lack of support available reported their desperation. Interviewees who were able to access support predicted complete withdrawal had they not been able to access that support.

**Key finding: The changes to legal aid did not and would not have elicited any behavioural response in interviewees leading up to the point at which they required legal support**

Interviewees felt, unanimously, that they had little or no control over the situation for which they later required legal support. For the interviewees, the accessibility of Legal Aid was simply not a consideration and, in this regard, changes to Legal Aid did not and would not have had any impact on their behaviour, leading up to the point when they required legal support.

---

<sup>11</sup> Two of the interviewees were parents of children who had accessed legal support.

This was apparent, for example, in the interviews of the four young people involved with non-asylum immigration cases, which were taken out of the scope of Legal Aid by LASPO. These young people were brought to the UK as children, had no understanding of their legal status in the country and only later discovered that they needed legal support to regularise their status in the UK. This was commonly after their relationship with adults with whom they had travelled had already broken down.

*I came in the country with my mum and she left a few months after. She left the country and since then she hasn't been back. I'm not sure if she comes in the country since I was 13 because she left me and I haven't seen her.*

**Odeh**

The following interviewee was similarly brought to the UK as a child, on this occasion by her aunt. After the subsequent death of her mother in Nigeria, her relationship with her aunt deteriorated and she lived in domestic servitude for a number of years until, shortly before her eighteenth birthday, she was made homeless. It was not until this point that she discovered she was unlawfully resident in the UK and was unable to work, study or claim benefits.

*She wasn't my Mum, she was my Mum's sister. Now that I've been through the situation, I speak to other people in the same situation. Their aunts bring them to this country and they treat them like rubbish. I always happen to worry about when my Mum left and everything changed, my Mum died. When I got here a few months after, the following year, that's when she passed away and things changed. Things changed.*

**Kayefi**

When assessing the potential impact on behaviour of the changes to legal aid associated with Transforming Legal Aid, this lack of agency is also relevant. Of the seven interviewees who accessed legal support for areas that may be impacted by Transforming Legal Aid, six faced homelessness. None of these young people felt that they had made a choice to leave home and over half had fled domestic violence and other forms of abuse. The availability of Legal Aid was not a factor in the development of the challenges they faced or in their response to these challenges.

*Basically, I was not able to stay in my home because she had an alcoholic problem and then it was decided by the police that I should not stay with her no more. It wasn't my choice, it was because my life was at risk. If anything dangerous happened to me and the way she was violent like that. There is no reason for her to be like that, it's just the way that alcohol acts on her and then she just becomes violent like that, physically violent. She used to hit me with chip pans, knives. All this kind of stuff, objects. She even hit me with her hands before.*



## **Jane**

*I left my mum's house and I'd had problems with my mum as well as my uncle, sexual problems with my uncle, and I moved in with my boyfriend and his mum. But whilst I was there, I didn't actually have any means of support from anyone because when I originally contacted the children's services as well as the homeless unit, they said I had left home at my own account.*

## **Leila**

*Living in fear like this in the home 24 hours a day, that's what it is. Basically, if I step out of my house, known associates or the people who were after me see me, then it's either run for your life or you gonna get hurt. That's it, that is it actually. So obviously, that's fair enough. No, I can't live like this no more. That's how it was, that's how it started off.*

## **Shiv**

*When you're 16, that's when you watch all these things on TV about sweet sixteen. I definitely knew that that was not gonna happen, that was not gonna happen but nobody...if I had my own way, I would not have left my mum's house. Do you know what I mean? That's my mum at the end of the day but I couldn't wait until I was 18, I knew it was two years until I was 18. I didn't have a choice.*

## **Becky**

**Key finding: At the point beyond which legal support was required, the behavioural responses of interviewees to the changes to Legal Aid depended upon their understanding of the legal context and fell into two categories:**

### **a) No behavioural response**

***Interviewees who did not know the matter they faced was a legal matter until they accessed legal support would have remained unaware and would have continued trying to resolve their cases, unsupported.***

The majority of interviewees attempted to resolve the issue they were facing for extended periods of time before they discovered, through chance encounters, that they may be able to access legal support. Paradoxically, it was not until they had accessed legal support that they became fully aware of the legal implications of their case. The following interviewee, the mother of a 13 year old who was excluded from school, was one of the 15 interviewees who did not realise the issue they faced was a legal matter.

*I think you know that if you get nicked you can get criminal Legal Aid but I don't think people even realise that they can get help with education matters or legal help for their kids so I think it's a bit underestimated. I think there's a lot of kids that could do with the help,*

*before they do just get lost in the system.*

**Mother of Sacha**

Over half of the interviewees who did not realise it was a legal matter had experienced homelessness before they came into contact with support workers and other professionals who advised seeking legal help.

*Interviewer: Did you know that you could get Legal Aid for other things outside of being arrested?*

*Young person: Outside of being arrested, to be honest no. But obviously now, with my housing and it being a legal matter, that was a first for me innit. So it's not like I was aware. It's not even like it's put out there that it is available, it's not really put out there like, you are entitled to this. Housing officers, they mess you up. You don't think to go to a housing solicitor, that's the truth of it.*

**Simon**

Several interviewees who did know or suspect that they could seek legal support did not, however, realise that they could access Legal Aid. The following comments were made by young people who experienced homelessness as a result of their immigration status, before they accessed support.

*We did know we could get a lawyer but the thing was we didn't have money to help get a lawyer and we didn't know about Legal Aid so that was a shock I guess.*

**Isoke**

*Normally, if you get a lawyer you have to pay for lawyers and I thought, I don't wanna pay, where am I gonna get the money from? Coz I didn't know there was Legal Aid there at all. Where am I gonna get the money from? What am I gonna do? And then I just thought, you know, life is becoming unbearable now.*

**Kayefi**

Interviewees learned that the issue they faced was a legal matter and learned about the Legal Aid system after they had accessed legal support. If such support was absent or reduced, it seems likely that even fewer young people would learn whether the issue they faced was a legal matter.

*I'd have never knew what I have to do, I would never knew that I should have a chance and a fight. I'd just go coz obviously I don't have the money to go see a lawyer and I would have just gone and my daughter lost her dad and I lost my daughter and that would absolutely kill me, it would absolutely destroy me, physically, mentally and every*

*aspect would kill me but coz that immigration company or that lawyer who agreed to see me for free legal consultation because of the legal aid I still hold on to the hope that I can do it and remain here and fight for my daughter.*

**Shakir**

Feedback from the professionals' focus group suggests that there is already an increasing number of young people – in this case those facing exclusion from education – who are unaware that that the issue with which they are faced is a legal matter.

*Even now it's questionable because we're not seeing them on the gateway right now, we're not seeing them come through. So I'm wondering if there's a whole cohort of people who are out of school, not being able to find who can deal with their admissions issue and in reality it's not an admissions issue, it's a failure to educate. So it's a human right.*

**Extract from Focus Group B**

#### ***b) Withdrawal***

***Interviewees who were aware that the issue they faced was a legal matter and were conscious of the lack of support available reported their desperation. Interviewees who were able to access support predicted complete withdrawal had they not been able to access that support.***

Three interviewees who accessed pro bono legal support after LASPO came into effect had an understanding of the changes to Legal Aid and the impact that this had had on their cases. The first of these was a young mother who was unable to access legal support for a family contact case; the second a young father denied contact with his daughter, who was unable to access legal support for this matter and for his application to remain in the UK and the third a young man faced with deportation.

*I couldn't go to sleep, thinking, "Oh my God. I might not get him back if I can't get Legal Aid", because I don't have money to pay them to get him back. So, it was just a bit like, what am I gonna do? What can you do? You can't do anything when you're in that position.*

**Fran**

*I can't even see a proper immigration lawyer who can try and look into it and find me any way of trying to get a visa so I can carry on fighting and trying to be near my daughter. Because, if I move back to Egypt, that's it. I would never ever see or hear anything from my daughter.*

**Shakir**

*And then when everything changed, when Legal Aid changed, that's*

*when I couldn't...he couldn't help me anymore. So that's when I, when my advocate came in. So, my advocate was trying to help but at the same time it was about money as there's no Legal Aid any more. So that's when everything got worse.*

**Shola**

Hopelessness, detachment and despair were all identifiable emotional reactions in these interviewees. Professionals from Focus Group B also identified these emotional reactions and the behavioural responses they had seen manifest as a result.

*I have got young people who completely disengage, they've written to us from custody and haven't been able to get help, so they just disengage and it's hard to know how they have dealt with it.*

**Extract from focus group B**

*In immigration terms, the alternative is to stay underground and that will be a problem for everybody because some will be removed or leave but, also, people will just stay and they will stay destitute and their children will stay destitute and their children will be out of education or in a dire situation.*

**Extract from focus group B**

Interviewees were asked to imagine what would have happened if they had not been able to access legal support. Many found this a difficult and upsetting experience and several spoke of drastic actions they felt they would have been forced to take.

