



Response to the Justice Committee Inquiry into the Future of Legal Aid

About Rights of Women

Rights of Women specialises in supporting women who are experiencing or are at risk of experiencing, gender-based violence, including domestic and sexual violence. We support other disadvantaged and vulnerable women including Black, Minority Ethnic, Refugee and asylum-seeking women, women involved in the criminal justice system (as victims and/or offenders) and socially excluded women. By offering a range of services including specialist telephone legal advice lines, legal information and training for professionals we aim to increase women's understanding of their legal rights and improve their access to justice enabling them to live free from violence and make informed, safe, choices about their own and their families' lives.

Rights of Women is a registered charity 1147913 and Company Limited by Guarantee.

Rights of Women's consultation response

Before answering the specific questions asked in the consultation we would point out that as a women's legal organisation we will confine our responses to law and legal policy issues within our skills and experience.

How LASPO has affected access to justice and views on the post-implementation review and the criminal legal aid review

General observations

1. Rights of Women take this opportunity to draw attention to our previous consultation responses which address more fully many of the issues referenced below.¹ Regrettably, there has been little improvement to the legal aid landscape since the submission of these responses. The impacts of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) have been wide reaching and devastating, and the difficulties women and girls already have in accessing justice and protection are being exacerbated by the Covid-19 pandemic, as detailed below.
2. As predicted, the removal of legal aid for most people has resulted in an increase in litigants in person (LiPs). It has been estimated that the increase of LiPs in the family courts had cost the Ministry of Justice £3.4million in 2013/14 and cases can take on average 50% longer than cases where both parties are represented.² This indicates that LASPO has failed to discourage unnecessary and adversarial litigation at public expense, or to deliver better value for money for the taxpayer. The objective of making significant savings to the cost of the legal aid scheme may well have been met, however, those costs appear to have simply been shifted to the courts and other public purses.
3. A lack of early legal help across legal practise areas has also contributed to the rise of LiPs. Accessing legal advice can enable informed decision making and increase uptake of mediation. It is an important part of helping people to understand what can and cannot be achieved through court proceedings and assist them to make informed decisions.³ We have not heard anything further since the Government committed, following the LASPO Post-Implementation Review (PIR), to pilot some form of early advice provision.
4. Access to justice is also threatened by the complexity of the Exceptional Case Funding scheme (ECF) for laypersons, and there is little incentive for solicitors with legal aid contracts to engage with it. There is a labour-intensive application process and high cost risk, as compensation cannot be recovered for unsuccessful applications. Despite committing to making reforms to the scheme to simplify it, address timeliness and urgent case handling by December 2019⁴, the Government is still reviewing the scheme and informed stakeholders in September 2020 that it will continue to do so over the coming year, indicating no changes will appear until at least September 2021.

Family Law

5. The scope changes to family law legal aid introduced by LASPO have had untold, far reaching consequences for the lives of everyone involved in relationship breakdown. The Government recognised that these changes would disproportionately impact women, Black and minority ethnic people and people who are ill or disabled as they are

¹ See: Rights of Women (2018). *Submission to the Government Post-Implementation Review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)*. Available at: <https://rightsofwomen.org.uk/wp-content/uploads/2018/10/Submission-LASPO-PIR-final-Sept-2018.pdf> and Rights of Women (2018). *Evidence for Joint Committee on Human Rights Inquiry into: Human Rights: attitudes to enforcement*. Available at: <https://rightsofwomen.org.uk/wp-content/uploads/2018/03/Evidence-for-Joint-Committee-on-Human-Rights-Inquiry-into-Human-Rights-enforcement.pdf>

² House of Commons Library (2016). *Litigants in person: the rise of the self-represented-litigant in civil and family cases*. Available at: <https://commonslibrary.parliament.uk/research-briefings/sn07113/>

³ See: Law Society (2018). *Research on the benefits of early professional legal advice*. Available at: <https://www.lawsociety.org.uk/topics/research/research-on-the-benefits-of-early-professional-legal-advice>

⁴ Ministry of Justice (2019). *Legal Support: The Way Ahead*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777036/legal-support-the-way-ahead.pdf

over-represented in civil legal aid applications compared to the population as a whole.⁵ In family law, we see the impact of this denial of justice in many different ways. Private family law cases that had legal representation for both parties went from 41% in January to March 2013 to just 18% in the same months in 2020.⁶ The Ministry of Justice itself recently concluded that the family court is placing women and children at risk of abuse in its approach to child arrangements and identified lack of resources, including changes in scope to family law legal aid as a contributing factor.⁷

