



# A TRAVESTY OF JUSTICE?

## Young people's access to legal aid

**A Policy & Research Briefing: September 2018**

*This briefing summarises the key findings relating to legal aid from a new analysis of data from the 2014-2015 Legal Problem Resolution Survey (LPRS) on 18-24 year olds' experience of legal problems.*

# KEY POINTS



**1** Young people aged 18-24 in England and Wales experience 5 million legal problems each year. Half of these problems are experienced by young people who are eligible for legal aid on financial grounds.



1073



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**2** 84% of young people eligible for legal aid are left to resolve their problems without any help from a professional adviser or lawyer. Only one young person in the whole LPRS survey sample of 1073 18-24 year olds was found to have obtained advice funded by legal aid.



**3** Young people account for a disproportionate amount of all the legal problems that have fallen out of scope. Only 16% of young people's legal problems remained in scope of legal aid post-LASPO.



**4** The impact of the civil legal aid cuts is greatest on vulnerable groups of young people. Nearly half (48%) of young people's problems which fell from scope were reported by those with mental health problems who were eligible for legal aid on financial grounds.



**5** Young people who are eligible for legal aid have exceptionally low levels of legal capability and rarely obtain professional advice. Fewer than 3% found their way to a lawyer, while 42% either self-helped or obtained no support whatsoever.

# IMPLICATIONS

Our findings reveal that the current system of legal support in England and Wales is failing a generation. The utility of legal aid for young people appears negligible. Legal aid can no longer be relied upon to provide disadvantaged and vulnerable young people with access to justice by providing support to enforce their rights.

The effective exclusion of young people from civil justice has major implications for young people's protection, mental health and wellbeing. We know that highly vulnerable children and young people, including those with mental health problems and those who are at risk of abuse and exploitation, are disproportionately affected by legal

problems.<sup>1</sup> We also know that that this group's inability to access legal support leaves them vulnerable to further harm,<sup>2</sup> puts added pressure on the criminal justice system,<sup>3</sup> the NHS<sup>4</sup> and social services and costs local public services thousands of pounds per case.<sup>5</sup>

Our findings also have wider implications for social cohesion, democracy and the rule of law. It is questionable, for example, whether the underpinning principle of the legal aid system – that everyone should have equal access to and protection under the law, regardless of financial position or status – can still hold when a whole generation appears cut off from justice.

## A radical solution is required

JustRights are proposing the establishment of a system dedicated to providing high quality age-appropriate legal education, advice and representation for all children and young people from age 0 to 25.

See JustRights' paper *Access to Justice for Children and Young Adults: A solutions paper*

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<sup>1</sup>*Civil Legal Problems: Young People, Social Exclusion and Crime*, Pleasence, P., (Youth Access, The Law Centres Federation and JustRights, 2011).

<sup>2</sup>*Legal Aid cuts: child protection implications*, (JustRights, 2013).

<sup>3</sup>Clear links between young people's civil legal problems and crime were established by Pleasence (2011) op.cit. 55% of 16-24 year olds who have recently been arrested reported experiencing at least one 'difficult to solve' civil justice problem.

<sup>4</sup>*Health Inequality and Access to Justice: Young People, Mental Health and Legal Issues*, Pleasence, P. et al, (Youth Access, 2015).

<sup>5</sup>*The Legal Problems and Mental Health Needs of Youth Advice Service Users: The Case for Advice*, Balmer, N.J. and Pleasence, P., (Youth Access, 2012).

# LEGAL AID, LASPO AND THE LASPO REVIEW

Legal aid is government funded legal advice, assistance and representation. It was first introduced in 1949, as the fourth pillar of the welfare state, alongside the NHS, education and social security. It was designed to provide the most disadvantaged members of our society with help to manage everyday problems and avoid crisis.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)<sup>6</sup> drastically reduced the types of legal problem for which young people can get legal aid. LASPO was intended to increase ‘public confidence in the system by ensuring limited public resources are targeted at those cases which justify it and those people who need it’.

Many problems which commonly affect young people, e.g. concerning rented housing, benefits, debt and employment, are now ‘out of scope’ of legal aid. Our previous research has shown that when young people can’t resolve these types of problem, it often affects their mental health, safety, income and confidence.