*I would think my life is a waste. I would have gone, wouldn't have existed at all, been dead a long time ago. If I can't die in the roadside, jump on a track, which sometimes I think...I look at a train and look at the tracks and think, "Shall I jump or not?" But I just think, "Okay, no I'm not". But I would have been dead a long time ago. I would have given up, it wasn't worth it. No help. Nothing.*

**Kayefi**

*No, I don't want to even imagine that. It would have just been, I dunno. I probably wouldn't wanna be alive to be honest.*

**Fran**

## **2. Loss of litigation**

*Children are children, they're gonna make mistakes. They can't stand up for themselves and adults don't want to listen anymore and your parents don't always know everything. You need someone who knows what they are talking about.*

**Sheldon**

***In circumstances where litigation is no longer/is likely no longer to be taking place as a result of the changes, what have been/are likely to be the impacts on children?***

In this context, we will take 'litigation' to refer to the entire process of taking legal action – from recognising a matter as a legal matter to the issuing of legal proceedings – whether undertaken by a legal professional or otherwise and whether or not the issue of proceedings was necessary in that case. Using this definition, we can say that the interview cohort included 14 young people who had been a party to litigation. Due to the method of recruiting research participants, all interviewees whose cases required litigation were eventually able to access this support. As such, we will not report on impacts experienced in cases where litigation has not been possible as a result of the changes. We will instead look at the impact on children and young adults of the issues for which they successfully accessed legal support, prior to accessing this support. Key findings are as follows:

- Interviewees did not receive the support they needed and did not resolve their cases until they accessed legal support and litigation.
- Issues that were resolved through litigation had a range of negative impacts on young people and their substantive rights.

**Key finding: Interviewees did not receive the support they needed and did not resolve their cases until they accessed legal support and litigation.**

The majority of interviewees complained that, when they presented their cases to the relevant authorities without legal support, they were ignored.

*Social services, it's like it's impossible to get anything out of them without writing a complaint, without threatening them with court, without doing all of this. It's like they don't wanna do it unless they're really backed into a corner. Then they will do it. Otherwise they will just do nothing for you. Everything I had to get out of social services has had to be a real push and has had to be about five letters, loads of stuff. At the moment it's still going on.*

**Peta**

*There was a lot of things they do only by the fact that they don't wanna go to court. It literally always has to come down to that. Like, when my lawyer says something like, "If you don't reply by 2pm on Tuesday or whatever, we'll proceed to court", they always seem to do it.*

**Leila**

While many interviewees complained that they were ignored, several were forced to seek legal representation when their version of events was brought into question or when they were explicitly accused of lying.

*At that time I was new here and the first thing you see from that country is they saying you lying about your age. That's my age, why should I lie about it? And yeah, your family they send you that way to keep you safe and the first thing they did to you is like that so you are liar and so it was hard for me, without family. I was living with the foster care at that time so someone telling you, "Yeah you are liar, you are lying about your age".*

**Adel**

The following young woman presented to social services as homeless when she was 17. She was accused of being a fraud and, having never heard the word before, had to consult a dictionary to clarify its meaning. Due to the respect she had been taught to have for those in positions of authority, she found it especially difficult to challenge the accusations – as well as the decision to deny support – before she accessed legal support.

*Social workers wouldn't even believe my mum died, they just didn't want to believe anything. So what's the point in telling them anything? They are not gonna help you, you are just gonna go on talking like an idiot in front of them because they are just gonna look at you like you are lying.*

**Kayefi**

One young man, who fled his home after a threat to his life, sought help from the local authority after a period of 'sofa surfing'. He was accused of lying and, even though his Youth Offending Team worker advised that it was not safe for him to do so, told to return home. Too afraid to do so, he continued to stay with friends and, for a period, even slept rough.

*I was punching the table when they said I was lying. They said, "No" and I was punching the table, that's how angry I was. I tried to stay humble but to just be told you are lying, it's just like wow, you wanna hit them.*

**Shiv**

Interviewees felt they would have continued to be ignored and doubted if they had not been able to access legal support and litigation. Several interviewees explicitly expressed this belief.

*I still feel that I've been treated unfairly. What should have happened is they should have helped me straight away but they didn't do that. So, if I didn't have had my advocate, then I was gonna be turned back, sent away which was gonna make stuff worse coz then if I was to be turned away, I would have been outside on the streets somewhere. I wouldn't have had a place to stay and keep myself safe. It's worse for a female because once they are out on the street it's not safe for them, anything can happen. Very bad stuff can happen as well. So really, once you*

*don't have advocates or solicitors you won't be heard from the organisations that you go to. You won't get help.*

**Amy**

Professionals from Focus Group B supported this view. One solicitor, who had worked for a law centre that was forced to close due to the changes to Legal Aid, spoke of one example she had already observed:

*We had a guy who was back again and I told him exactly what to do and who to speak to in the relevant department who I had worked against over many years and he got an absolutely appalling response. I couldn't believe that that particular professional was responding that way because she always played it by the book but now I'm off it, she can do what she likes and he was totally misguided, given what was unlawful instruction and there was nothing I could do.*

**Extract from focus group B**

**Key finding: Issues that were resolved through litigation had a range of negative impacts on young people and their substantive rights.**

Interviewees reported negative impacts that were directly associated with the issue for which they required support as well as secondary impacts that arose as a result of those issues. Impacts included: homelessness and destitution; lack of education; family breakdown; reduced emotional and mental wellbeing; and reduced safety.

*I was 16, I was homeless and they just refused to help me, they sent me back home to my mum's where I told them it was a dangerous environment and they sent me back home. They said, "No, go back home" and when I got home all my stuff was in the middle of the road. They sent me back home, just saying, "Go home to your mum" and anything could have happened really. Do you know what I mean? They were putting my life in danger.*

**Peta**

One young man, who had undiagnosed special educational needs, was facing permanent exclusion from his school until he accessed legal support from a solicitor funded through legal aid. The exclusion was overturned and he now receives support in recognition of his learning needs.

*They wanted to do the permanent exclusion, they wanted to send me to a unit but because I didn't live in the borough it wasn't, it wasn't approved or whatever. But I didn't want to go so they had to keep me out. They didn't offer me a move to another school, they said the only thing we can do is kick you out. The best thing to help you is to exclude you indefinitely.*

**Sheldon**

Several interviewees spoke about the impact that the issues for which they accessed legal support had on their general wellbeing and their ability to effectively manage other areas of their life.

*Before it all started, I was like a straight A student. My grades were always A–C, I was really good in school. I helped out a lot and I was on point. I was dealing with the pressures but, after this, the uncertainty of where your future lies and everything, it really took its toll on me. The first two years of A levels was terrible, I couldn't get my grades up.*

**Isoke**

One young woman, who was made homeless after sustained domestic violence at the hands of her mother, spoke about her life before and after accessing legal representation to challenge the local authorities' decision to assess her as intentionally homeless.

*It was kind of harsh because I was doing my course work and I was really stressed about college and I come home and there was all this stress about how my mother would just act towards me and it was frustrating. I couldn't concentrate too much and then I used to go to friends most of the time but then yeah things just gone worse and I was not attending college and I was all the time late and it had an impact on my education during the time I was living with her and it was like in December 2013 that's when it started to escalate, she was always violent but not as violent as she was this year.*

*Now I'm doing alright, I'm fine with college, I'm not stressed no more, I'm still waiting for my answers for all my benefits but I'm not as confused as I was before, I'm not as lost as I was before, now I'm kind of I'm just being myself, it feels like having all the trouble that I had before, it feels like I'm getting the help.*

**Jane**

The responses of interviewees and the details of their cases together suggest that that inability to access legal advice, legal help and/or legal representation due to the withdrawal of legal aid would have an impact on a range of substantive rights protected under the UN Convention on the Rights of the Child (UNCRC) and other instruments.

### **3. Alternative remedies**

*It's not an alternative, and you can't mediate with the Home Office.*

**Professional from focus group B**

***Where alternatives to legal advice and litigation (e.g. non-legal advice services; mediation; informal resolution; complaints mechanisms; ombudsmen) are pursued, what have been/are likely to be the differential impacts on children?***



Alternative remedies pursued by interviewees were limited to non-legal advocacy and complaints mechanisms. We will assess impacts that have already been experienced by interviewees and comment on potential impacts that could be experienced in the future together. Key findings are as follows:

- Alternative remedies could be effective when employed in appropriate circumstances but legal intervention was usually necessary to progress cases.
- When alternative remedies were unsuccessful or inappropriate, their prolonged use would have negatively impacted young people.

**Key finding: Alternative remedies could be effective when employed in appropriate circumstances but legal intervention was usually necessary to progress cases.**

The clearest example of success using an alternative remedy was that of a young man who pursued a retrospective complaint against a local authority. The local authority did not undertake an assessment of his needs when he presented as homeless, several times, before his eighteenth birthday. This remedy was not employed in response to – and did not solve – an immediate problem but did help to alleviate some of the negative impact that the matter had on his long-term wellbeing. It seems that, in situations like this, retrospective complaints can achieve success of a kind. It should be noted, however, that, in this instance, the complaint was pursued by a solicitor, working pro bono.

