



Ministry  
of Justice

# Civil Legal Aid User Research: Qualitative Research with Service Users and Trusted Intermediaries

## Informing the Review of Civil Legal Aid (RoCLA)

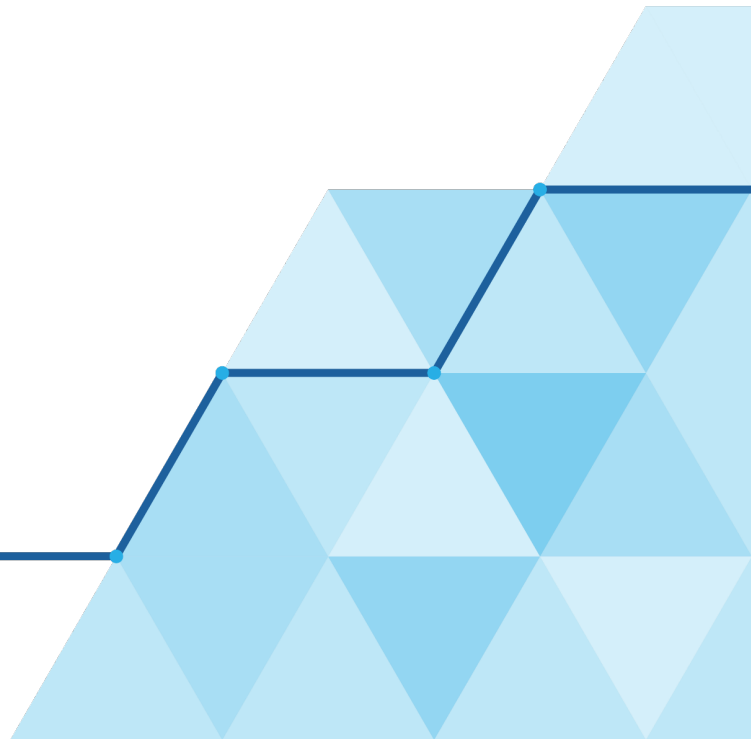
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# Contents

## List of tables

<b>1. Summary</b>	<b>1</b>
1.1 Awareness of legal aid	1
1.2 Capacity	2
1.3 Trusted intermediaries	2
1.4 Barriers service users face	2
1.5 Difficulties with the legal aid process	3
1.6 Working with a provider	4
1.7 Overall experience	5
<b>2. Background</b>	<b>6</b>
2.1 Civil Legal Aid	6
2.2 Review of Civil Legal Aid	7
2.3 Purpose of this research	8
2.4 Terminology and glossary	9
<b>3. Research Approach</b>	<b>10</b>
3.1 Eligibility Criteria	10
3.2 Recruitment approach	10
3.3 Final sample	12
3.4 Interviewing approach	15
3.5 Data management and analysis	16
3.6 Research limitations	16
3.7 Ethical considerations	17
<b>4. Findings</b>	<b>19</b>
<b>5. Awareness of legal aid</b>	<b>20</b>
<b>6. Capacity</b>	<b>23</b>
6.1 Finding a provider	23
6.2 Demand versus availability	24
6.3 Impact on the legal process due to low provider capacity	25
6.4 Alternatives to Legal Aid	26
6.5 Impact of self-representation on service users	27
<b>7. Trusted intermediaries</b>	<b>28</b>
7.1 Initial contact	28
7.2 Provision of legal assistance	28

7.3	Casework	29
7.4	Limitations of trusted intermediary provision	29
<b>8.</b>	<b>Barriers service users face</b>	<b>31</b>
8.1	Literacy and comprehension	31
8.2	Language barriers	32
8.3	Access to technology	34
8.4	Additional barriers to access	34
<b>9.</b>	<b>Difficulties with the Legal Aid process</b>	<b>36</b>
9.1	Providing financial documentation	36
9.2	Trapped capital	37
9.3	Providing evidence in another language	38
9.4	Registered address	38
9.5	Paying back legal aid fees	38
<b>10.</b>	<b>Working with a provider</b>	<b>40</b>
10.1	Provider-service user relationship	40
10.2	Impact of relationship breakdown with providers	41
10.3	Face-to-face and remote contact	42
<b>11.</b>	<b>Overall experience</b>	<b>44</b>
<b>12.</b>	<b>Conclusion</b>	<b>45</b>
	<b>References</b>	<b>47</b>
	<b>Appendix A</b>	<b>48</b>
	Glossary	48
	<b>Appendix B</b>	<b>50</b>
	Discussion Guides	50
	<b>Appendix C</b>	<b>57</b>
	Wellbeing Protocol	57