Our new findings are of particular relevance to the current evidence-based Post-Implementation Review of LASPO being conducted by the Ministry of Justice (MOJ). We believe the review must include a detailed assessment of the impact on children and young people up to the age of 25.

## ‘Young people’

This briefing reports data focusing on the largely ignored group aged between 18 and 24 who need legal advice *in their own right* in order to deal with their own problems independently from the needs or support of their parents or carers.

The term ‘young person’ is generally considered to encompass the 15 to 25 age range, with those aged 18 to 24 sometimes classified as ‘young adults’ or ‘emerging adults’.<sup>7</sup> This briefing employs the term ‘young people’ throughout.



<sup>6</sup><https://www.gov.uk/government/publications/post-implementation-review-of-laspo>

<sup>7</sup>See e.g. The Lancet Child and Adolescent Health, January 17<sup>th</sup> 2018 (5) and United Nations definitions.



# DATA ANALYSIS

With indications that young people's unmet legal needs have been growing alongside increases in youth poverty and mental ill-health, we wanted to understand how young people were managing their everyday legal problems and whether the legal aid cuts had impacted on young people's access to justice. We considered it important for the MOJ to start with an understanding of what its own legal needs data tell us about young people's legal needs and their access to legal aid.

Youth Access commissioned Dr Nigel J. Balmer and Professor Pascoe Pleasence, who are leading international experts on legal needs surveys, to conduct a secondary analysis of legal need survey data from the MOJ-commissioned 2014-2015 Legal Problem Resolution Survey (LPRS). The analysis focused on young people aged between 18 and 24 who need legal advice in their own right.

A weighted sample of 1,073 18 to 24 year olds was included in the analysis,

equivalent to 10.7% of the overall sample. The analysis enabled both the identification of those young people who were still eligible for legal aid (based on income and savings) post-LASPO, and also whether problems reported remained 'in scope' of legal aid or had fallen 'out of scope' following LASPO.

The full findings on young people are contained in the report cited as Balmer, N.J. and Pleasence, P. (2018) *Young People and Legal Problems: Findings from the Legal Problem Resolution Survey, 2014-2015*. London: Youth Access. The analysis also draws on findings from earlier legal needs surveys, including the 2010 and 2012 waves of the Civil and Social Justice Panel Survey (CSJPS), the precursors to the LPRS.

**This briefing summarises the key findings of relevance to legal aid and introduces further analysis.**

## The Legal Problem Resolution Survey

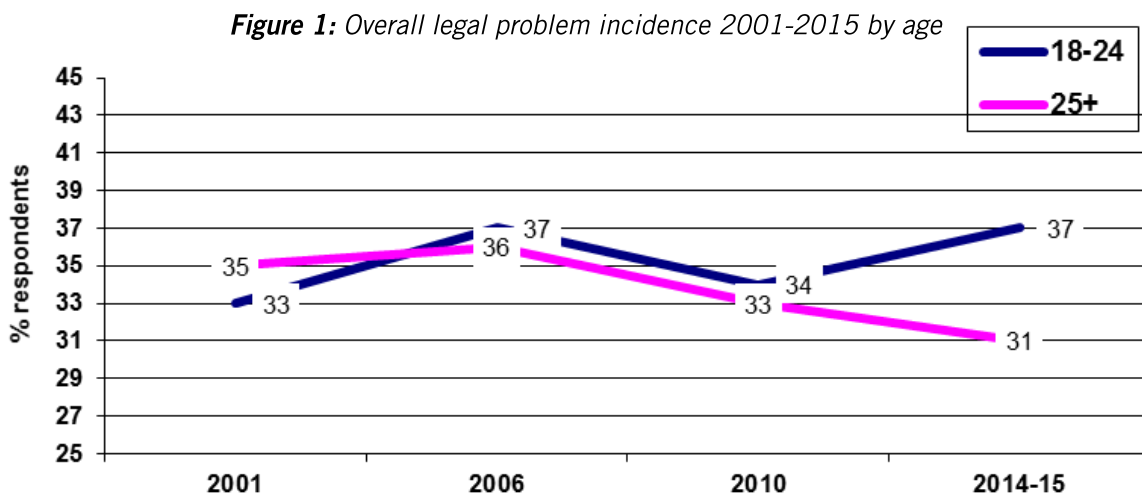
Commissioned by the Ministry of Justice, the LPRS was a nationally representative telephone survey of the general population of England and Wales. Fieldwork was undertaken between November 2014 and March 2015 and included a sample of 10,058 adults aged 18 and over. Respondents were asked about their experience of a broad range of everyday civil, administrative and family legal problems, including disputes with landlords or employers, problems with consumer purchases, money or state benefits, debt, and problems related to the breakdown of a relationship. The main findings from the survey were published by the Ministry of Justice in 2017.<sup>8</sup>