In addition to the complaint, nine interviewees worked with a non-legal advocate around the issue for which they later received legal support. This was most commonly homelessness, where the individual was currently ‘sofa surfing’ and did not have a safe place to sleep in the immediate future. Interviewees were positive about this support and one young woman – whose primary issue, in the context of this study, was her immigration status – was granted looked-after status after the intervention of a non-legal advocate alone. Professionals from Focus Group B also felt that non-legal advocacy could sometimes be effective, in appropriate circumstances.

*Sometimes advocates are helpful. I know you can't put too much faith in taking up a complaint but sometimes complaints to children's services do have an impact and if you can involve the independent review officer and things like that, if you've got someone from the Children's Society or Refugee Support Network or something, those kind of support staff do help make it less bad.*

**Extract from focus group B**

However, although interviewees held their non-legal advocates in high regard,

all nine who worked with a non-legal advocate – for their primary issue, in the context of this study – did eventually require legal support to progress their case. Indeed, a number of interviewees qualified their praise for non-legal advocates by stating that advocacy alone was not enough.

*You need the lawyer because, well the advocate's there to tell you everything but then like the lawyer's there to put their stamp on it, do you know what I mean? To make it all official. My advocate writes, "It's against the law for you to do this. It's unlawful blah, blah blah". They know it's unlawful but really just you saying it, they don't really care. They're thinking, "Okay, when you bring a lawyer back to us, then we'll listen", do you know what I mean? And it is true. So, if it had just been my advocate then, don't get me wrong, she's brilliant but we would not have been listened to on a lot of things. We would have just been ignored, coz we had been ignored and that's why we had to go and get the solicitor to get involved.*

**Peta**

In these cases, it seems that there was no real alternative to legal support. Similarly, legal and non-legal professionals from Focus Group B agreed that, whilst legal action should not necessarily be the first option, there *must* exist the absolute threat of legal proceedings. Without this threat, young people would be left to manage the impact of the issues with which they have been faced.

*Whatever support there is there for people to try and resolve things themselves, the whole point was the courts are there for when that doesn't work. You can't just take the courts away and say, "Oh, you're okay because we've got complaints procedures", because the problem is, sometimes those complaints procedures don't work.*

**Extract from focus group B**

**Key finding: When alternative remedies were unsuccessful or inappropriate, their prolonged use would have negatively impacted young people.**

Whilst alternative remedies often proved inadequate, in other instances they were wholly inappropriate. For example, interviewees did work with non-legal advocates around their immigration cases but this support was limited and *necessarily* involved a qualified immigration advisor or lawyer. In these instances, as one professional from Focus Group B highlighted, 'It's *not* an alternative, and you can't mediate with the Home Office.'

Another concern raised by the professionals' focus group was whether alternative remedies were appropriate for resolving immediate issues faced by young people.

*Complaints never really are that effective in meeting an immediate*

*need that arises.*

**Extract from focus group B**

Although non-legal advocacy was pursued in a number of cases where young people were homeless, this was only when interviewees had somewhere safe to stay in the immediate future and, if advocacy proved ineffective, legal support was sought. This would not have been an appropriate method for a young person who was sleeping rough, for example. Similarly, when young people were out of education due to ongoing exclusion proceedings, it would seem questionable to pursue any method that could potentially prolong this state of affairs. This is especially relevant when, even with legal support, interviewees complained about the length of time taken to resolve cases.

*It's taken an entire year of me and the solicitor pushing, pushing and pushing for answers. We actually were ready last September but we didn't get officially approved for the statement, for the assessment for the statement even until last September. So it's taken from September till now. At the unit, there's one woman by herself and she deals with probably 40–50 kids that are in that school for special educational needs. How fast can you get 50 kids' assessments done? It's not possible for one person to manage all those cases and expect a realistic time span on them. I think a lot of parents sit down and wait for the authorities to tell them what to do and the authorities will lead them in a way that suits the authorities, not necessarily in the way that is the best for the child. **Mother of Sacha***

*It's just a lot of work. A whole year missed and it's a big chunk out, a lot of things I had to catch up with. I had to do double the amount of work and studying and in my own time and after school. When school finishes I had revision and extra tutoring classes at my current school to help me catch up on certain subjects which was quite late when I got home.*

**Sheldon**

For the one interviewee who did successfully pursue a complaint – with the support of a solicitor – this was several years after he first experienced homelessness. The success that was achieved was not in relation to immediate needs and it was achieved retrospectively, after damage had already been done. The young man did not know when he was homeless as a 17 year old that this was a legal matter and he did not access legal support until after his eighteenth birthday. Had he been able to access legal support prior to his eighteenth birthday, it seems unlikely that the most appropriate mechanism for remedying this situation would have been a complaint. Indeed, had he been able to access legal support at the time, a complaint may never have been necessary.

### 3. Litigants in person

*When the lawyer came it was okay, at least there's an exit. Before it felt like a labyrinth. But after, it felt like someone was helping you. They gave you a map and there is a way out so they help you.*

**Sara**

#### ***Have litigants in person become more frequent in cases involving children? What is the impact of this on children?***

For the purposes of this study, we will take 'litigant in person' to mean a person who has had any unsupported involvement in legal or quasi-legal proceedings. This would include, for example, school governing body meetings, as well as court proceedings. Whilst it is beyond the scope of this qualitative study to interrogate statistics regarding the prevalence of litigants in person, we will provide a response based on the feedback and experiences of interviewees. Two interviewees – as well as the parent of one interviewee – had experience of being a litigant in person and we will assess the impact that this had from their responses. Key findings are as follows:

- The likelihood and potential for being a litigant in person depended on the type of case and the area of law for which interviewees were accessing support.
- Being a litigant in person was a negative experience that had an impact on the outcome of cases as well with a long-term impact on young people.

**Key finding: The likelihood and potential for being a litigant in person depended on the type of case and the area of law for which interviewees were accessing support.**

Using our definition of a litigant in person, it seems that there is a distinction between the experiences of the interviewees depending on the type of case as well as the area of law to which the issue related. For those interviewees involved with education exclusion and family contact cases, being a litigant in person was an eminently plausible eventuality. In these cases, proceedings were initiated without legal support or intervention. For example, quasi-legal governing body meetings were *automatically* initiated following decisions to permanently exclude interviewees from school. Yet, those involved were not always aware that they could access legal support for these proceedings. Indeed, two of the four interviewees who did seek legal support for their education exclusion cases did so only after initially attending governing body meetings where they were unrepresented. One young woman, who had been unrepresented in a previous meeting, described her reaction when she was offered the chance to appeal.

*I was thinking, "What's it gonna be like, it's probably gonna be just more stress and more trouble and I'll still end up being excluded". We tried to look for schools, there was no schools that will take me in because they had already entered in for the exams and so I was just staying at home and just hanging out. But I definitely wanted to...if we were going to the appeal, I definitely wanted to have someone on my side who knew the loopholes that they were trying to get or just knew the situation and could tell you, "Tomorrow, this is gonna happen. You gonna sit there". It makes you feel more comfortable, knowing what's gonna happen, so I was calling around all these law firms to ask for help.*

**Sara**

In stark contrast, however, are the experiences of interviewees whose cases involved immigration and judicial review proceedings. For these interviewees, it seems highly unlikely, if not impossible, that they would have ever progressed their cases to the stage of legal or quasi legal proceedings as a litigant in person and without legal support.

*Not being able to find solicitors who will take on work to challenge children's services, take immigration cases, that impacts massively on the safety of the people that we're working with and has huge effects. Very young children who aren't old enough, they're not going to do their own representation.*

**Extract from focus group B**

Although it is possible for a non-legally qualified person to issue judicial review proceedings, it is unlikely that young people interviewed in this study – many of whom were already struggling to manage the direct impact of the issues they were facing – would have been able to manage this process unassisted.<sup>12</sup> There is also a cost implication<sup>13</sup> and it is evident that, for the majority of the interviewees, it is extremely doubtful that they would have progressed their cases to this stage unsupported. Indeed, interviewees spoke of their confusion when attempting to complete non-legal documents and when trying to research the basic details of their cases.

*There are so many applications that it kind of gets confusing because there is just so many things that I could not understand on the form that I may have said wrong and they may think I am lying. So I was kind of confused.*

**Jane**

*I wouldn't get nowhere, I wouldn't know where to start, you know? You can do research but the internet is not the greatest thing to go on and*

---

<sup>12</sup> A suggestion of the complexity of the process is given by the fact that the High Court has issued written guidance to help applicants navigate the forms and paperwork involved alone.

<sup>13</sup> Approximately £140 to issue a judicial review and vastly more, approximately £700, to proceed to a final hearing.

*start researching, it doesn't give specific answers.*

**Khitam**

For these young people, the concern is not whether being a litigant in person would have a negative impact on the individual but whether their case would ever progress and come to be heard at all.

