

UNDERSTANDING LOCAL LEGAL NEED AND SUPPORTING EARLY INTERVENTION THROUGH PUBLIC LEGAL EDUCATION

Briefing Report - November 2022

Experiences of Legal Need and Barriers to Access to Justice for Marginalised Groups

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1. BACKGROUND

This briefing paper presents key emerging findings from the first phase of a local, qualitative legal needs study in Coventry, funded by the Nuffield Foundation [1]. The study develops co-produced research with trusted intermediaries on the experiences of marginalised groups in dealing with law-related issues, particularly during and in the aftermath of the COVID-19 pandemic and as the cost-of-living emergency continues. It focuses on emerging issues, barriers to access to justice, and how these interact with legal and digital capability.

Trusted intermediaries are frontline organisations that are not specialised in law, but provide essential support for marginalised groups to access justice in the course of their work. Seven trusted intermediaries are participating in the study. They work with people accessing foodbanks and reduced cost food; youth at risk of homelessness and/or living in supported accommodation; migrants, refugees and asylum seekers; people experiencing mental health issues; vulnerable women and women specifically at risk of or subject to sexual exploitation. Within these communities there are diverse intersections of age, gender, race and ethnicity, immigration status, health, and life experience.

Between April and June 2022, we conducted a series of semi-structured interviews with staff and stakeholder groups from each organisation. We held a local stakeholder workshop which involved a wider group of similar organisations in discussions. Our emerging findings are based on a thematic coding and analysis of the interview transcripts and key themes from the stakeholder workshop.

[1] The project has been funded by the Nuffield Foundation, but the views expressed are those of the authors and not necessarily the Foundation. Visit www.nuffieldfoundation.org

2. EMERGING FINDINGS



The most prevalent legal needs in the aftermath of the pandemic relate to welfare benefits, housing and homeless, immigration, employment and social care.



People from marginalised groups face significant barriers to dealing with law-related issues and accessing justice including low levels of knowledge of rights and legal processes and sources of legal help. Emotional and confidence barriers, including stress compound difficulties in securing access to services.



Overall reductions in services, entitlements and lack of capacity create systemic barriers to accessing health and legal support, and systems penalise people who are already struggling due to multiple disadvantages.



Digitisation creates specific barriers for people including difficulties with accessing online systems, navigation and evidence submission. Lack of internet access, wider digital poverty and low levels of digital skills are reported. Digitisation can make it more difficult to access help and support, and it can compound feelings of alienation.



Trusted intermediaries are an integral part of access to justice for marginalised groups. They are a lifeline for those they support in the context of law-related issues. They actively participate in finding solutions and resolving issues at the earliest stage, including signposting, referrals, practical support, form filling, interpreting, and advocacy.

3. COMMON LEGAL NEEDS EMERGING FROM THE STUDY

3.1 Welfare benefits

In relation to welfare benefits, the issues described relate predominantly to problems that can be rectified if queried or challenged early on through the right channels, including levels of basic entitlement, rejected applications due to administrative errors, erroneous deductions and unnecessary delays, as well as disproportionate and misapplied sanctions. More complicated issues such as appeals were also mentioned.

“...one thing I feel I have to touch on, which it’s just become very much part of like week to week. And it was worse over the pandemic[...] but now its maybe easing off a bit, is just what I call like niggly bits with benefits like, DWP just making mistakes or women [...] maybe they’ve had help by like friends or family members to fill in something online and it’s been bounced back or there’s delays or they have deductions, maybe they’re incorrect or they don’t know what they’re for, or they’re not given everything they’re entitled to. Or it may be more significant where they need help with the mandatory reconsideration or an appeal and go to, and a case needs to be worked on” (Manager 1, Foleshill Women’s Training).

Intermediaries emphasized the complexity of the benefits system and the frustration felt by people they support in attempting to navigate it. They described specific difficulties with the application process for personal independence payments (PIP) and accessing PIP for people with mental health issues rather than physical disabilities

3.2 Housing and homelessness

The second most common issue related to housing and homelessness, highlighting the difficulties understanding and accessing rights. These include specific problems with temporary and emergency accommodation such as inappropriate and unsuitable properties, general disrepair, and evictions taking place when individuals try to complain.

“I mean housing issues, isn’t it? It’s things like, you know, damp running down the walls and broken windows, you know, the actual physical condition of some of the places that our clients are living in and it’s a biggy, isn’t it?” (Team Member 1, Carriers of Hope).

In relation to homelessness, intermediaries discussed difficulty in getting through to the local authority on the phone, spending two or three hours on the phone to complete an in depth assessment with someone who is already in a very vulnerable position, potentially re-traumatizing them and the difficulty more broadly of demonstrating priority need.

“We have had quite a few cases with like, people have come here and they’re like homeless, and that process is horrendous. It’s just awful, it’s the worst process in the world” (CEO, Feeding Coventry).

3.1 Immigration

One organisation participating in the study specifically supports migrants, refugees and asylum seekers; however, all organisations raised issues related to immigration. These included challenges and uncertainty in application processes, particularly for asylum and EU settlement, problems with seeking advice (including unscrupulous practices), the impact of protracted and indefinite waiting times, and the impersonal nature of online interviews for asylum. They reflected on the complex interaction between immigration status and domestic violence, and how this may affect status and rights.