<sup>8</sup> *Findings from the Legal Problem and Resolution Survey, 2014-15*, Franklyn et al., (Ministry of Justice, 2017) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/596490/legal-problem-resolution-survey-2014-to-2015-findings.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/596490/legal-problem-resolution-survey-2014-to-2015-findings.pdf)

# FINDINGS

Thirty-seven per cent of 18-24 year old LPRS respondents reported one or more legal problems in the 18 month LPRS reference period. This was a significantly greater percentage than the 31% of respondents aged 25 or older who reported one or more problems.

Looking back over data from previous legal needs surveys going back to 2001, we can see that the incidence of young people's legal problems has increased and overtaken that of people aged 25 and over. (See Fig. 1)<sup>9</sup>. This may confirm other indications that the period of austerity since 2010 has impacted disproportionately on young people.



<sup>9</sup> Data sources: 2001 Civil and Social Justice Survey (CSJS); 2006 CSJS; 2010 Civil and Social Justice Panel Survey; 2014-15 LPRS. Note that whilst methodologies were similar, the surveys did not all use the same reference period. Note that whilst methodologies were similar, the surveys did not all use the same reference period.



## DISTRIBUTION AND TYPE OF LEGAL PROBLEMS

Problem incidence increased markedly within the 18-24 age group, from 21% of 18 year olds to 51% of 24 year olds – the latter figure being considerably higher than the 31% incidence found in those aged 25 and over.

In line with previous research showing that as many as 80% of young people with civil legal problems fall into one or more category of vulnerability,<sup>10</sup> problem incidence was higher among disadvantaged groups of young people. For example, 57% of young people with mental health problems and 69% of young lone parents reported legal problems.

Young people were far more likely than older respondents to report problems with rented housing and employment, and were also more likely to report problems relating to neighbours, debt and health.

## LEGAL AID ELIGIBILITY

There was a very strong relationship between legal aid eligibility and age. 18-24 year olds were far more likely to be eligible

for legal aid (33.5% vs 13.8% of those aged 25 or older).

Those young people most likely to be eligible included those on means-tested benefits (100% of whom were eligible), lone parents (94%) and NEET young people (75%).

## MULTIPLE PROBLEMS

Young respondents who reported legal problems were more likely to report multiple problems (56%) than their older counterparts (50%).

While the mean number of problems reported by those 18-24 year olds who had faced problems was 3.6, this rose to 5.6 for those eligible for legal aid post-LASPO.

Vulnerable groups of young people were more likely to report multiple problems, e.g. 43% of young lone parents reported six or more problems.

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<sup>10</sup> Pleasence (2011) *Civil legal problems* op. cit.