**Key finding: Being a litigant in person was a negative experience that had an impact on the outcome of cases as well with a long-term impact on young people.**

For the two interviewees who did have experience of being a litigant in person, this was a profoundly negative experience with long term consequences. The first of these was a family matter involving a residence order for a young child. The young woman involved had been unable to obtain legal support due to the changes to Legal Aid as a result of LASPO. From the young woman's description of proceedings, it seems that this was a devastating, almost out-of-body experience that exacerbated what was already a distressing occasion. She felt that she could not meaningfully engage with the proceedings at all and questioned whether there was any reason for her to even try.

*The Judge asked me, do I have anything to say? But I'm not a barrister, what am I going to say? Even if I do say anything, you're not gonna listen to me.*

**Fran**

The young woman's partner, a perpetrator of domestic violence, was awarded sole custody of their child, an outcome that had seemed almost unimaginable to those who were close to the participants in proceedings. From her description of events, there was a shared feeling that the wrong decision had been reached and that the circumstances of the proceedings had been a key factor in the outcome.

*The barrister came and spoke and then he said basically, "Oh, they are probably gonna take him" and then I think, I dunno I think I was just hysterical. Even my advocate, she was like, "Oh, but you know this is wrong, you know this is wrong". And it's like, he knew it was wrong but they were still going ahead with it and social services knew it was wrong, everyone knew it was wrong but it was still happening.*

**Fran**

The young woman subsequently obtained pro bono support from a barrister who negotiated shared custody of the child but it seems that there has been a lasting emotional and mental impact from the experience. By her own admission, she is still angry with authorities and feels the impact on her life is irreversible.

*Last year with all the court stuff, I think it's just changed me as a person. I'm not confident outside, it's just mentally drained me. I feel like an old woman.*

**Fran**

The second of the interviewees with experience of being a litigant in person was permanently excluded from her school and attended a governing body meeting accompanied only by her older brother. Her description of the event raises questions about her ability to meaningfully engage with proceedings. Before the meeting had even begun, the young woman's lack of understanding of the process meant that she was unable to effectively represent her case.

*We didn't know that when you go to the meeting you are not actually allowed to bring evidence or papers. You're supposed to submit it three days or so before, so that everyone can have a look at it so that the school can make a rebuttal if they want to. But we didn't know that.*

**Sara**

This is contrasted with her description of the appeal process, throughout which she was represented by a solicitor. She described the impact this support had on her understanding of proceedings.

*There was a lot of stuff that I didn't understand. There was a lot of words that I didn't understand and really big words that I had no idea what they mean and so she would explain them to me, using analogies like Super Mario.*

**Sara**

Although the governing body meeting was not conducted in a courtroom, it seems that it was inaccessible and intimidating for the young woman and that this had an impact on her mental and emotional wellbeing.

*It felt like I was a murder case. Apparently I was cold and calculating. I'd never heard someone using cold and calculating unless it was a murder case. So I was sitting there and you had to wait your turn to say anything but it felt really intimidating coz you know they are all sitting there facing me and I didn't really say much and I cried. I just felt defencelessness.*

**Sara**

The young woman has since found a new school and has completed her A-level studies. Yet she is clear about the long-term impact that the experience has had.

*To this day, strangely enough when I do homework, I will literally photocopy homework and put it in a folder, filed under evidence. Just in*

*case, you know, if the school ever tries to say she didn't do her homework or she didn't do this. Whenever I email teachers, I print it and put it in the folder, just in case. It's like my own evidence and I never will go in to talk with senior members of staff by myself because I dunno what they are gonna say and it could turn negative and then it's gonna be all of them against me, their words against mine and no one is gonna believe my word.*

**Sara**

#### **4. Response of those exercising public functions**

*They said for me to go to Connexions, which I went to Connexions and Connexions actually sent me to the council as well so it was just like they are sending me there and they are sending me back to where I've been sent from. So what they were doing was Connexions were sending me to the council, the council were sending me to Connexions so it was more up and down.*

**Amy**

***What is the attitudinal/behavioural response of those exercising public functions to the changes to Legal Aid, for example detaining authorities; local authorities; immigration authorities? What have been/are the likely impact on children?***

It was beyond the scope of this study to speak directly with those exercising public functions. Interviewees did, however, make reference to their experiences of engaging with those exercising public functions – in relation to legal and quasi-legal matters – and of their perception of the attitudes and behaviours of those individuals or bodies. The impact of these responses was revealed both implicitly and explicitly by interviewees. Key findings are as follows:

- Those exercising public functions regularly failed to undertake their duties before legal support was accessed.
- The responses of those exercising public functions had a negative impact on interviewees and on a range of substantive rights.

**Key finding: Those exercising public functions regularly failed to undertake their duties before legal support was accessed.**

Interviewees reported that they felt disappointed with the response of those exercising public functions in relation to their case. Public bodies that were explicitly referenced in this context were: immigration authorities; police; local authorities and social services; schools and school governing bodies and housing services. Interviewees faced with homelessness – or the prospect of continued abuse if they returned home – complained about the lack of response from local authorities when they requested support.



*There is not one time you think someone is properly listening. Like social services and homelessness and that, they never listen. They just are like, "Well the law says blah, blah blah, and this means that we can't do anything". That's how I feel, they just keep shutting the door and not helping.*

**Khitam**

*They called my sister and they tried to get some information about, information from her about how it was with me and my family at home and she took some notes. They said they were gonna get back to me but they haven't got back to me, they didn't get back to me to say if they would be able to help me or not. The social worker didn't get back to me.*

**Amy**

*This is a woman who don't want me to stay with her and I didn't have nowhere to go and it's a thing where I dunno a lot about the country and at the same time I'm a young person so I deserve a proper care. I explained everything to them, how she was not feeding me and everything but they never put that into control, they still refused to take me into care.*

**Odeh**

In total – although homelessness may not have been the primary issue, in the context of this study – 13 of the interviewees had at some point presented to social services as homeless. None of these young people were initially offered support and, in the vast majority of these cases, legal action was necessary to resolve cases. Parents challenging the exclusion of their children from school felt that schools and governing bodies did not listen to them, prior to accessing legal support.

*Nothing changes, he's not improved. That means something is wrong, he needs help, he needs someone to, the school needs to refer him to maybe a doctor, psychologist, stuff like this. They didn't listen to me. I said to them, "My son, he needs help, you can't judge him as a normal child", but they never listened to me.*

**Mother of Mark**

Interviewees also referred explicitly to the contrast in the behaviour and responsiveness of those exercising public functions to requests that were made with and without legal support. Interviewees felt that they were faced with inaction until they accessed legal support, at which point public bodies exhibited markedly different behavioural responses.

*I think people took us a lot more seriously because they knew a solicitor was involved. There was a couple of incidences where I said, "No, that's fine. I'll just tell my solicitor", and then, suddenly, uh-oh. You*

*know, they try to retract what they are saying or what they were planning on doing. The fear of being held to anything legally I think makes people get a wriggle on. As a parent I have no support at all, you know you have written to the same people four times and they've ignored everything you've said, but your solicitor writes and all of a sudden you've got every meeting, every assessment.*

**Mother of Sacha**

*I feel like, if I didn't have a lawyer, they wouldn't take me seriously when I ask for something, especially from social services. Recently, for an example, I asked for my pathway plan and they said, "Oh um, we'll get it to you, we'll get it to you" but then I said, "You guys said my solicitors have it and they said they don't have it either and they're talking to legal" and basically my solicitor wrote a letter to them and after that it's like the next day they had it.*

**Leila**

Simply being ignored or disregarded by those exercising public functions was not the most extreme complaint expressed by interviewees. Several, especially those who presented to social services as homeless, felt that they had been badly advised and even misinformed by those exercising public functions.

*Bearing in mind that I am about to sign a contract like a week or so before my eighteenth birthday, obviously I'm gonna pick independent living. But it don't fully explain on the piece of paper what each one means innit. So I picked independent living now, signed the contract and then later on I found out the one that I opted for was not the better one for me.*

**Simon**

*Before, it was kind of like the social services were telling me what to do and because I didn't know anything I would just accept, accept everything that they was saying. Afterwards, I got the knowledge and there were probably certain things that they were telling to me that I did not agree with.*

**Jane**

A number of interviewees had discovered that those exercising public functions, when they had agreed to act, had done so unlawfully. One young man, who had repeatedly presented as homeless, was accommodated when he was 17 years old. He later found out – after he had been told to leave the accommodation only a few days after his eighteenth birthday – that the local authority had acted unlawfully.

*Through my solicitor, I found out that by law, I wasn't even meant to be staying in a B and B.*

**Simon**

Feedback from the professionals' focus group supported these views. There was the added suggestion that, in many cases, authorities were making a calculated gamble. They made this gamble knowing that, in most cases, young people will not access legal support and will not be able to pursue the matter as a result.