They mentioned difficulties with the shift from biometric cards to share codes for proving the right to work, as well as general uncertainty and anxiety around understanding status.

“...there’s loads of different people from all sorts of backgrounds coming in to use the service. But we might not understand or they don’t understand their documents, their right to work documents, what they’re entitled to, you know. It’s a very complicated field and that then causes anxiety for them because they’re just so unsure” (Job Coach 1, Rethink Coventry).

3.4 Employment

Low income and loss of employment were regularly referred to as drivers of problems, as well as zero-hour contracts and the impact of work on benefit entitlements. Organisations discussed people working for less than minimum wage. Problems related to informal work and exploitation were raised particularly in the context of immigration.

3.5 Social Care

While social care was discussed directly in some interviews, more often, issues related to social care were identified by the research team based on descriptions of common problems and circumstances. For example, long-term health problems and disabilities were frequently mentioned, but without any mention of access to care and support.

4. COMMON BARRIERS EMERGING FROM THE STUDY

People from marginalised groups face significant barriers to dealing with law-related issues and accessing justice. Systemic barriers compound issues with legal and digital capability.

4.1 Knowledge barriers including lack of awareness of rights, processes and sources of legal help

While people may understand that there is a problem, they often do not identify it as a legal problem, or they may act (or decide not to) based on misinformation. Reliable and accessible information can be difficult to find, and intermediaries stressed that just because information exists somewhere online does not mean that people can find it or know that it is relevant. Even if people do identify that there is a problem, they often don't know where to go for help.

"...one of the main barriers, is that people, I mean they know they've got an issue but knowing, is there a solution, what would the solution be, who can I talk to about this? Is it even worth talking to anyone about it, is there anything I can do to change it?" (Team Member 5, Carriers of Hope).

4.2 Emotional and confidence barriers including fear, anxiety and stress

Fear and anxiety prevent people from dealing with issues. They may experience stress-related aversion, panic and defeatism. These emotions stem from prior negative experiences of navigating complex bureaucracies or being treated badly and stigmatised. They have 'gone round in circles' and may feel that taking action would be pointless, or that they would not be heard if, for example, they were to take an issue to court. Intermediaries also described people as 'firefighting' or being in 'survival mode'.

"The people that we are seeing are firefighting, their main priority is to get through the day with food, you know. When you are hungry all you're thinking about, your brain is focusing on food. It's not dealing with the bills, it's not dealing with those envelopes, it's just, your body and your brain are going, I need food, and it's all consuming" (Project Manager, Coventry Foodbank).

4.3 Barriers relating to reduced services and support including access to health services, advice and legal support

People regularly encounter difficulties in accessing GPs, and this was especially difficult during the pandemic. This is particularly important to the overall framework of legal need, as access to a GP and relevant diagnoses are a gateway to other forms of support. A lengthy process for accessing a GP is particularly challenging for those who are already vulnerable.

"...accessing a GP is really hard, during Covid it was really hard and it has not got any easier. It's probably got harder since Covid has ended [...]. You have to ring at 8 am on the dot, where you may or may not be put in a queue of like fifty people. You then wait, that's not even an over exaggeration [...] it can be literally hours, and then you may or may not get an appointment on the day. But if you don't get the appointment on the day you're probably looking at two or three weeks away. And everything about the woman's lifestyle means that they cannot do that (Practitioner 4, Kairos WWT).

Several organisations noted that local sources of legal advice and support are over capacity, and this limits where they can send people for help. This also means that intermediaries have to offer support that is beyond their remit, for example filling out PIP forms. They emphasized the difficulty in finding legal support for immigration and stressed that the current non-profit provision while valuable, is not sufficient.

Intermediaries recognised that systems frequently penalise people who are already struggling, vulnerable or in crisis, and that the processes in place to access support do not take account of the challenges someone might face.

“...if you are experiencing even more extreme poverty now because there’s less universal credit, you might have to pawn your phone regularly, so your number changes, which means that your mental health appointment phone call gets missed, because they’ll only call you three times maximum to try and speak to you. If you want to get back in, because they’ve called the wrong number, you’ve got to go back on an eighteen-month waiting list, which just adds, you know, again it’s not something, it’s not one particular issue in silo. It’s all of them impacting each other...”(Practitioner 1, Kairos WWT).

4.4 Barriers associated with digital technology

Increasing reliance on digital technology during the pandemic (and more broadly) was identified as creating specific barriers by all of the organisations. Intermediaries said that most people they support struggle to do things digitally as a result of digital poverty and lack of digital skills. Digitisation makes certain tasks much more challenging for those who are already disadvantaged and lack consistent access to technology. Preliminary steps like setting up an account can be a deterrent, and processes that were previously manageable become more complex.

“[...] so much of it is digital it’s actually just three steps too far because, you know, you have to know what you’re looking for and it doesn’t come to you. And even if [...] you search for one thing, it doesn’t open up for you all the other things. It’s not intuitive at all and [...] you can’t ring up to speak to someone or there weren’t places where you could come in and see people in person (Team Member 5, Carriers of Hope).