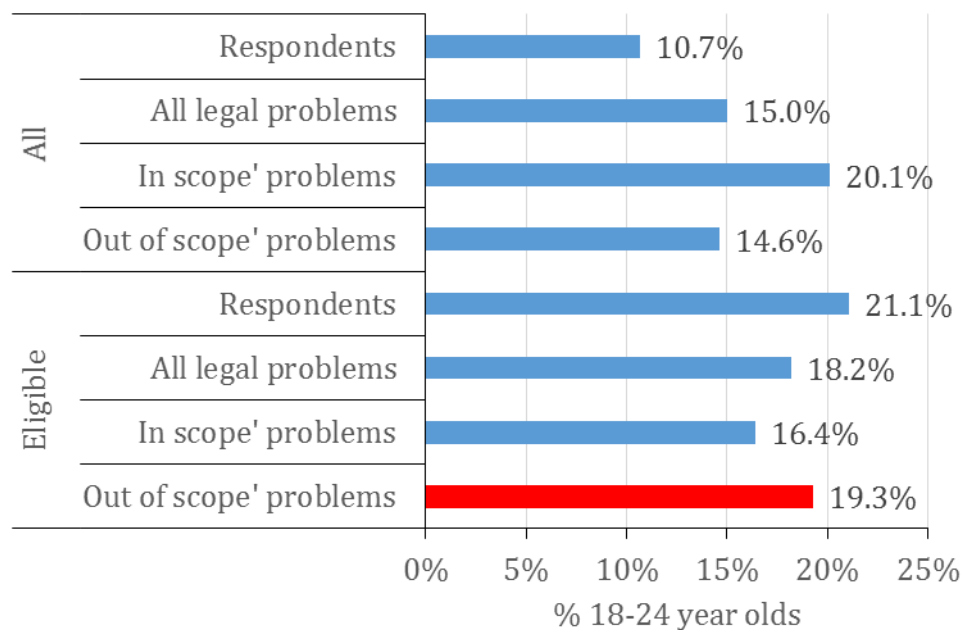


# IMPACT OF LASPO ON YOUNG PEOPLE

Our analysis found that 79% of young people's legal problems had fallen out of scope following LASPO. Only 16% remained in scope post-LASPO. (The remainder of young people's problems either had 'reduced scope' post-LASPO or were not in scope pre-LASPO and remained out of scope.)

While 18-24 year olds comprised 10.7% of the survey sample, they accounted for 19.3% of respondents who were still eligible for legal aid on financial grounds with problems that had fallen from the scope of legal aid post-LASPO.

**Figure 2:** Percentage of 18-24 year olds overall and by legal aid scope of problems and legal aid eligibility







## IMPACT ON VULNERABLE YOUNG PEOPLE

Our analysis indicates that vulnerable groups of young people have been poorly protected from LASPO's changes to legal aid. Taking young people with mental health problems as an example:

- 74% of the problems reported by young people with mental health problems who were still eligible for legal aid on financial grounds had fallen from scope post-LASPO.
- Looking at it another way, 48% of young people's problems which fell from scope were reported by those with mental health problems who were still eligible for legal aid.

## IMPACT OF LEGAL PROBLEMS

As found in previous surveys, young people reported a range of impacts on their lives from their legal problems. Young people who were still eligible for legal aid post-LASPO were most likely to report: mental health problems (21%), loss of confidence (18%) and loss of income or financial strain (18%). Significant numbers also reported other serious consequences, including harassment/abuse/assault (7%), physical illness (6%), having to move home (5%) and unemployment (5%).

## LEGAL CAPABILITY

Our analysis confirmed previous research indicating that young people possess worryingly low levels of legal capability. For example:

- Whilst 24% of people aged 25 or older recognised their problem as 'legal' – a known key predictor of effective problem resolution strategies – this figure fell to 15% among 18-24 year olds; and to just 6% among young people who were still eligible for legal aid on financial grounds.
- Compared to older respondents, young people reported significantly higher levels of 'legal anxiety' (which is known to increase the likelihood of someone taking no action to resolve their problems) and perceived the justice system as having significantly greater inequality (i.e. as not being a level playing field for all who enter it).
- 18-24 year olds were far less likely than older respondents to identify sources of legal help and were twice as likely to suggest they did not know where to seek help. For example, while 43% of those aged 25 or older suggested Citizens Advice Bureaux and 38% suggested lawyers, these figures dropped to just 14% and 13% respectively for those aged 18-24.