*We know what we're doing is illegal and a breach of whatever article of Human Rights or whatever else. We know what we are doing is illegal but we don't have enough money to do what we have to do under our duty of the Children Act or whatever so, if you JR us then obviously we will change but if you don't then we're not gonna do anything about it.*

**Extract from focus group B**

*I think it happens a lot in social services and happens a lot in immigration, where you have bodies, state bodies, who basically do stuff they know is challengeable. But they do it anyway because in 100 cases where they make illegal decisions, only 10 or whatever percentage will challenge and it is worth it because those 90 other people get deported or they don't have to pay for the right education or they don't have to pay for the right support and it is worth it because then when those 10 people challenge they just cave.*

**Extract from focus group B**

**Key finding: The responses of those exercising public functions had a negative impact on interviewees and on a range of substantive rights.**

The impacts on young people – many of whom felt they were in desperate need of help – of being ignored, misinformed and mistreated by those exercising public functions were far-reaching. Young people who felt they had nowhere else to access support were left homeless and destitute and their safety was put at risk.

*I had problems at home. Social services basically told me to go home, go home, like this. It's like, the way they lay it to me is like that or nothing. That was not possible at the time.*

**Simon**

*I was always on the sofa but, coz my friend got evicted, so I slept in a photo booth. When I say it was so cold, it was freezing. Even though I had like two or three layers on, I was still freezing and it just feels weird. I was sitting down and sleeping, I wasn't lying down. Shiv*

The lack of support provided by those exercising public functions often had a range of negative consequences for young people. One young woman was withdrawn from college, denied welfare support for herself and her young child and was even unable to open a bank account due to her lack of documentation. This documentation was lost whilst in the possession of the

local authority. She felt that the local authority offered no help in resolving the issue or the myriad consequences this had on her life.

*They haven't looked into where the birth certificate is, where it was taken, who took it, you know? There must be some files there but I think they are not bothered with it and it's not fair because I'm the one who needs it, not them.*

**Khitam**

Interviewees who presented as homeless and were left unsupported spoke not only of the immediate threat to their wellbeing but also of being left to manage vital processes of which they had no previous experience.

*I said I'll go Section 20 and they said I'm gonna be 18 in two months' time so it's not gonna be possible. But I was still 17 so then they influenced me to go the independence route. But then I found it difficult because I had to sort out my income support, my housing benefits, everything like that and I thought that was too much pressure to go to college and still take care of them papers and then I was talking to the social worker and I was like, "I cant handle it".*

**Jane**

One young woman spoke of the choices that she felt she had been forced to make due to the lack of support she was given by social services. She felt that her life had been completely altered, firstly when she was forced to flee her home and then, secondly, when she was left to find alternative accommodation herself.

*They're supposed to be helping you and they haven't helped me at all. The only time they helped me is when they were aware that I was in fact about to have a daughter whereas, if they had helped me beforehand I may not have needed to stay as long with my boyfriend. I may not have actually gotten pregnant. I would have been somewhere stable and I may not have got into certain things that I am in now.*

**Leila**

In light of the responses of interviewees and from the details of their cases, it seems that a lack of legal support and litigation would have an impact on a range of substantive rights protected under the UN Convention on the Rights of the Child (UNCRC) and other instruments.

## Conclusions

In addition to our key findings in relation to each of the research questions, a summary of our conclusions – based on the responses of interviewees and feedback from focus groups – is as follows:

### **Behavioural responses**

Interviewees would have faced issues which required legal support to resolve, regardless of the changes to Legal Aid. The interviewees would have been likely to be unaware of the changes to Legal Aid and unaware that the matter was a legal matter without access to legal advice and support. Young people who were aware of the changes and the impact on their case would have been likely to withdraw.

### **Litigation**

Young people were unable to resolve cases without legal support and litigation. Without this support, their cases would have been likely to remain unresolved, impacting their wellbeing and a range of substantive rights.

### **Alternative remedies**

Alternative remedies were only effective and appropriate in limited circumstances and, if they replaced legal support entirely, would be likely to impact on young people's wellbeing and safety.

### **Litigants in person**

Litigants in person were likely to become more common only in certain types of case if Legal Aid were no longer available. Being a litigant in person had a negative impact on proceedings as well as a long term impact on wellbeing.

### **Public functions**

Without legal intervention, those exercising public functions would have been likely to continue to fail to undertake their duties towards young people. This failure would impact wellbeing and a range of substantive rights.

## References

Children's Society (2013) *Legal aid briefing May 2013 – Devastating impact on already vulnerable children*. Available at:

[http://www.childrenssociety.org.uk/sites/default/files/tcs/legal-aid-briefing\\_may-2013\\_final.pdf](http://www.childrenssociety.org.uk/sites/default/files/tcs/legal-aid-briefing_may-2013_final.pdf)

Just Rights (2012) *The effect of LASPO Act 2012 on children and young people*. Available at

<http://justrights.org.uk/sites/default/files/The%20effect%20of%20LASPO%20Act%202012%20on%20children%20and%20young%20people.pdf>

Ministry of Justice (September 2013) *Transforming Legal Aid: Creating a more credible and efficient system*.

Ministry of Justice (February 2014) *Transforming Legal Aid: Next steps*.

Ministry of Justice (February 2014) *Judicial Review: Proposals for Further Reform*.

NCB (2011) *Guidelines for Research with Children and Young People*. London: NCB.

OCC (2013a) *Office of the Children's Commissioner's response to the Ministry of Justice consultation: Transforming Legal Aid: next steps November 2013*. London: Office of the Children's Commissioner.

OCC (2013b) *Participation Strategy: Ensuring the voice of children and young people in the work of the Office of the Children's Commissioner*. London: Office of the Children's Commissioner.

Treseder, P. (1997) *Empowering Children and Young People: Training Manual : Promoting Involvement in Decision-making*. London: Save the Children.

## Appendix A: Interview transcripts

### Interview Transcript – Isoke

INTERVIEWER – How old you are?

ISOKE – 19.

INTERVIEWER – There's a list here of different issues you can get legal support for, can you tell me is there anything that you have had legal support for?

ISOKE – Housing accommodation , but I'm not sure it was Legal Aid. But definitely immigration.

INTERVIEWER – Could you start at the beginning and tell me what was going on in that particular area?

ISOKE – Back in 2005, I went to Nigeria. After we came back to England, my mum tried for about three to four years to try and get our passports done, like the application for the whole British passport. In 2008, we applied for asylum and then, in 2009, a few days after my birthday, we were taken to a detention centre where we stayed for about five weeks. While we were actually in the detention centre we got taken to the airport twice to be deported but it didn't work and, after we got released, we were taken into care for almost a year. And then my mum, in 2011, she came and took us back and we moved and stayed with her for two years. Then, my mum was still trying to get the British passports and trying to sort us out but nothing was really working. So, she got fed up so then we got referred to Just for Kids Law. An advocate helped us get a solicitor and, at the moment, we have been staying in a hotel with our local authority which was temporary and really dingy and dirty and I felt really ill again and so did my mum. While we were in the hotel, my mum and brothers got their leave to remain with no recourse. Social services were working with us, children's services were working with us and they tried to evict us from the hotel so my advocate raised £50 for the night which helped us stay for a month more. After the month was over, they gave us a place and we stayed there for a year and a half and, after that, we got moved to another accommodation, temporary, and we stayed there for about two to three months.

INTERVIEWER – How was it for you?

ISOKE – It was really difficult, I'd say. Knowing what my mum was going through was a bit like... I felt bad probably the only reason she came to this country was so we could have a better life and better education. I think it only got really bad in 2009 when the whole thing just went up in the air and the detention centre. That was a real big hit.

INTERVIEWER– Are you able to tell me what that was like?

ISOKE – Yeah, in the detention centre, it was really horrible because I missed five whole weeks of school and they had a makeshift school but with mixed ages. I didn't learn nothing and, to be honest, I would say I'm really surprised on how I passed my final year GCSEs because it was it was just really hard. I don't know how I got through there and my brother he didn't understand what was going on. My dad, who had only come to stay with us because of my birthday because he doesn't actually live with us, it was hard being around him because I don't get along with my dad coz of things that have happened in the past between him and my mum. So, it was hard being away from her and being with him and the place was not that nice and the uncertainty of whether we would actually get deported. So that was horrible.

INTERVIEWER – You also said that around that time she was thinking of applying for asylum?

ISOKE – Yeah, we actually did apply for asylum. We went to the office, got our finger prints scanned and everything else but then, a few days after, she went for legal advice and they said to her, “No, that's not a good idea” and she did withdraw it. So, that's what she did and then she tried again to try and do the passport thing but without the asylum seeking.

INTERVIEWER – You said that you were referred to Just for Kids Law, how did that referral take place?

ISOKE – Well, after we had been removed from the detention centre we were in care. After my mum had taken us back, she wanted to go back to Nigeria and then, after the decision was made, she was like, “Oh lets go back” and we went to a centre.

INTERVIEWER – What did you think when you were making this application about the possibility of going back to Nigeria?

ISOKE – I hated the idea, I really hated it. I just didn't want to go there because...I didn't want to go there for any reason at all. I didn't have no life, no family there so it was just horrible. Every time I think about it, it would just put me down. I wouldn't eat, I had no motivation to do school work and then I started slacking and my grades started dropping and they just got worse because I just didn't know if I would be able to stay and finish my education

INTERVIEWER – What was the support that you got from Just for Kids like?