6. In the PIR, the Government committed to improving the scope of legal aid for special guardianship orders but this was a very small amendment to the scope rules and will have had no impact on the many vulnerable individuals representing themselves in family proceedings. We have heard nothing further about the work the Government committed to doing on an “alternative model for family legal aid”. Although we are open to considering alternative models proposed, Rights of Women are clear that it must not create a two-tier justice system in which the rich are able to access justice and the poor are provided with a diluted version.
7. There is a significant gap between those who are financially eligible for legal aid and those able to privately pay, caused by the means test for civil legal aid. The current means test is overly complicated and results in assessments that lack any basis in reality for the person being assessed. There are problems with all aspects of the means test from the unrealistic calculation of disposable income that doesn’t take into account standard bills such as council tax or utilities, to contribution assessments that are completely unaffordable. This is especially problematic for individuals effected or fleeing domestic abuse, who may struggle in gathering evidence of means or funding legal advice. The Government committed to completing a comprehensive review of the means test by Summer 2020.⁸ This has been delayed to Spring 2021.⁹
8. Rights of Women have collated case studies of women we speak to on our advice line who are ineligible for legal aid because of the capital assessment (but are otherwise eligible) and who cannot afford to pay for legal representation to support an outstanding judicial review brought by a woman denied legal aid because of capital in her home. We include a collection of case studies in Appendix 1.

Immigration and asylum law

9. There are concerns around access to justice for migrant women survivors of domestic violence. There is a dearth in good quality advice services, particularly outside London, due to substantial closures. Between 2005 and 2018 the amount of legal aid providers with immigration and asylum contracts halved, and the number of not-for-profit organisations with legal aid contracts reduced by 64%.¹⁰

⁵ Ministry of Justice (2018). *Reform of legal aid in England and Wales: equality impact assessment*. Available at: <https://webarchive.nationalarchives.gov.uk/20111013060745/http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-eia.pdf>

⁶ Ministry of Justice (2020). Family Court Statistics Quarterly, England and Wales, January to March 2020. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/897071/FCSQ_bulletin_January_to_March_2020_final_V2.pdf

⁷ Ministry of Justice. (2020). *Assessing risk of harm to children and parents in private law children cases - Final Report*. Available at: <https://www.gov.uk/government/consultations/assessing-risk-of-harm-to-children-and-parents-in-private-law-children-cases>

⁸ Ministry of Justice (2019). *Legal Support: The Way Ahead*. Available: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777036/legal-support-the-way-ahead.pdf

⁹ HC Deb, 22 June 2020, cW

¹⁰ Hutton et al (2020). *Methods of increasing the capacity of immigration advice provision*. Available at: <https://www.phf.org.uk/wp-content/uploads/2020/05/Full-report-Methods-of-increasing-the-capacity-of-immigration-advice-provision.pdf>

10. Advice deserts caused by legal aid cuts have created a deficit of access to immigration and asylum legal advice.¹¹ The right to access justice is effectively a geographical lottery, and many are unable to secure legal advice or representation. This is particularly detrimental to women already struggling with access due to destitution, homelessness or reliance on abusive partners.
11. The aforementioned ECF system presents particular and almost insurmountable challenges to women for whom English is a second language. In cases where an applicant has extremely limited English, our research shows it is impossible to complete the application process without assistance.¹²
12. All of these factors mean that women are unable to take steps to regularise their immigration status, largely because of the lack of access to immigration advice. Consequential stress can lead to health problems including mental health issues associated with trauma.