## ADVICE SEEKING BEHAVIOUR AND ACCESS TO ADVICE

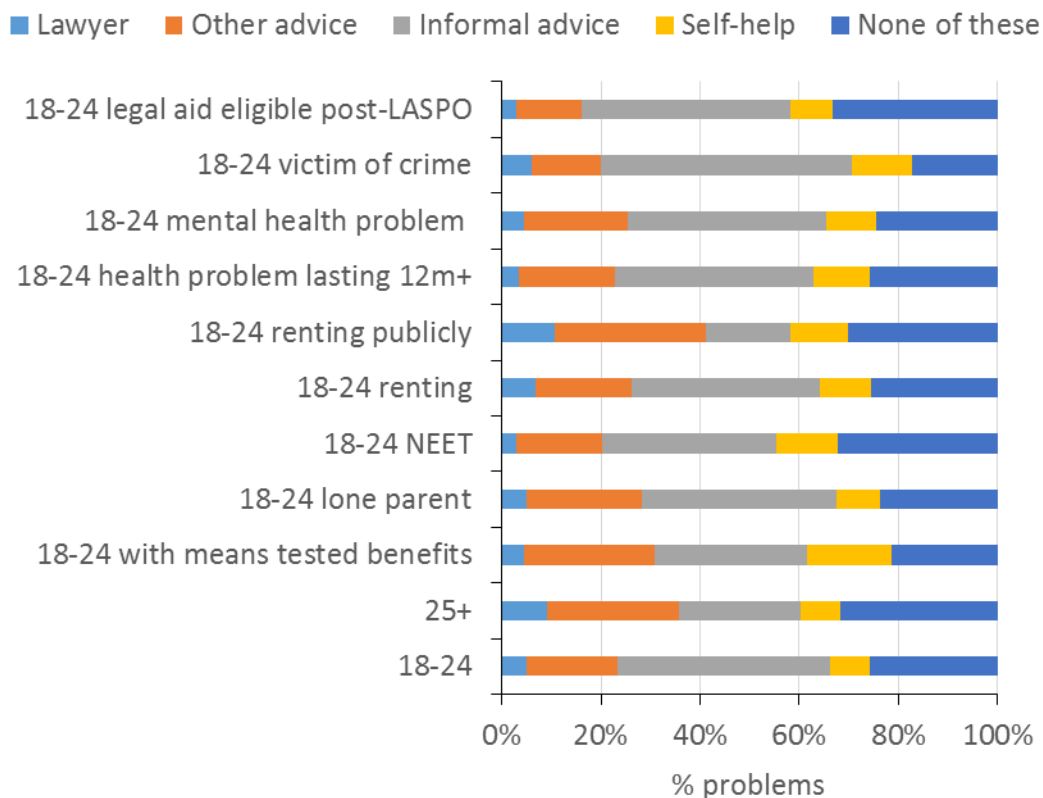
Young people's responses to legal problems differed considerably from those of other age groups. 18-24 year olds were more likely to consult family or friends, and less likely to consult a number of types of adviser; notably lawyers and advisers in the independent advice sector.

Whilst 36% of people aged 25 and over sought advice from lawyers or formal advice services (e.g. Citizens Advice Bureau), this fell to 23% of 18-24 year-olds and just 16% of 18-24s still eligible for legal aid

post-LASPO. Only 2.8% of young people still eligible for legal aid found their way to a lawyer, compared with 9.2% of those aged 25 and over.

Only one young person in the whole LPRS sample said they had obtained legal aid to pay for the advice they received.

9% of young people eligible for legal aid self-helped, with a further 33% obtaining no support whatsoever in relation to the legal problems they faced. 42% obtained 'informal advice', e.g. from friends or family.



**Figure 3:** Simple problem solving strategy for 18-24 year olds, those aged 25 or older and a range of subgroups of 18-24 year olds.



## MODE OF ADVICE

18-24 year olds were slightly more likely to communicate with advisers by telephone/text messages than those aged 25 and older, but were less likely to use other forms of advice, including communicating in person or via email/internet.

However, this picture was far from uniform among 18-24 year olds. Young people still eligible for legal aid post-LASPO less often used either the telephone/text messages or email/internet.

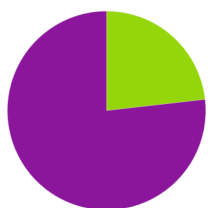


# OVERALL SCALE OF UNMET NEED IN YOUNG PEOPLE

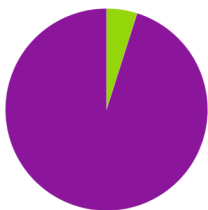
Based on the LPRS data presented in this briefing, Youth Access has calculated that a typical population of 1,000 18-24 year-olds would experience 1,423 legal problems over an 18 month period.

Of these, 662 young people ineligible for legal aid would experience 671 problems; and 338 young people eligible for legal aid post-LASPO would experience 752 problems.

Extrapolating these figures to the total England and Wales 18-24 population of approximately 5.1 million, we would expect young people to experience approx. 7.3 million problems over an 18 month period. Of these problems:



**1,694,000 (23.2%)** would result in the young person finding their way to either an adviser or lawyer, whilst 5,606,000 (76.8%) would not.



