



Women's Access to Justice: a research report

EXECUTIVE SUMMARY

The case for legal aid

Rights of Women carried out three surveys on legal aid and access to justice which were available to complete on our website between 17 December 2010 and 31 January 2011. We developed specific surveys to capture the experiences of: individual women; professionals who respond to violence against women issues; and, legal professionals.

We publicised the surveys using our website, advice lines, training and events. The questions asked of respondents were open and neutral and in most cases, came with the opportunity to clarify or explain an answer. Just under one thousand people responded. Respondents came from across England and Wales and from a diverse range of backgrounds ranging from a judge to workers in a local women's refuge, including many individual women who had been helped by legal aid or who had experience of our justice system.

The respondents answers make for uncomfortable and inspiring reading, explaining as they do the barriers women face leaving violent and abusive relationships and how receiving legal advice and representation can make the difference between acting to resolve a legal issue or not, as one of the individual women who responded said:

“...Legal aid is not only a necessary tool for victim of domestic violence, it is also a life saving tool both for women and children.”

The key findings of the research were:

Gender-based violence:

- 58% of the individual women who responded to the survey had experienced violence, this ranged from domestic violence and harassment to childhood sexual abuse.
- 54% of these women did not report this violence to the police or apply to the courts for a protection order.
- 79% of professionals working on violence against women issues thought that the women they supported did not routinely report that violence to the police or seek the protection of the courts.
- Women experiencing violence had a range of legal problems in a variety of areas of law, including in relation to children (24%), divorce (33%) and housing (24%). Victims of gender-based violence, including domestic violence, need advice and representation on a range of legal issues if they are to obtain protection, not just domestic violence injunctions (which accounted for just 14% of respondents' legal problems).

- Rather than creating “gateways” to allow victims of domestic violence to get legal aid for a limited range of related proceedings, the research shows that areas of law such as family, immigration, housing and welfare benefits law are vital to women and should not be removed from the scope of legal aid.

Self representation:

- 89% of individual women and 97% of legal representatives thought that women experiencing violence would be unable to represent themselves in court.
- Individual women were concerned about their safety and ability to understand proceedings, while legal professionals expressed concern about the complexity of proceedings and the ability of litigants in person to advocate for themselves adequately.

Mediation:

- 66% of individual women thought that mediation was not appropriate in domestic violence cases, in comparison with 70% of legal professionals and 80% of professionals who work on violence against women issues.
- All respondents raised concerns about safety and the re-victimisation of the women concerned.
- These figures suggest that the more that a person knows about violence against women, they less likely they are to believe that mediation is appropriate in domestic violence cases.

Areas of law removed from scope:

- 97% of professionals who work on violence against women issues and 97.5% of legal professionals thought that women experiencing violence would not be able to represent themselves if they had legal problems in areas that are proposed to be removed from the scope of legal aid.
- Of most concern to these respondents was the removal of family and immigration law from the scope of legal aid as these areas were identified as particularly complex.

The telephone helpline:

- 68% of individuals said that they would not feel confident speaking to an operator on a helpline about their legal problem; 93% said they would prefer to speak to a solicitor or advisor in person.
- 77% of professionals who work on violence against women issues and 93% of legal professionals thought that an operator on a helpline would not be able to identify and respond to violence against women.
- 79% of professionals who work on violence against women issues thought that the women they supported would not be able to fully understand and act on advice they received by telephone.
- 91% of legal professionals thought that it was extremely important that vulnerable clients (such as those experiencing violence or those with disabilities) are able to get face-to-face, specialist, legal advice.
- 94% professionals who work on violence against women issues thought that it was extremely important that women experiencing violence are able to get face-to-face, specialist, legal advice.

Effect of the proposals on the courts

- 98% of legal professionals thought that increasing numbers of litigants in person in the justice system would result in cases taking more time to resolve.
- 97% of legal professionals thought that increasing numbers of litigants in person would increase court costs.

Other sources of advice:

- Respondents who were unable to get legally aided advice and representation would either go, or refer their service user to a Law Centre (60%), Citizen's Advice Bureau (85%), specialist violence against organisation (70%) or Rights of Women (56%).
- These sources of support are unlikely to be able to cope with increased demand for their services.
- In the current financial situation it is questionable whether these sources of advice and support will continue to be available. This will leave many women with nowhere to go to get life-saving legal advice and representation.

The value of legal aid:

All our respondents were clear that legal aid saves lives, protects children and enables families to live lives free from violence. As one individual woman who responded to the survey said:

"If I had not had the help I received from my solicitor, I would not be here today, I feel that legal aid is important especially to women trying to leave violent partners or seeking orders from the court to protect themselves and their children."