Employment law

13. The removal of legal aid for most employment cases has been a significant barrier to justice. Legal aid is limited to discrimination claims, providing evidence of eligibility is complex and onerous, particularly for marginalised groups. According to the Equality and Human Rights Commission between 2013/14 and 2017/18, not a single workplace discrimination case received legal aid funding for representation in the employment tribunal. Only ten applications were made for ECF, but none were granted.¹³
14. While a woman might be able to access advice on their case if she meets the eligibility criteria, she will either need to represent herself in the Employment Tribunal or drop the case. This is despite discrimination being rife in the workplace. Forty five percent of callers to our 'Sexual Harassment at Work Advice Line' have experienced multiple forms of discrimination/harassment in the workplace. Due to the lack of free, specialist advice available, we are filling a gap in legal service that is in high demand.
15. Women are disproportionately affected by this barrier to justice, with Black and minority ethnic women being the worst affected due to the intersecting discrimination they face. There is also a disproportionate impact on low income, single parents – who are overwhelmingly women. The lack of access to legal aid in employment claims has led to women being unable to pursue claims against their employers. When women do bring a claim as a litigant in person, they often find that the system is stacked against them. Often, vulnerable women find themselves facing experienced lawyers in the Tribunal, and in cases of harassment women may be forced to cross examine their harasser themselves.
16. Women will be disproportionately affected by Covid-19 redundancies, and the TUC has noted that from May to July 2020 there was a 79% rise in the number of women being made redundant,¹⁴ indicating that women will be pushed out of the workforce.¹⁵ For

¹¹ Wilding (2019). *Droughts and Deserts. A report on the immigration legal aid market*. Available at: <http://www.jowilding.org/assets/files/Droughts%20and%20Deserts%20final%20report.pdf>

¹² Rights of Women (2019). *Accessible or Beyond Reach? Navigating the Exceptional Case Funding Scheme without a lawyer*. Available at: <https://rightsofwomen.org.uk/wp-content/uploads/2019/02/Accessible-or-beyond-reach.pdf>

¹³ Equality and Human Rights Commission (2019). *Discrimination going unchallenged in legal aid system*. Available at: <https://www.equalityhumanrights.com/en/our-work/news/discrimination-going-unchallenged-legal-aid-system>

¹⁴ See: Trade Union Congress (2020). *An unemployment crisis is coming. The government must act now to prevent it*. Available at: <https://www.tuc.org.uk/blogs/unemployment-crisis-coming-government-must-act-now-prevent-it>

¹⁵ Letters, the Guardian. *Women are losing out in coronavirus job cuts*. 3 September 2020. Available at: <https://www.theguardian.com/lifeandstyle/2020/sep/03/women-are-losing-out-in-coronavirus-job-cuts>

many women, redundancy or risk of redundancy places them under significant financial strain, meaning that they are unable to afford representation to challenge their employers forcing them to either represent themselves or drop the matter.

Criminal law

17. There are profound and well documented problems in the criminal justice system caused by cuts brought in by LASPO. As in the civil courts, many people are now deprived of funding altogether. Those who do qualify may still be required to pay contributions as the case progresses – sums that many are unable to afford.
18. Those who do not qualify are forced to either represent themselves in complex criminal proceedings, or to pay privately for legal representation, which can be incredibly costly. Where a person is acquitted, the legal costs reimbursed are limited to legal aid rates, leaving a significant remainder to be funded by the acquitted person.¹⁶

Recruitment and retention problems among legal aid professionals

19. Many firms and organisations have stopped or reduced legal aid work since the introduction of LASPO,¹⁷ largely due to the fixed fees received for legal aid work being too low to be financially viable. A lack of providers means those who do continue to provide civil legal aid are able to pick and choose the cases, unsurprisingly choosing those with the highest fixed fees.
20. Low fixed fee schemes result in junior members of staff completing the least profitable work, leading to higher caseloads to meet targets and an inevitably poorer quality of service. Young legal aid lawyers report feeling stressed and overworked.¹⁸ Consequently, there are real concerns around recruitment and retention.
21. Many providers have already turned their back on legal aid and those that continue to do this work in the harsh economic conditions created by the legal aid system and chronic underfunding of the justice system means service providers were already at breaking point going into the pandemic.
22. The public health crisis has led to an increased sense within the profession that current ways of working are not sustainable. Legal aid lawyers are propping up a broken system with good will – a system that was broken far before Covid-19, but has now seen its many problems exacerbated. It is particularly galling to see lawyers classed as key workers for the purposes of continuing to assist at court, and yet subject to abusive rhetoric from the government. The unacceptable narrative around “*lefty lawyers*”¹⁹ who “*hamstring*”²⁰ the system leaves both legal aid lawyers and the rule of law itself at risk.