**357,700 (4.9%)** would result in the young person finding their way to a lawyer, whilst 6,942,000 (95.1%) would not.







### Looking only at those young people eligible for legal aid on financial grounds:

- **1.7 million young people** would be eligible for legal aid, experiencing approx. 3.8 million problems between them.
- **612,000 problems (16.1%)** would result in the young person finding their way to either an adviser or lawyer, whilst 3,188,000 (83.9%) would not.
- **106,000 (2.8%)** would result in the young person finding their way to a lawyer, whilst 3,694,000 (97.2%) would not.

### Notes

- i. Given that only one young person in the entire LPRS reported legal aid paying for the help they received, it is not possible to calculate how many young people across the population one would expect to access legal aid. We hope to analyse Legal Aid Agency statistics to fill in this gap. However, it would be fair to say that, in the context of the huge scale of legal need and the cuts to legal aid introduced by LASPO, legal aid currently plays a negligible role in supporting young people to resolve their problems.
- ii. The figures above relate to an 18 month survey reference period. In order to produce annual figures elsewhere in this briefing, we have crudely reduced figures by one third. In reality, this method is likely to produce slight underestimates of the annual figures.



# A WAY FORWARD?

It is clear that young people are getting a raw deal from the current civil justice system. Legal aid appears to be no longer providing young people of limited means, many of whom are highly vulnerable, with access to justice by ensuring equality before the law and support to enforce their rights.

A compelling economic case for dramatically re-balancing spending on legal advice services towards meeting young people's needs has previously been made by Youth Access.

However, even with little or no additional investment, there is tremendous scope to improve young people's access to justice by designing services better around their needs. This requires starting with some basic activities that successive Governments have been strangely reluctant to undertake, namely:

- asking young people for their views on services and what would work better;
- actually listening to what they say;
- and then acting on their advice.

In 2014, Youth Access and JustRights worked with hundreds of young people across England through focus groups, online consultation activities and a youth editorial board to create a manifesto entitled 'Make Our Rights Reality'. This sets out young people's views on the extent to which their rights are currently respected and changes that would ensure they get the information, advice and legal support needed to enforce their rights. The manifesto should be the starting point for any policy maker with serious intent to improve access to justice for this client group.

Based on young people's views in the manifesto, JustRights are proposing the establishment of a system dedicated to providing high quality age-appropriate legal education, advice and representation for all children and young people from age 0 to 25.

**See JustRights' paper *Access to Justice for Children and Young Adults: A solutions paper***



*Extract from young people's Make Our Rights Reality manifesto<sup>11</sup>*

## **Give us free access to solicitors who specialise in working with young people**

**Our inexperience and lack of knowledge of our rights make us especially vulnerable to exploitation and injustice. People in authority often don't take our rights seriously. To force these people to meet their duties towards us, we sometimes need a legal representative.**

**Legal aid cuts are making it impossible to find a lawyer who can help us. Many of us now get no specialist help with social services, homelessness, immigration, education, employment, money and family problems – leaving us in desperate situations! It is shocking that some children and young people even have to represent themselves in court.**

- We need to have free access to lawyers who specialise in working with young people.**
- We need to be able to see these lawyers in places where we feel comfortable and can get the other support we need, e.g. youth advice centres.**
- The legal support we need must be properly funded. The Government must ask us what we think before making any more changes to legal aid that affect us.**
- All lawyers who ever come into contact with young people should be trained in how to talk and listen to us.**

<sup>11</sup> <http://www.youthaccess.org.uk/downloads/makeourrightsreality-longversion1.pdf#page=8>



## ABOUT YOUTH ACCESS

Youth Access is the advice and counselling network. We believe that every young person has a right to access free, young person-centred advice and counselling services.

Our work includes:

- Providing local services with the tools they need to deliver high quality services to young people
- Building the evidence to shape policy and services that meet young people's needs
- Promoting young people's right to be heard

## ABOUT JUSTRIGHTS

JustRights is a coalition of charities campaigning for fair access to advice, advocacy and legal representation for children and young people.

We believe that:

- Children and young people are a uniquely vulnerable client group with advice needs and advice-seeking behaviour that are distinct from those of all other client groups
- Only carefully tailored – and properly resourced – service delivery approaches will be successful in meeting the specific advice, advocacy and legal representation needs of children and young people
- Current arrangements do not provide the advice, advocacy and legal representation needed by children and young people if they are to enjoy the rights and protections the law affords them

### Youth Access

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