## List of tables

Table 1: Areas of Law of Service Users and Trusted Intermediaries	13
Table 2: Geographic Location of Service Users and Trusted Intermediaries	14

# 1. Summary

The Ministry of Justice (MoJ) launched the Review of Civil Legal Aid (RoCLA) in January 2023. As set out in the Review's Terms of Reference, the purpose of the Review is to identify options which will improve the sustainability of the civil Legal Aid system, ensuring it can deliver access to justice over the long term. This research contributes to the 'User Research' workstream that explores the end-user (service user) experience of accessing and receiving legal aid.

The research aims to build on existing knowledge about the civil legal aid experience for service users and contribute a greater understanding of the experiences of the individual service users accessing legal aid during the Covid-19 pandemic. This project comprised interviews with 12 service users about the service user experience. Due to challenges recruiting service users, ten trusted intermediaries were also interviewed. This is because the nature of their role means they are well placed to discuss the experience of the service users they work closely with.

Findings from the research have been grouped into seven thematic areas associated with different aspects of the users' experiences. Below is a high-level summary of key findings associated with these themes. Each of these is expanded upon in greater detail in the findings section of the report.

## 1.1 Awareness of legal aid

Some service users were unaware of legal aid and that they were potentially eligible to receive legal aid for their legal issue. Some service users spent time and money on other types of legal assistance before applying for legal aid through a provider. Misconceptions led service users to believe that they were not eligible for legal aid, and often this delayed the resolution of their legal issue. Trusted intermediaries play an important role in supporting service users, improving their understanding of what they are entitled to and what their legal rights are.

## 1.2 Capacity

Some service users had struggled to find a legal aid provider with capacity to take on their case. Trusted intermediaries reported that finding a legal aid provider for a service user was one of the biggest challenges of the legal aid process, with regional provision sometimes being an issue. For example, trusted intermediaries reported difficulties securing a provider in Northern England. The impact of not finding legal aid representation due to the lack of provider availability and capacity can have adverse effects on a person and their legal journey, further adding to an already stressful time in their life.

When a legal aid provider cannot be obtained, some service users proceed as litigants in person or receive pro bono services. In other situations, McKenzie Friends (a service which assists litigants in person) or lay advisors are called on for additional support. Trusted intermediaries reported that self-representation can lead to increased stress and have a negative impact on a service user.

## 1.3 Trusted intermediaries

Trusted intermediaries provide a range of support to a service user, from simply signposting a provider to assisting them throughout the process. All trusted intermediaries offered legal advice to service users in some form. Trusted intermediaries help ease provider capacity challenges by taking on some of the administrative burden, gathering paperwork and evidence for the service user's legal case.

Trusted intermediaries shared their frustrations at the complexities of legal aid rules and regulations. They felt there wasn't enough awareness of how legal aid can help in certain sectors, e.g., immigration and exceptional case funding. Trusted intermediaries expressed a desire for all their staff to know more about helping people secure legal aid but felt that capacity challenges mean they spend a lot of time instead managing people who represent themselves and handling their complex needs.

## 1.4 Barriers service users face

Service users and trusted intermediaries discussed the challenges and barriers that impact the legal process. Service users' experiences were often compounded by other

challenges, including difficulties with literacy, language barriers and a lack of access to technology. Some of the service users live with neurodiverse conditions, which impact how they process information.

## 1.5 Difficulties with the legal aid process

There were some key elements of the legal aid process that presented challenges for service users, including providing financial documentation, trapped capital, providing evidence in another language and providing the income of others living at a registered address.

Most service users needed around two weeks to gather the financial documentation. Trusted intermediaries also reported some service users encountering difficulties. These included: obtaining payslips, knowing how to access bank statements, not having access to the technology to print or email the documents, or having the digital literacy to know how to do so. They had come across service users with no financial footprint in the UK.

Some respondents noted the challenge in obtaining legal aid due to trapped capital. Trapped capital refers to assets or capital which exist on paper but which in practice, cannot be accessed by the party seeking legal aid. An example of trapped capital may be an interest in the family home, which the other party is unwilling to sell. The Director of the Legal Aid Agency (LAA) is able to attribute a 'nil' value to trapped capital, which may result in a legal aid applicant becoming eligible for legal aid when they otherwise may not be.