ISOKE – It was really amazing coz, after all the things that we had been through, it was like my advocate was a guardian angel that had come and just, it was just amazing. First she was just like, “I'm gonna help you if you need any support” and she gave us two lawyers, one for housing and one for



the papers, the immigration stuff. So there was a lawyer for housing who always helped, she was our housing solicitor when social wanted to kick us out of the hotel or move us somewhere else that was what she was used for. They write and help us through that so that was great and then with the immigration stuff, we had Legal Aid for the first half, which helped actually put our application in at first before it got refused and sent back. Before we had to wait the eight months that we didn't know about so my advocate and Just for Kids really did help us coz, if it wasn't for them, I don't think we would be here now.

INTERVIEWER – Did you know before your advocate linked you up with the solicitors that you could get a lawyer to help you with these things?

ISOKE – No, we didn't know, we didn't actually know because we never really thought about it. I guess when my advocate did say, "Well, you can get housing help", we was like, "Really?! Great". Coz we just didn't know and it was so uncertain about things like that and I don't think my mum really trusted lawyers after what she had been through. So it was really hard but that really did help coz my advocate knew who she was referring us to.

INTERVIEWER – What did you think about the help that you were given by the housing lawyer?

ISOKE – The housing lawyer was really great coz I think, if it wasn't for them, we would have got kicked out of the hotel ages ago. When we didn't have enough money to pay for gas and electricity, when we got moved to temporary accommodation, which wasn't a hotel, they would say, "Look, they need more money for this, they need more money for that and they need to start paying for their travel for the kids to go to school in North London", so they really did help with that. My mum wasn't working as well so she wouldn't have been able to survive with two children at all.

INTERVIEWER – How was that for you around that time?

ISOKE – Around that time I was actually in my, what would have been my final year of my A levels but I had failed my first year because of all this palaver that was going on and so I had to retake and stay for another year. So for me it wasn't a relief because I didn't know how it was gonna go and it hadn't all been sorted by the time I wanted to go to Uni. So it was really stressful and, like I said to you, I'm really making myself ill again so it wasn't good. So, yeah, it was really hard on me and my mum saw that when I got my A level results back for what would have been my final year, I cried coz I had just done so badly. My mum knew I could do so much better and I knew I could do so much better and it really hurt me and I was devastated really but, to do with the papers I really wasn't sure because I knew once they separated my case, it would be a lot harder for me to get my papers.

INTERVIEWER – What effect do you think the ongoing immigration issue has

had on you?

ISOKE – Oh massive, because, before it all started, I was like a straight A student. My grades were always A–C, I was really good in school. I helped out a lot and I was on point. I was dealing with the pressures but, after this, the uncertainty of where your future lies and everything, it really took its toll on me. The first two years of A levels was terrible, I couldn't get my grades up.

INTERVIEWER – Where do you think that you would be now without the support of a solicitor?

ISOKE – Probably back in Nigeria to be honest. For Legal Aid I've had so much help, it was really helpful because without that the money wouldn't have been gathered and my mum really would have given up hope because, like I said to you, she went to a place where she could get help to go back to Nigeria. So, I think we definitely would be there right now and not here at all.

INTERVIEWER – Do you have any other thoughts or anything else you would like to add?

ISOKE – I think, I definitely don't think they should cut it because it's just so much help for so many different people, It doesn't matter whether it's immigration, housing, criminal offences, it should definitely be kept on and cuts, reasonable cuts should be made but not taking it out completely or certain departments, just wiping it out completely because I think, things like immigration is definitely needed. Housing as well. So, things like that they should just think twice, definitely think twice.

### **Interview Transcript – Sacha**

INTERVIEWER – How old is Sacha?

MUM – He's 13 and a half.

INTERVIEWER – I'm going to show you a list. Can you tell me if Sacha has had any legal advice or support for any of these issues?

MUM – Yeah, he was excluded for, permanently excluded from his school. So, yeah, leaving the school. Permanently leaving school.

INTERVIEWER – Can you tell me more about the school matter?

MUM – Sacha had persistent disruptive behaviour from a young age. On starting secondary school, which was an academy, he was excluded, permanently excluded after a number of temporary inclusions and exclusions within about six months of him starting the school and he didn't get to go back no matter. We did appeal a lot of times.

INTERVIEWER – Can you tell me about the appeal?

MUM – Yeah, we had legal representation which helped us really a great deal. We didn't even know we could appeal but we went along, put up a massive argument, really, really tried but still lost. It was frustrating because they put Sacha down for assessments, educational psychological assessments against ADHD and ODD diagnosis but then permanently excluded him two days after they had set him up with the assessments. So, to me, he had not even had a chance, he hadn't had a chance to do anything solution focused before they said, "That's enough, get him out". But, yeah, it's been invaluable having legal advice the whole way along, invaluable.

INTERVIEWER – Can you tell me more about the assessments?

MUM – Oh there were so many. We had to go everywhere. We went from Ed Psych to counselling to doctors to speech and language therapists, behavioural, doctors, GP. I think there was just a combination of people that we had to go to to put all these reports together for Sacha. It took over a year to put it all together, finally to get the statement. We got the end result but it took seven years and my son's education and a permanent exclusion and I actually do think to this day if we hadn't had our solicitor involved, I don't think things would have moved as quickly as they would have done.

INTERVIEWER – Can you tell me a bit more about the timings?

MUM – It's taken an entire year of me and the solicitor pushing, pushing and pushing for answers. We actually were ready last September but we didn't get officially approved for the statement, for the assessment for the statement even until last September. So it's taken from September till now. At the unit, there's one woman by herself and she deals with probably 40–50 kids that are in that school for special educational needs. How fast can you get 50 kids' assessments done? It's not possible for one person to manage all those cases and expect a realistic time span on them. I think a lot of parents sit down and wait for the authorities to tell them what to do and the authorities will lead them in a way that suits the authorities, not necessarily in the way that is the best for the child.

INTERVIEWER – Can you tell me more about how you came into contact with your solicitor?

MUM – My company has a working arrangement with an advocacy and legal charity. Somebody from the organisation was here that day, when my son got permanently excluded and they said to me, "Well, we could help you", because they overheard the conversation and sort of offered to help. So that was how I got involved.

INTERVIEWER – Before Sacha was permanently excluded, had there been any kind of assessment of his needs?

MUM – No, I had been arguing for them for seven years.

INTERVIEWER – You said that you had been arguing?

MUM – Just that I knew something was wrong with my son, I knew he wasn't happy. I knew he needed a different learning environment. I recognised from a young age that Sacha, he'd rather muck around than try something and fail. He's not very good with failure, although he's getting better, and, rather than say, "Oh, I don't think I can do it", he would be naughty or kick off so that he would get himself taken away from having to do that. With his behaviour, every time I tried to get help, it's just like, "Oh he's naughty". But it's not that at all. Sacha needed a learning environment that he felt comfortable and safe in. If you're in an environment where you feel like you can't achieve...he had, apparently he's got ADHD and ODD. He's now been diagnosed with both but nobody listened to us until he got diagnosed. I think when he went from one primary school to the other, that reputation kind of followed him. Then we went to secondary school and again it kind of followed him. I do think that once a school decides they want you out, you can't win the argument, no matter how hard you try.

INTERVIEWER – Can you tell me a bit more about the unit and afterwards?

MUM – In the unit, he needed to take the medication because every day he knew that he was going into that environment before he'd even got there. So, his head was already, "Oh I'm going in to fight", you know? It's like a gauntlet in that your kid is trying to talk to a teacher and there's kids flying this way and that and I don't normally get shocked but every time I went in there it took my breath away. So, knowing that you are going into that environment as a kid...Now he's finally got out of the unit and we got him into a specialist school, it's a specialist school. They did geography and history the other day and they did, it was called the monopoly challenge, and they went off on the train to 3 or 4 places in London that's on the monopoly board and taught them geography. When he came back from Trafalgar Square, he knew all about the art galleries, Nelsons Column and all this kind of stuff so I'm really, really impressed and he loves it because he feels like he's achieving again.

INTERVIEWER – Can you tell me about the process of how he got into that school?

MUM – I found it myself, through private research. The unit, it looks like it's secure, it looks like a prison you know, the reception room at a prison? It's grey, green and has horrible bars. It feels like a police station, not a school. This school, it's a school. It's bright, there's learning stuff everywhere you look. I walked in and I was just like, "Sacha's gonna love it here". I felt like I knew straight away, the methods of teaching are really good.

INTERVIEWER – Can you tell me anymore about the appeal, how that

process went?

MUM – It was very long, we had to wait for it for ages and we lost it really. Everybody knew we had lost it before we had lost it. All schools I would imagine are all very good at putting it down on paper that they had done nothing wrong and making themselves look absolutely great but it's not necessarily that. I felt really that they had set him up to fail and I thought that that was really quite callous really. I would sue the local authority because I think if they had listened to me seven years ago, we would have a really good case and we would have been subjected to a lot less stress.

INTERVIEWER – What do you think was the impact on Sacha of the appeal process?

