

Civil Legal Aid for Children and Young People

Briefing for the Second Reading of the Legal Aid, Sentencing and Punishment of Offenders Bill, Wednesday 29th June 2011.

About Just Rights

JustRights is a coalition of over 30 organisations, established by Youth Access, The Law Centres Federation, The Howard League for Penal Reform and the Children's Rights Alliance for England. We campaign for the rights of children and young people within the legal system.

Summary

The Legal Aid, Sentencing and Punishment of Offenders Bill will remove access to legal aid for clients in most private family law cases, for cases involving medical negligence, employment, immigration, most debt, some housing cases, most education cases, and those involving welfare benefits.

Among the many people who will lose access to legal aid will be children and young people, who will be expected to represent themselves within an adult legal system. Cases where a child or young person will no longer be eligible for legal aid include:

- Young people in employment wishing to challenge an employer who is not paying them the National Minimum Wage.
- Young people living independently after leaving the care system who will no longer be able to challenge decisions about their access to financial support.
- Young people who have experienced criminal injuries, including abuse.
- Young people left severely disabled by medical negligence

The Government have recognised that children and young people have different requirements within the legal system within many family cases, and have exempted young people under the age of 18 from the requirement to access legal advice via the single telephone gateway. JustRights wants to see a consistent approach that extends this recognition across the civil legal system, and protects legal aid for all children and young people aged up to 25. Children and young people differ from adults, both developmentally and in their legal status, as well as in their ability to navigate the legal system. This must be reflected more consistently in the Bill.

How changes to legal aid will affect children and young people

The *Legal Aid, Sentencing, and Punishment of Offenders Bill* removes a large number of areas of civil law from the scope of legal aid. Schedule 1 of the Bill lists those areas of civil law where legal aid will remain available. The response to the Government's

consultation on legal aid,¹ published alongside the Bill, lists those areas which have been removed from 'scope'. These include clinical negligence, criminal injuries compensation, debt (except where there is an immediate risk to the home), employment cases, education cases (except those regarding Special Educational Needs), housing cases (except where the home is at immediate risk or the case regards homelessness), immigration cases, and welfare benefits.

JustRights is deeply concerned about how these changes will affect children and young people who are currently the direct recipients of legal aid in cases in these areas. The Government's Equality Impact Assessments have barely considered the impact on children and young people. Yet these exclusions will have a huge impact on children and young people's access to justice.

Cases in which children and young people will no longer be able to access legal aid include:

- **Employment:** Children and young people aged between 16 and 25 in employment who wish to challenge exploitative practices by their employers, for example, non payment of the National Minimum Wage.
- **Welfare benefits:** Children and young people living independently, who experience problems with financial support, including Housing Benefit, Income Support, and Jobseeker's Allowance, will no longer be able to seek advice.
- **Criminal injury:** Children living independently who have experienced abuse, for example within the care system, will receive no help to gather evidence in order to present their case for compensation.
- **Immigration:** Many children and young people who are victims of trafficking will lose access to advice.
- **Debt:** Research suggests that 77% of young people get into debt by age 21.² The proposals would remove their right to legal assistance to regularise their situation.

Why provide children and young people with access to legal aid?

JustRights wants to ensure that children and young people aged up to 25 retain the right to legal help and civil representation across the current range of civil legal proceedings.

Children and young people are a vulnerable group who should not be expected to cope with the demands of an adult legal system

Children and young people experience problems requiring advice and legal representation to broadly the same degree as the rest of the population. Research suggests that approximately one-third of 18–24-year-olds experience at least one civil justice problem over a three and a half year period,³ and that 16–24-year-olds will experience at least 2.3 million rights-related problems requiring advice a year.⁴

¹ Ministry of Justice (2011) *Reform of Legal Aid in England and Wales: The Government Response* at: <http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-government-response.pdf>

² Rainer 2007.

³ *The advice needs of young people – the evidence: Key research evidence on young people's needs for advice on social welfare issues.* Kenrick, J., Youth Access, 2009.

⁴ These figures have been calculated by Youth Access using data from the 2006–08 Civil and Social Justice Survey. The calculations have been checked by the Legal Services Research Centre and are deemed to under-estimate the extent of young people's unmet needs for advice.

Most of the children and young people who experience these problems will be the most disadvantaged: children and young people who are living independently, those who are leaving the care system, and those in vulnerable employment. More than a quarter of the rights-related problems for 16-24 year olds are experienced by those who are not in employment, education, or training.

Research has established that young people have the lowest levels of 'legal capability'⁵ and the Government has recognised that children have different needs within the legal system, excluding under 18 year olds from the requirement to access legal advice via the proposed single telephone gateway. We believe that this recognition should be extended to all under 25 year olds seeking legal advice.

Children and young people's unresolved civil justice problems impact on their health, employment prospects, and well-being.

Legal advice can help vulnerable children and young people to resolve civil justice problems, and support them to achieve their potential. Over a third of children and young people who get legal advice report improvements in their ability to engage in education, employment and training⁶ and young people are twice as likely to meet their objectives when they manage to obtain legal advice compared to when they handle their problems alone.⁷

Unresolved problems can have a significant negative impact on young people's prospects. Research shows substantial evidence of an adverse impact of civil justice problems on young people's mental and emotional health, with 34 per cent of 18-24 year olds who were not in education, employment or training reporting stress related illness as a result of civil justice problems.⁸

The availability of advice from alternative sources for children and young people is being drastically reduced

The Government has suggested that clients faced with problems that have been removed from the scope of legal aid will be able to seek advice from voluntary sector providers. But cuts to Government funding mean that the availability of advice to young people from the voluntary sector is being significantly reduced. Youth Access surveyed youth advice providers earlier this year and found that a quarter will close this year, and a further half will operate at a reduced level.⁹ Other provision often caters poorly for the needs of young people; less than 1 per cent of advisers and solicitors currently practising social welfare law report that they see young people as a target group.¹⁰

Children and young people form a small proportion of the total client group for legal aid, but they are likely to be among the most vulnerable. JustRights is calling on the Government to commit to ensuring that the needs of this group will be protected. We believe that Schedule 1 of the Bill could be amended to ensure that children and young people remain able to access vital legal advice.

⁵ *Knowledge, capability and experience of rights problems*, Balmer N.J. et al 2009.

⁶ *Youth Advice Outcomes Pilot* Evaluation Trust, Youth Access 2010.

⁷ LSRC analysis for Youth Access of data relating to young people aged 18-24 between 2006 and 2008.

⁸ *With rights in mind* Sefton, M. Youth Access 2010.

⁹ <http://www.youthaccess.org.uk/news/Cuts-leave-young-people-without-vital-support.cfm>

¹⁰ According to data analysed by Youth Access from the Workforce Survey conducted by the LSRC for the National Occupational Standards for the Legal Advice Sector project.

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