A few trusted intermediaries raised language as an issue. When English is not a first language for a service user, sometimes it can be difficult for them to obtain any evidence in English to support an application for legal aid.

Some trusted intermediaries reported that service users who are seeking asylum sometimes reside with friends or peers while their application is under consideration. To apply for legal aid, service users were required to state where they were living and provide evidence of any allowance they received, and the LAA may ask for the income details of the person they were living with. The income of this person can have an impact on service users' legal aid eligibility.



Only one service user interviewed paid any financial contribution to the LAA and they were happy with the amount. However, trusted intermediaries reported that in some situations, paying back legal aid funding can have a significant impact on a service users' financial status. This included the 'statutory charge' taking a large lump sum in the future when assets that have been recovered or preserved from the case,<sup>1</sup> are sold. They also cited current income assessments, leaving service users having to pay a contribution when they may struggle to afford it financially.

## 1.6 Working with a provider

Over half of the service users interviewed found their representation through a recommendation, trusted peers, colleagues, charities and social services.

A good provider-service user relationship is fundamental for a positive experience of the legal aid journey. Service users spoke fondly of the providers that 'went above and beyond' while their case was ongoing. However, for some, there was a breakdown in the relationship. Reported reasons for this included lack of contact for long periods of time, providing very little or incorrect information about the case, and the allocated provider leaving the firm without any prior notice. This increased stress unnecessarily and dissatisfaction for the service user, as well as limiting their understanding of their rights and legal options.

The ways in which providers interacted with service users varied, with both face-to-face and remote services being delivered. Covid-19 restrictions appeared to trigger adaptations in service delivery, with more providers shifting to remote-first ways of working. In some cases, the service users never met their provider in person during the case because of restrictions during the pandemic. Some service users preferred this way of communicating, while others described face-to-face as their preferred form of contact due to factors including having English as a second language.

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<sup>1</sup> Legal aid costs to the LAA will be recouped from those assets after the case ends (any contributions made to legal aid costs are taken off the bill).

## 1.7 Overall experience

The research has highlighted some challenges faced by respondents, including provider capacity and difficulties following the processes. However, it is also important to note that the research found that civil legal aid is positively impacting service users and their families. Most service users were overwhelmingly positive about the legal aid they received. It helped them resolve significant issues and improved their lives. Although some parts of the process were seen as challenging, this was outweighed by the long-term benefits.

## 2. Background

### 2.1 Civil Legal Aid

Civil Legal Aid provides funding to cover some or all of the costs for legal advice, mediation, and representation in court or tribunal claims. In England and Wales, civil legal aid is administered by the Legal Aid Agency (LAA).<sup>2</sup> The LAA is a public-funded, executive agency of the Ministry of Justice (MoJ) which is responsible for commissioning and administering legal aid in line with legal aid legislation. Civil legal aid services are delivered directly to service users by solicitors and barristers.<sup>3</sup> Solicitors are employed in law firms which are contracted by the LAA, and barristers are instructed by these solicitors. There are eleven specific contractual categories of law under civil legal aid.

The scope of what is covered under civil legal aid is set out in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO).<sup>4</sup> Eligibility for civil legal aid is usually determined by three components: a merits test which assesses the likelihood of the case's success and its benefit to the client; a means test which assesses a legal aid applicant's financial eligibility; and whether the legal issue is within scope.<sup>5</sup> In some cases, prescribed evidence is also required. Sometimes people can get legal aid even though their case is not within the scope of LASPO. This is known as exceptional case funding (ECF), which provides a route for people to apply for legal aid in cases that do not fall within the scope of civil and family legal aid, but where the failure to provide legal aid would be a breach of

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<sup>2</sup> The LAA is an executive agency responsible for making sure that legal aid services from solicitors, barristers and the not-for-profit sector are available to the general public. In addition, they fund the civil legal aid service.

<sup>3</sup> Legal aid services may also be delivered by legal executives, non-formally qualified caseworkers and mediators.