The impact of the court reform programme and the increasing use of technology on legal aid services and clients

23. The increasing use of technology on legal aid clients under Covid-19 is evident, and there are significant concerns across the sector as to the ways in which digitised court processes have the potential to erode access to justice. For example, the family court made a swift move to remote hearings, with the large majority taking place over the

¹⁶ Ellis and Ames (2020). *Innocent are left with enormous bills after cutbacks in legal aid*. The Times. 3 February 2020.

Available at: <https://www.thetimes.co.uk/article/innocent-are-left-with-enormous-bills-after-cutbacks-in-legal-aid-7lqbpdrv>

¹⁷ Amnesty UK (2016). *Cuts that hurt*. Available at: https://www.amnesty.org.uk/files/aiuk_legal_aid_report.pdf

¹⁸ Young Legal Aid Lawyers (2018). *Young Legal Aid Lawyers: Social Mobility in a Time of Austerity*. Available at: <http://www.younglegalaidlawyers.org/sites/default/files/Soc%20Mob%20Report%20-%20edited.pdf>

¹⁹ Bowcott (2020). *Legal profession hits back at Johnson over 'lefty lawyers' speech*. The Guardian. 6 October 2020. Available at: <https://www.theguardian.com/law/2020/oct/06/legal-profession-hits-back-at-boris-johnson-over-lefty-lawyers-speech>

²⁰ Ibid.

telephone. The issues to consider are different from the criminal court because women are managing their own cases in the family court, from preparing bundles though to making their own submissions. Women are expected to be their own witness, client and representative. For a full discussion of the risks of digitising such a system, we refer the Committee to Rights of Women's response to the President of the Family Division's Rapid Remote Hearing Consultation.²¹

24. A rush to increased use of technology – either as a result of the pandemic, or as a result of court modernisation processes – must be slowed and the outcomes assessed. The fact that remote hearings work for many lawyers must not be permitted to obscure the basic principle that any measure that makes participation in the process more challenging should be avoided, and careful research should be conducted as to whether that has been the case not just for vulnerable users but for all unrepresented parties.
25. We will not go into any detail in relation to what we consider the obvious barriers to engaging in a remote hearing – including disability, cognitive impairment, or mental health issues. We recommend reading the interim report of the Equalities and Human Rights Commission on this matter.²²
26. Victims of abuse going through court proceedings will experience the same problems identified above for all court users, but it must be recognised that they are experiencing court proceedings that are likely to be traumatic and induce anxiety in a way that does not apply to parties who are not facing proceedings against an abuser.
27. Barriers to justice and protection for minoritised women have only been exacerbated by the Covid-19 pandemic. There is a lack of provisions to account for serious logistical issues around remote hearings including interpreters, intermediaries and childcare. Digital exclusion is also a key issue, isolating women who do not have up-to-date technology from accessing justice.

The impact of Covid-19 on legal aid services and clients

28. Covid-19 has had a significant impact on the women we support and the services they need to be able to access, with a particularly negative impact on women from Black and minority ethnic communities.²³
29. The rise in domestic abuse during the lockdown has been well publicised and recorded. Women who would previously have been able to call the police, make arrangements to flee or access support were prevented from doing so as a result of being locked in their home with an abuser. It would not be an overstatement to say the lockdown will have cost some women their lives.²⁴
30. The Family Court Statistics for April-June 2020 reflect this reality. The number of domestic violence remedy order applications increased by 24% compared to the same quarter in 2019, while the number of orders made increased by 17% over the same

²¹ Rights of Women (2020). *Response to President of the Family Division's consultation on the use of remote hearings in the family justice system*. Available at: <https://rightsofwomen.org.uk/wp-content/uploads/2020/10/PFD-response.docx>

²² Equality and Human Rights Commission (2020). *Inclusive justice: a system designed for all*. Available at: https://www.equalityhumanrights.com/sites/default/files/ehrc_inclusive_justice_a_system_designed_for_all_june_2020.pdf

²³ Women's Budget Group, London School of Economics, Queen Mary University London and Fawcett Society (2020). *BAME women and Covid-19 – Research evidence*. Available at: <https://wbg.org.uk/wp-content/uploads/2020/06/BAME-women-and-Covid-FINAL.pdf>

²⁴ Townsends (2020). *Revealed: surge in domestic violence during Covid-19 crisis*. Available at:

<https://www.theguardian.com/society/2020/apr/12/domestic-violence-surges-seven-hundred-per-cent-uk-coronavirus>

period.²⁵ This is against a picture of family law applications decreasing overall in the same period.