MUM – I think Sacha felt very let down and angry at everybody in the system. I don't think he trusted anybody in any kind of authority at all anymore. He didn't trust a word that the teachers in the unit said, he didn't trust anything that his old school had to say by the end. I think Sacha was very disillusioned of any kind of authority if you want me to be honest. I think the whole thing is very strung out and I think that is a waste of funds, resources and funds.

INTERVIEWER – What was the process by which that statement got going?

MUM – My solicitor got it started for me, my solicitor helped me. I was very vocal in that I think my son needs an assessment, I took him back to counselling myself. My solicitor was like, "Try and get as many people as you can to help him", last summer and we'll see what we can do like over the summer period and he was really, really acting up and I said to him, "Look you're going back to counselling". He hated counselling, I think, and then I left them by themselves and nothing happened and then the second time I left them by themselves they got talking and she said from day one, within 10 minutes of meeting Sacha, she was like, "Oh he's got ADHD. He sat in front of me for eight minutes and I can tell, how can you not have had this already?" Relief. I was like, "Really?" She said, "Yeah, I'm gonna recommend it instantly, I can't believe it hasn't been recommended already".

INTERVIEWER – What impact do you think getting the statement had?

MUM – His new school wouldn't take him without it, I found out. He needed the statement for moving on in school full stop.

INTERVIEWER – If you had not been able to get legal support or advice what, how would it have been different?

MUM – I think he would still be in the unit. I think I would probably have had at least another six to seven months ahead of me. I think people took us a lot more seriously because they knew a solicitor was involved. There was a couple of incidences where I said, "No, that's fine. I'll just tell my solicitor", and

then, suddenly, uh-oh. You know, they try to retract what they are saying or what they were planning on doing. The fear of being held to anything legally I think makes people get a wriggle on. As a parent I have no support at all, you know you have written to the same people four times and they've ignored everything you've said, but your solicitor writes and all of a sudden you've got every meeting, every assessment. My solicitor was the knowledge, she used the knowledge and the connection, you know? She knew all the procedures, the laws. There was so many things that I didn't know. I didn't know about periods of exclusion, I didn't know about rights.

INTERVIEWER – You said no one was listening...

MUM – Yeah, no one was listening to us for seven years

INTERVIEWER – What did that feel like?

MUM – Horrible, horrible. It was just very frustrating. It also made me feel really crap as a parent. It made me feel like it was all my own fault, that Sacha was like this...I went full circle before I realised it's not me and, no matter what everybody else is saying, it's not me. It caused a lot of problems between my relationship between me and my son because he's got everyone saying it's your mum's fault. He picks up what everybody else was saying so he's venting anger at me. It was like a kind of revolving circle for ages when everyone was just like, "Oh, your kid's naughty".

INTERVIEWER – How do you think things might be different for Sacha without the solicitor?

MUM – He would still be in the unit for a start. I don't think anybody would be listening to what I was saying. I don't know if we would have still got the statement. I think that we might have got it started but I don't think it would have been in place. It's in position already. They weren't in a hurry as it was and that was with us with a bullet up them! My solicitor saying to them, "When's it due, when's it due?" I think it's very easy for kids to become statistics. I knew that the cause of all this was that he was unhappy in his learning environment, I've known this for seven years, he was unhappy. School is meant to be the best days of their life and you don't want kids dreading going somewhere for 6 hours a day. It must be horrible, it must be like going home to an abusive house every night, you know? I think the timeline is crucial and I think that having support has definitely for us been crucial, definitely. I think they would have been quite happy to just write him off as another statistic.

INTERVIEWER – Thank you, that's all my questions. Do you have anything you would like to say or add?

MUM – I think the Legal Aid is vital. I don't think enough people know about it, so taking it away I don't think it's an over resource of public finance if you

want me to be honest because I didn't know about it and I've worked in legal justice for a long time and I didn't know there was any education legal aid available. I think that really if you want me to be honest, I think that the Government, when kids do get permanently excluded with no chance of going back, I think that the government should have that facility available for parents just like when you go to a police station, you can get a duty solicitor if you haven't got your own legal representative. It's something that should be offered to parents that you should be offered a list of independent specialists but they don't promote that we can get this help which is shocking, considering how much funding they secure for every special kid.

### **Interview Transcript – Becky**

INTERVIEWER – How old are you?

BECKY – I'm 17.

INTERVIEWER – I'm going to show you some issues that you could possibly get legal support for. Can you have a look and let me know if you have had any kind of legal advice or support for any of these issues.

BECKY – I had challenging decisions made by a public body such as social services.

INTERVIEWER – Can you tell me anything more about that?

BECKY – I live in supported lodgings. I am currently or will forever be, I don't like to use this word but, a sufferer of Multiple Sclerosis and I got really sick. I had a really, really bad relapse and it was lasting for many months and my advocate told me that I should be in the social services and I should be provided under their care, under the law Section 20 and, after many meetings I had with them, they didn't want to do anything. Therefore, I had to take a law suit out against them. It took months and they finally said, "Okay, yeah she's entitled to our care" because a lot of people were making like a lot of noise about my care and the fact that I should be under them.

INTERVIEWER – So you were saying a lot of people were making noise?

BECKY – Well, my lawyer was there, college was making noises. So was my nurse, my previous nurse specialist, she's known me for three years, and she was like, "She's too ill to be on her own right now, she needs help, she can't sustain without additional help, she's too ill currently", but they just took so long. The law is put there for a reason and it's their job to follow it. Everything they asked me for, for example medical evidence, I gave it to them. So what was their problem? There should have been no need for this wait.

INTERVIEWER – How did that feel?

BECKY – To be honest, it did take a lot of my confidence. It made me feel like I wasn't worthy being under their care because of my illness. And I was sick, I already felt like I was gonna die so they were just insulting me by saying no and I was sick. It's like walking over a dead person's grave, you know?

INTERVIEWER – Can you tell me more about how you knew to go to social services?

BECKY – I went to my welfare officer at college and she referred me to Just for Kids Law and I had an advocate who was really nice.

INTERVIEWER – Can you tell me more about when you went to your welfare officer?

BECKY – I went to the welfare officer and I was just talking to her and letting her know how I feel and she was just making notes and stuff and then she just said, "I think that you need help. Not just talking but to get you out of the situation and to help you with the situation, I think you need like some legal help".

INTERVIEWER – Can you tell me more about the situation?

BECKY – I was really sick. I was missing so much college, I was in so much pain. I was overdosing, I was in hospital, I was in emergency A&E every other day because I was just taking tablets, pain relief tablets. The pain would start at five o'clock in the morning and I would be awake all that time. I would actually go to college but I would end up falling asleep at college.

INTERVIEWER – What happened when you met the advocate?

BECKY – I met her and she said she understood and we had a little sit down at a coffee shop and I was explaining my situation to her and she was taking down all these notes. She had a little red diary. She was taking all these notes, of what actually happened.

INTERVIEWER – Can you tell me more about that?

BECKY – For example, when I was really sick and I went to social services. When she first contacted them they were just like, "Yeah, we'll do an assessment", but nothing was being done. Actually, I wanted to scream. I would call them or my advocate would call them and they stopped picking up the phone. So, I even had this, had a meeting with...it was me, social worker, her boss, my advocate and my key worker and the social worker was like to me, I swear, she was like, "Oh, I see you've got a team around you and I'm not gonna accept your claim because I don't wanna disable you like the people around you are disabling you, I want to enable you". Am I stupid? That's what I honestly wanted to say.



INTERVIEWER – How did that feel?

BECKY – It made me feel, it made me feel so low because it was like I haven't asked for this illness, so why are you adding insult to injury?

INTERVIEWER – Can you tell me more about the claim to social services?

BECKY – I think most of it was done with my advocate, like emails and such and such. I don't know who specifically she emailed but it was done through emails and stuff and then, because they were not agreeing to it, even though the law says this, my advocate was giving like, "The law states this, you basically don't have a choice, you have to do it", but because they were just being difficult, my advocate said it's time to bring in a lawyer.

INTERVIEWER – What were they not agreeing to?

BECKY – Allowing me to be under their care.

INTERVIEWER – Can you tell me more about that?

BECKY – I understand that once you're under social services care you're entitled to certain things like a personal advisor or they can help you with education. But, as I said, it's funding that's the whole problem. My advocate said to me it's nothing personal really, it's funding and especially because the government have cut so many things. It's funding so it's not like it was just me.

INTERVIEWER – Before you went to the welfare officer and you met the advocate, had you had any contact with the social services?

BECKY – Yeah I had, yeah I had so many times and each time they turned me away and they made it like my situation wasn't as big as I was making it out. So many times.

INTERVIEWER – So many times?

BECKY – I would, when did I go there, when did I go there? I think I was 15. No, on my sixteenth birthday I turned up to social services at 8.30 in the morning, before the doors even opened just to be like, "I'm being so serious, I cannot do this anymore", knowing that me and my mum was definitely not getting along. I had just lost my dad and I had this illness, I honestly thought I was going crazy that I needed help and all they would tell me was I am making a big deal out of nothing. I honestly felt like if I stayed in that house, one of us was gonna die. I didn't know who it was gonna be but one of us was gonna die. It was honestly like gladiators, it was horrible.