People struggle to manage with online systems like Universal Credit. For example, someone may have had support to make the initial claim online but cannot maintain it and need continued support to do things like upload sick notes or check journals. For people who are not able to use online systems, the difficulty in accessing in person help creates barriers to accessing basic entitlements.

A case I’ve just done recently with Universal Credit, they have absolutely no internet [...]. So their Universal Credit claim was quite difficult, to actually get Universal Credit to understand it had to be a telephone arrangement [...]. And even going to the Job Centre with them

specifically to take their documents because they had no way of uploading, even when we went there and it was all arranged, they were still asked why they were there doing it that way and [...]we’d already had that conversation three times that week with somebody else” (Support Team Member 1, Feeding Coventry).

Online processes can make it difficult for people to have the support they need and compound feelings of isolation and alienation.

“...lots of proceedings that use lots of jargon, heavy language, its much easier to have someone in the room to help explain what’s happening and why, and what’s gonna happen next, than having someone breeze through something quite quickly digitally, is quite difficult” (Manager 1, Foleshill Women’s Training).

Failure to ensure access for those who lack digital resources and skills leads to unfair outcomes.

“...what happened was [...] she’d broken her phone [...]she couldn’t get in touch with me. So she was tending to Facebook me through her friend or I would just turn up unannounced to do my visit, my wellbeing checks and things like that. So that was why she missed her appointment because she hadn’t received the email. Although she told them that at her appointment but they still sanctioned her anyway” (Progression Coach 4, St Basils).

5. TRUSTED INTERMEDIARIES ARE AN INTEGRAL PART OF ACCESS TO JUSTICE FOR MARGINALISED GROUPS

5.1 The trusted intermediaries in our study offer a wide range of support to deal with law-related issues. These issues emerge in the course of their broader work, whether that is providing food and basic goods, education and training, employment support, or social opportunities.

While the nature of their relationships with people they support vary, trusted intermediaries actively participate in finding solutions and resolving issues, often supporting people and advocating for them through each step in a process.

The forms of support they provide include signposting, referrals, practical support, form filling, social support and community building, moral support and confidence, translation and interpreting, and advocacy.

“...we have to do a lot of that practical stuff, calling GPs, picking a woman up and taking her to an appointment, sitting in the waiting room with her, reassuring her it’s alright. Sitting with her in the first appointment as well. Sitting with, we have like computers here that women can use, so sitting doing their UC, sitting here with one of our computers to do their video conferences. So a massive part of our work is that very practical, we will do these steps with you, go into foodbanks, giving donations” (Practitioner 4, Kairos WWT).

5.2 They actively build trust with people they support, enabling people to share details about their lives.

“...you have to build trust, trust is the most important thing that you can do... Because they’ve been treated by the system so appallingly they don’t trust anyone. And for us to get to a point where we can actually start to build trust and build a relationship, so much so that they will engage, because if you say to somebody, what’s brought you to Foodbank today [...], they may give you one reason but there’s actually probably three or four other issues that have brought them to Foodbank, that they won’t discuss with you until [...], they actually trust you with what they’re going to give you (Strategy Lead, Coventry Foodbank).

5.3 In many instances, they are the first to identify that someone may be dealing with a legal issue and guide those they support to the most appropriate sources of information and help. Many issues would simply not be picked up without their support.

“[...] so one of the big things is that people aren’t reaching out to us for support. What’s happening is we’re discovering those issues as we have conversations and build relationships. So [...] you know, you’ve asked us for pots and pans for your house but what is your housing situation, what is your immigration status? What’s happening with the kids, are they in school? And because we then have those face to face conversations” (Team Member 6, Carriers of Hope).

“...the sad thing is that without our support many of the women would not know that there are legal injustices happening to them. And it only gets picked up because the support and advocacy practitioners and the specialist practitioners are explaining that process to them (Practitioner 1, Kairos WWT).

Several of the intermediaries in the study reflected that there is no real end to the support they provide, and they find it necessary to stay involved even once they have signposted or referred someone to more specialised help.

“We try to refer them as we can but some cases we can see that even if we refer they cannot access or they don’t feel safe enough with a group of people that are helping them. And because we’re also a community they feel confident to share information” (Team Member 2, Carriers of Hope).

6. NEXT STEPS

Intermediaries described problems that reflect the centrality of these areas in everyday life, and the challenges that complex systems for accessing rights and entitlements create for people who are marginalised. Our study aims to support early intervention and asks whether these issues could be identified and addressed earlier or prevented entirely.

The findings suggest a need to explore systemic solutions to reduce barriers, alongside public legal education and early access to legal advice. The role of the trusted intermediary is key, however more is needed to understand the extent of their capacity and willingness to play this role, as well as the support needed to enable them to do so effectively within a broader framework of access to justice.

The next phase of the project involves qualitative interviews with 35-50 people who the trusted intermediaries know to have struggled with a law-related issue in the same time period to explore these issues in more depth. This will be followed by a public legal education project developed with the intermediaries drawing on the findings of our research and designed to tackle issues identified in the study.