31. Covid-19 has prevented face-to-face access to legal aid services, shutting out many women from accessing justice and protection. Those in unsafe home environments are forced to rely on web-based services, as they cannot communicate via telephone. In addition many women do not have access to technology like computers or smartphones, and as a consequence are unable to access legal aid. Women with cognitive difficulties or language barriers find this way of communicating with their lawyers particularly difficult.
32. Economic inequalities that existed pre-lockdown will be exacerbated and access to justice to redress many of the causes of these issues is vital to ensuring women and children do not disproportionately bear the financial burden of Covid-19.

What the challenges are for legal aid over the next decade, what reforms are needed and what can be learnt from elsewhere

33. Rights of Women call for:
 - a. The government to make an unequivocal commitment to the rule of law, and any action it must take to ensure the rule of law is realised in practice, including in the context of legal aid. Rights of Women refer to the 2017 Bach Commission report and the recommendations outlined therein.²⁶
 - b. The introduction of a simpler and more generous legal aid scheme, with enhanced scope and automatic eligibility for legal aid for those who receive a means tested benefit without further assessment. Means regulations should be updated in real terms to ensure that nobody who has insufficient finances to maintain an acceptable standard of living is prevented from accessing legal aid.
 - c. Urgent reform of the ECF scheme to make it fit for purpose. The scheme must be simplified and the ECF team must be directly accessible with provision to support applicants with limited or no English.
 - d. The expansion of legal aid in discrimination cases to cover representation in Employment Tribunals, and for the government to actively publicise the availability of legal aid for discrimination cases as well as reviewing the effectiveness of the cost/benefit test for discrimination cases.
 - e. Access to legal aid to be expanded to cover all areas of employment law, not just discrimination, including access to both early advice and representation in courts and Employment Tribunals.
 - f. A review into the accessibility of legal aid for those who do not speak English, or have limited English.
 - g. A review into “advice deserts” to address the lack of legal aid available in areas of the country.

²⁵ Ministry of Justice (2020). *Family Court Statistics Quarterly: April to June 2020*. Available at: <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-april-to-june-2020>

²⁶ Fabian Society (2017). *The Right to Justice: The final report of the Bach Commission*. Available at: http://www.fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission_Right-to-Justice-Report-WEB.pdf

- h. A commitment to consider the particular impact of sparse legal aid availability on Black and minority ethnic women due to intersecting discrimination.
- i. Better incentives for firms and organisations to take on legal aid cases, with incentives to improve recruitment and retention of junior members of the profession.
- j. A commitment to ensuring that remote hearings do not become the standard, excluding as they do many vulnerable court users and being particularly difficult for LiPs to navigate.

**Rights of Women
October 2020**

Appendix 1 – capital means test case studies

Case Study 1

1. The caller was a support worker from the local authority who supports an elderly married couple, both of whom are in their 80s. The local authority was concerned about the couple because of long standing domestic abuse in the relationship including police call outs. There had been non-molestation orders in place in the past to protect the woman but the couple were unable to resolve financial issues before the orders simply expired and things continued as before. The husband had nowhere else to go and was elderly. The support worker did not believe an occupation order would be granted in the circumstances as they have supported the woman to apply for one previously but only the non-molestation order was granted.
2. The woman wanted to sell the jointly owned property they lived in so that they could separate and she would be protected from his abusive behaviour. The local authority had tried to help the couple negotiate an arrangement to sell the property they jointly own but the husband refused to sell. He wished to stay living in the property but could not afford to buy out the victim. The local authority offered both spouses residential care but neither wanted to go into care.
3. The woman required legal advice to understand how to force the sale of the jointly owned property so that both could live separately and reduce the risk of domestic abuse. She may need to apply for a divorce and potentially issue court proceedings as the indication from the husband's behaviour to date was that he would not agree to the only available option – to sell the property.
4. The woman was elderly, had health problems and could not use a computer or mobile phone. The support worker did not believe she would be able to represent herself.
5. She would have been able to obtain domestic abuse gateway evidence in the form of a letter from her social worker, a letter from an IDVA or the previous non-molestation orders. Her only income was a small pension so it is likely that she would pass the income assessment.
6. Her support worker believed the jointly owned property was worth approximately £500,000 and as far as she was aware, it was owned mortgage free.
7. This woman would not be eligible for legal aid because of her interest in the property, but she could not realise the equity in her property in order to pay for legal advice because her husband refused to consent to the sale of the property. As a result of her vulnerabilities, she will struggle to access advice anywhere else.