INTERVIEWER – What sort of things were happening?

BECKY – We would pick fights over the smallest things. But even though they are small things you know that the argument is deeper, like there's something behind it. Do you know what I mean? My mum had burnt me with the iron and cut me with keys and I slapped my mum in the face. It was horrible, I just had to get out, I really did have to get out of there because I honestly felt like one of us was gonna die and I didn't want it to be me. I really needed to leave before someone gets hurt more.

INTERVIEWER – What was it like to go to social services on your sixteenth birthday?

BECKY – Nobody should. When you're 16, that's when you watch all these things on TV about sweet 16. I definitely knew that that was not gonna happen, that was not gonna happen but nobody...if I had my own way, I would not have left my mum's house, do you know what I mean? That's my mum at the end of the day but I couldn't wait until I was 18, I knew it was two years until I was 18. I didn't have a choice.

INTERVIEWER – What did you do when social services told you they couldn't help?

BECKY – Well, when they were like, "Oh you should go home", I was just like, "I'm not going anywhere". So, I'm not leaving, I was so angry, I'm not leaving, I'm not going anywhere. I sat in the office coz I was so angry and I'm not going.

INTERVIEWER – What happened then?

BECKY – They say to me, "We can't help you but you will have to go to this place and they will assist you with housing because we don't just give housing to anyone". Like I was just anyone, like I don't have an illness and there's no duty of care, do you know what I'm saying?

INTERVIEWER – So you went to this place?

BECKY – I went. I got there just before the doors were closing and another assessment was done and the lady said that I wouldn't exactly get housed that day but it would have to be done through a referral. So I had to stay at my aunt's house and I waited. When I was at my aunt's house, because I was still kind of sick, and because there was so much going on and there were days when I would just relax and cry myself to sleep. Because I thought, "This is not my home, she's not...why is my mum doing this? It's just stupid, I'm her only child". It hurt. It still hurts quite a lot but you can't exactly let the pain take hold of you.

I am currently now under Section 20, I've been placed in a local placement and care is provided. It meets all my needs. It's clean, it's more like a family environment.

INTERVIEWER – Do you know how long it was between the first time you went to social services and the time you were accepted as Section 20?

BECKY - I would say the main thing when it was actually started was when I was 16 and then going on from that I started living in my home when I was 17. So just under 2 years.

INTERVIEWER – How did it feel when the support was agreed?

BECKY – At first, when my lawyer phoned me and told me that I won the case I was like, “Yes!” because at the time I was so happy I wanted to jump around. She told me at college and I went outside and I wanted to just like jump around and do a stupid dance or whatever. I wanted to have a vision of my life. I just wanted to see the difference.

INTERVIEWER – You said your welfare officer suggested that it was a legal matter, had you thought about whether it was a legal issue before that?

BECKY – No, I really hadn't, I had no idea. What I've come to realise is that, even though social services knew, they are not exactly gonna tell you to file a law suit against them. They're gonna try and hide this, that they have a duty.

INTERVIEWER – If you had not met your advocate or your solicitor, how would it have been?

BECKY – I think I would probably be dead or in a mental institution and that's my honest answer. I actually think that or that I would have been like an average teenager and found some people or got pregnant or some dumb foolishness. I really think that all my aspirations would have gone.

INTERVIEWER – Is there anything else you would like to say?

BECKY – Yeah, I'd like to say the cuts, I don't think they help anyone like me or worse than me. I don't think it's helped at all. Not everybody has Just for Kids Law, not everybody has that advocate. To have cuts in Legal Aid, the point of legal aid is to help you and I cannot afford to use a lawyer but I have the right to have a lawyer. And when organisations like social services don't treat you right, if you don't have anybody, what you gonna do? I don't agree at all.

## Appendix B: Characteristics of interviewees

**What are the characteristics of children particularly affected by these changes (e.g. socio-economic circumstances; protected characteristics under the Equality Act 2010; children in detention; children living with domestic violence; migrant children)**

Interviewees completed monitoring forms provided by the OCC. We will use information gathered from these forms, as well as known details from case histories to provide a response.

### **Socio-economic circumstances**

We did not explicitly survey individuals on their socio-economic circumstances but it is possible to draw some conclusions based on our knowledge of their case histories and from their interview responses. Thirteen young people had experienced homelessness and destitution and fifteen young people were estranged from or had no direct contact with parents or close family. It seems that these young people, most of whom also had no access to benefits, were living in, or close to, poverty.

### **Protected characteristics under the Equality Act 2010**

Characteristics that are protected under the Equalities Act 2010 are as follows: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation<sup>14</sup>. We will deal with each in turn and in this order.

#### **Age**

Interviewees – or children of interviewees – were aged between thirteen and twenty-two.<sup>15</sup> For the majority of the interviewees, at least one year had passed since they first accessed legal support. Several interviewees had first encountered the issue for which they accessed legal support many years before accessing this support.

<b>Age</b>	<b>13</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>	<b>22</b>	<b>Total</b>
<b>Number of interviewees</b>	2	1	5	4	4	1	2	19

#### **Disability**

Four participants identified as being disabled.

<sup>14</sup> <http://www.legislation.gov.uk/ukpga/2010/15/section/4>

<sup>15</sup> In addition to this, three of the young adults who were interviewed were parents of children aged between one and three years old. These children have not been included in this data.

**Gender reassignment**

Participants were not surveyed.

**Marriage and civil partnership**

One participant was married.

**Pregnancy and maternity**

Five participants were parents.

**Race**

Participants were asked to disclose their ethnicity, with categories defined by the OCC.

<b>Ethnicity</b>	<b>African</b>	<b>Any other Asian background</b>	<b>Any other white background</b>	<b>Arab</b>	<b>Bangladeshi</b>	<b>Black Caribbean</b>	<b>White and Black Caribbean</b>	<b>White British</b>	<b>Total</b>
<b>Number of participants</b>	8	1	1	2	2	1	2	2	<b>19</b>

**Religion or belief**

Categories were defined by the OCC.

<b>Religion</b>	<b>Catholic</b>	<b>Christian</b>	<b>None</b>	<b>Muslim</b>	<b>Prefer not to say</b>	<b>Total</b>
<b>Number of participants</b>	1	6	3	7	2	<b>19</b>

**Sex**

Eight participants were male and eleven were female.

**Sexual orientation**

Participants were not surveyed.

***Children in detention***

Two participants had experienced detention

***Children living with domestic violence***

Nine participants had experienced domestic violence.

***Migrant children***

Ten participants were migrants.

***In care or care leaver***

Ten participants were in care or were care leavers.

## Appendix C: Participation findings and feedback

### Findings from Focus Group A (young people)

- Most participants had heard of Legal Aid and had at least some understanding of its function.
- Only two of the participants had heard of the UNCRC.
- Participants felt that Legal Aid should be available for all areas of law that have been or will be impacted by changes to Legal Aid.
- Participants were concerned about the impact of the changes to legal aid, especially in relation to children's rights as set out in UNCRC.

### Specific feedback from focus group participants

*'Before, I didn't know what Legal aid is. It's assistance from government to help those who can't afford. It's not fair for the Government to say it's not there anymore. There will be more injustice for people.'*

*'I don't understand where they're trying to go with it, what they're trying to do. They are making life more difficult for people.'*

*'I learned about the UNCRC and the Articles within it. The Legal Aid changes are a bad idea, people still have legal problems and it means they won't get what they need from the justice system.'*

*'I think I am far more empathetic and I think I have matured a bit. I have also learnt to value my own life experience because through experiencing that I can see the importance of getting legal help and I am more informed about the implications of not having any legal assistance when it is necessary.'*

### Conclusions in relation to research methods

We learned from Focus Group A that the majority of the young people who had accessed legal support in that group had at least some understanding of the Legal Aid system. Although this did not mean we could assume that all young people would have the same understanding, it meant that could plan for the semi-structured interviews in the belief that the majority of interviewees would be able to understand the aims of the project and to give their informed consent.

### Conclusions in relation to children's rights

The impact of legal aid changes since April 2013: Participation work with children and young people

Although this was only a small selection of young people, their feedback was unanimous. All participants were concerned about the changes to Legal Aid and felt there was a direct impact on a range of children's rights – specifically articles of the UNCRC – and on access to justice.

### **Feedback from research collaborators**

*'It's been a really positive experience. It was good to be involved in the professionals' focus group. This was mainly because it added a serious undertone to the research as the professionals had such varied experiences since the Legal Aid changes. However, what moulded them together was the fact that their involvement with young people since these changes have been tumultuous and no one had anything positive to say about the changes. This really educated me as I realised that, despite government legislation being harsh, these professionals are really going out of their way to bridge the gap that Legal Aid cuts have created'.*

**(Young person, 19)**



Office of the Children's Commissioner  
Sanctuary Buildings  
20 Great Smith Street  
London  
SW1P 3BT  
E [info.request@childrenscommissioner.gsi.gov.uk](mailto:info.request@childrenscommissioner.gsi.gov.uk)

