

# THE JUSTICE PAPERS

The Bar Council

Mental health and legal aid



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In November 2017, Mind commissioned Dr Nigel J Balmer and Professor Pascoe Pleasance from University College London to research the relationship between the changes introduced by the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) and mental health. You can read Mind's report of their findings, *An Unjust System*, [here](#), or look at their research [here](#).

Balmer and Pleasance found that the changes made as a result of LASPO to the scope of legal problems and to the eligibility threshold for applicants have disproportionately impacted people with mental health problems.

- Their research confirms that people with mental health problems are more likely to have experienced legal problems – 52 per cent compared to 27 per cent of those without a mental health problem.
- They found that people with mental health problems are likely to have more legal problems – almost one in four will have experienced six or more legal complaints compared to eight per cent of those without mental health problems.
- Also, people with mental health problems are more likely to be financially eligible for legal aid – 36 per cent of eligible respondents had mental health problems compared with 15 per cent of those who were not eligible.

- A key finding from the research is that 49.6 per cent of financially eligible people whose legal problem was removed from scope by LASPO had a mental health problem, whereas 18 per cent of the survey respondents as a whole reported a mental health problem.

These figures did not come as a total surprise to us as we at Mind have been speaking to some of the people behind these numbers.

People like Sam, who is trying to appeal a benefits decision concerning her Personal Independence Payment (PIP), something that she would have got legal aid before LASPO removed it from scope. She was discharged last year from specialist mental health treatment but feels the follow-up support she has been offered has not been adequate to prevent her mental health from deteriorating again. Her dealings with the Department of Work and Pensions have made her feel even worse, especially as she has had no professional support whatsoever. She has tried to get help from her local law centre who were too stretched to take her case on at that point. *"I'm not sure how I can get fully well when the systems that are supposed to be there to support you are just making me more ill,"* she says.

We also spoke to Jenny, a woman with a diagnosis of autism and with other mental health problems, who was discriminated against and harassed at work. Theoretically, discrimination is in scope for legal

assistance but we have never heard of anyone actually getting it. Jenny's trade union was unable to take up her case and eight solicitors were not prepared to act on a no-win, no-fee basis. She instructed a barrister directly at an additional cost for a preliminary hearing and afterwards had some pro bono help. Jenny's experiences of legal process demonstrate exactly why legal aid is vital for people with mental health problems. *"I was intimidated at every step. To be honest, the legal process was worse than the original problem. It was devastating. I couldn't believe the justice system didn't make any allowances for autism or mental health problems. I was taking Diazepam just to cope with getting into the court room"*.

Jenny's experience is very much typical. When I was a barrister, I found that litigation could be immensely stressful. And I was a reasonably experienced professional who was doing it for a living. Imagine what several months of case preparation and a day in court is like for someone who may be:

- Having to relive an ordeal;
- Having financially, practically and emotionally important decisions made about them;
- In an unfamiliar environment with unfamiliar rules and conventions;
- Alone and unsupported and pitted against a team of experienced legal professionals;
- Really very unwell.

This is one of many reasons why the Government should commit to reinstate early legal advice, and to reverse the scoping changes made by LASPO. Vulnerable people with mental health problems are being disadvantaged and disproportionately so. We have the numbers to prove it and are hearing from the people impacted, People like Sam and Jenny and also Ian, who has agreed to share his experiences in a short film shot by the Bar Council for Justice Week 2018 and which you can see on the Bar Council's YouTube channel.

One of the four objectives behind the government's reforms of the legal aid system back in 2012 was *"To target legal aid to those who need it most"*. LASPO has failed to meet this objective and the government has failed those who are most in need. That's why at Mind we're happy to support the Bar Council's Justice Week.