Case Study 2

8. The caller was seeking advice in relation to the discharge of a child arrangements order in relation to her children. She had applied to discharge a child arrangements order made in March 2018 after being advised to do so by the children's social worker. Her eldest child had made allegations against the father and was distressed at contact taking place. The social worker completed an assessment which concluded that the children are not safe with their father.
9. The history of the relationship between the caller and the father is that they were married but had been through divorce proceedings, financial proceedings and children proceedings which had concluded in March 2018. The caller was a victim of serious

domestic abuse and had a large amount of gateway evidence including a letter from domestic violence support service, non-molestation order, undertakings, police caution and, most recently, the assessment from the social worker in relation to the abuse of the child.

10. The caller passed the income assessment. She received universal credit and worked part time.
11. The caller felt intimidated by the father's representation and she was unsure how to respond to them. She was concerned about representing herself in court as English was not her first language and she worried she would struggle to understand everything.
12. The caller owned the family home which was transferred to her sole name in the divorce. She estimated its worth at approximately £320,000 and had a mortgage of approximately £200,000. She lived in it with her 2 children and she had no other savings or assets. Her only option to raise any capital would be to re-mortgage the family home or to sell it. As she was on universal credit, it was unlikely she would be able to re-mortgage her property. Selling her home and using the equity to pay for representation risked leaving her and her children in unstable accommodation, possibly relying on social housing. In any event, as proceedings had already started, she needed representation straightaway. Representation may be too late by the time she was able to sell her home.

Case Study 3

13. The caller had been married for 20 years and had two children who were 16 and 8 years old. The caller was seeking advice about contact arrangements but was still living with the abusive partner. The abuse included isolating her from friends and family, making her believe she was worthless, behaving jealously of the attention she gave the children, withholding economic resources including moving her money into his account, stopping payments of bills in her name without telling her so that debts were accrued, physically assaulting her, and shouting at the children. She also had mental health problems, which her GP attributed to the abuse within her relationship.
14. The caller received about £400 per month in total income from child benefit and a small payment in relation to an injury she sustained. She had no other income. The caller jointly owned the family home with the perpetrator of domestic abuse. She estimated that it was worth about £450,000.
15. She needs representation for divorce, financial arrangements and potentially child arrangements but she would be ineligible for legal aid because of her interest in the property.
16. In order to realise any equity from the property, she would have to obtain the agreement of the perpetrator of abuse which appeared unlikely as the abuser had been controlling her finances.

Case Study 4

17. The caller was seeking advice about ongoing court proceedings for a child arrangements order in relation to her 3-year-old child. The father had applied for contact with the child. The case has been ongoing for roughly two and half years. As part of the proceedings, the court has made findings against the father including findings of sexual and physical assault against the mother while they were in a relationship. The caller would be able to rely on the findings of the court as legal aid evidence.

18. The caller was confused about what was happening in the proceedings as there had been two Cafcass reports which made different recommendations. She was unsure how she was meant to deal with these. She found it extremely difficult to represent herself as she suffered from depression and the proceedings were complex.
19. The caller had become so stressed about the proceedings that she felt she had to have legal advice and had been paying for ad hoc legal advice with the support of her mother for roughly the last 6 months. As a result, she was struggling financially and was reliant on food banks and charity from her mother to pay not just for advice but also for food and basic necessities for her and her child.
20. The caller's income passed the income assessment.
21. The caller owned the family home. She estimated it was worth about £380,000 and there was a mortgage of £180,000. She would not be able to re-mortgage the family home due to her low income. If she were to sell the family home, this would take a number of months and the caller was needed representation immediately. It would also leave her and her children in unstable housing.
22. The caller would not be eligible for legal aid because of her interest in the property. Selling the property would leave her and her children in unstable accommodation, possibly relying on social housing and, in any event, she would not be able to sell the property in time to pay for legal representation.

Case Study 5

23. The caller was seeking advice in relation to divorce and financial arrangements and potential child arrangement issues.
24. The caller was married with one child who had special needs. She did not work as she was the carer for the child. The caller's husband was a perpetrator of coercive control and significant economic abuse who had already left the family home, moved to another country and left her with no financial support.
25. The caller informed the advisor that her husband had been threatening to remove financial support from her for some time. She stated that he used this as a way of continuing his abusive behaviour, leaving her feeling insecure. He had previously threatened to apply for a divorce but not followed through with this and had then threatened to kill himself if she applies for divorce. He has threatened that he will wait until he is not working and then apply for divorce so her and their child will be left homeless. Most recently, he had told her that she needed to sign a post-nuptial agreement (he did not provide one) or he would stop providing any financial support to her. He had since stopped providing any financial support and the caller was struggling to feed herself and her child. She had been lent £200 for food from some friends the previous week but could not rely on friends for long.
26. The caller was receiving support from a domestic violence support service who would be able to provide a letter for the domestic violence gateway.
27. She had no income at the time of the call and was entirely dependent on her husband for income. She was advised to make enquiries about her eligibility for benefits.
28. Despite having no income, the caller's capital assessment would have left her ineligible for legal aid. She jointly owned the family home with her husband. She estimated it was worth about £540,000 and thought the mortgage was around £300,000.

29. This caller would be unable to pay privately for legal advice as she has no income and was unable to work due to her child's disability. She could not realise the equity in the jointly owned property without the consent of her economically abusive husband.

Case Study 6

30. The caller was seeking legal advice in relation to ongoing child arrangements proceedings and potential TOLATA proceedings (proceedings that govern equitable interests in properties and used in cohabitation cases).
31. The caller had two children who lived with her. The other parent had been emotionally and physically abusive towards her and the children. The police had been called in the past and the local authority had concerns about the children's care when they were with the other parent.
32. Since proceedings started, the caller felt unable to make the points she wanted to make while in court and found the process very intimidating. She feared the court was proceeding without considering the risks in relation to domestic abuse especially in light of the local authority's concerns. TOLATA proceedings are extremely complicated and the merits of any offers put forward by the caller's ex-partner needed to be carefully considered especially as it may affect a costs award made in proceedings. Without legal advice, the caller was at a significant disadvantage.
33. The caller received universal credit so passed the income assessment. She had domestic abuse evidence in the form of a letter from a medical professional.
34. The caller and her ex-partner had previously cohabited in the caller's home which she solely owned. The property was worth approximately £500,000 and had no mortgage.
35. The caller was unable to realise any of the equity in her property as her ex-partner had placed a restriction on the property, claiming that she had an interest under TOLATA. It was unclear whether the restriction was the result of a reasonable claim the caller's ex-partner had or a way of continuing her abuse by both preventing her from accessing any equity to pay legal fees and as a threat to hold over her in relation to the child arrangements.
36. The caller was not eligible for legal aid because of her interest in the property and she could not realise her equity to pay for legal representation due to the restriction placed on it by her ex-partner.

Case Study 7

37. The caller was a victim of economic and physical abuse by her husband. She had been married for 11 years. She did not work but cared for their 2 young children and was financially dependent on her husband. He was legally qualified and made threats to her that if she issued divorce proceedings, he knew the law and that she would not get a penny. She wanted the abuse to stop and to start the divorce process but was frightened of what he might do.
38. She did not work so passed the income assessment for legal aid.
39. The caller stated she would be able to obtain a letter from a medical professional to satisfy the domestic violence gateway.

40. The family home was in the caller's sole name and was estimated to be worth £550,000 with no mortgage. The caller's husband provided the money to buy the home. She informed the advisor that her husband had stated he had taken out a loan of £50,000 and that he would stop paying this and she would have to pay it instead. She was unsure what this loan was and whether it was secured against the property. She once found an email that showed that he had tried to see if he could get a loan in her name.
41. In order to release equity from the property, the caller would have to re-mortgage or sell the property. As she had no income of her own, she would not be able to re-mortgage. If she was to try to sell the property, her husband could place a restriction on the property to prevent her from doing this. If she was, somehow, able to sell the property, she would not be able to buy something similar for her and the children without a mortgage, which she would not obtain. This would leave her and the children in unstable housing.