<sup>4</sup> Legal Aid, Sentencing and Punishment of Offenders Act 2012, (LASPO) <https://www.legislation.gov.uk/ukpga/2012/10/contents/enacted>, [Accessed 10 Feb, 2024]

<sup>5</sup> Scope in this context means what can be covered by legal aid, for more information about what is covered under civil legal aid, please see: [Work out who qualifies for Civil Legal Aid - GOV.UK \(www.gov.uk\)](https://www.gov.uk/work-out-who-qualifies-for-civil-legal-aid). Sometimes people can get legal aid even though their case is not within scope of LASPO. This is known as exceptional case funding (ECF), which provides a route for people to apply for legal aid in cases that do not fall within the scope of civil and family legal aid, but where the failure provide legal aid would be a breach of the individual's human rights, or where there is a significant wider public interest in funding legal representation for inquest cases. The same means and merits criteria apply as for legal aid, but there is an additional ECF merits criteria to be met.

the individual's human rights, or where there is a significant wider public interest in funding legal representation for inquest cases. The same means and merits criteria apply as for in scope legal aid.

## 2.2 Review of Civil Legal Aid

This report contributes to the MoJ Review of Civil Legal Aid (RoCLA),<sup>6</sup> which was launched by the Ministry of Justice (MoJ) in January 2023. The objective of RoCLA is to identify options for improving the sustainability of civil legal aid provision by improving the efficiency and effectiveness of the civil legal aid system, ensuring it can help deliver access to justice over the long term.<sup>7</sup> RoCLA consists of four research workstreams examining different aspects of how the system is working:

1. The **Economic Analysis** workstream focused on reviewing and assessing the structure of the civil legal aid market, delving into how the market is currently functioning and identifying the root causes of its problems. This analysis has been conducted by an independent contractor, PA Consulting.
2. The **Comparative Analysis** workstream has conducted an analysis of civil legal aid systems in six domestic and international countries (Australia, Canada, Finland, the Netherlands and the USA, and within the United Kingdom, Scotland) with the aim of identifying promising approaches and initiatives that may be transferable to the system in England and Wales.
3. The **Data Publication** workstream produced a series of documents summarising key descriptive information about the provision of civil legal aid services, with a focus on changes over time.
4. The **User Research** workstream conducted end-user research with people who have previously received civil legal aid, as well as with legal aid providers. The research aims to explore their experiences with the civil legal aid process and identify issues from a user perspective. It also seeks to explore these same

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<sup>6</sup> Ministry of Justice (2023). Guidance: Review of Civil Legal Aid. [online] gov.uk. Available at: <https://www.gov.uk/guidance/civil-legal-aid-review> [Accessed 1 Feb. 2024].

<sup>7</sup> For more information, including the terms of reference for the review, these can be found here: <https://www.gov.uk/guidance/civil-legal-aid-review>.

questions from the perspectives of providers of civil legal aid services and trusted intermediaries.

## 2.3 Purpose of this research

This report contributes to the User Research workstream, exploring the end-user experience of accessing and receiving legal aid. The term ‘service user’ in this research is used to describe the end-user – a person who is applying for, or receiving civil legal aid, who otherwise might be referred to as the client or legal aid applicant.<sup>8</sup> This evidence is presented as part of the wider User Research workstream including two other reports, one exploring the user experience from the perspectives of providers of civil legal aid (which is available on [GOV.UK](https://www.gov.uk)) and a second forthcoming literature review which will contextualise this evidence within the broader research that exists on user experiences with the civil legal aid system.

This evidence will be used by policymakers to identify options that will ensure the civil legal aid system:

- **Is accessible to those eligible** – service users can navigate the system, and access information.
- **Has optimised and user-friendly processes** – with streamlined systems that will minimise unnecessary administrative work for all parties, enabling a more productive use of time and resources.

The research has been designed to build on existing knowledge of the civil legal aid experience for service users. The research aimed to develop a greater understanding of the experiences of the individual service users accessing legal aid, and has endeavoured to capture this context to support future policy development that reflects the innovative ways people are working. The intent is to ensure policies are sustainable and digitally enabled, without marginalising already vulnerable people in their time of crisis.

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<sup>8</sup> The applicant here is not intended to refer to a party’s status in legal proceedings as both applicants and respondents can receive legal aid.

The following objectives were identified to help meet the aim of this strand of research:

- To explore and describe people's experiences of civil legal aid.
- To identify the ways in which digital technology impacted the delivery of legal aid during the Covid-19 pandemic.
- To identify the barriers that people experience in relation to their legal aid journeys.

## 2.4 Terminology and glossary

A glossary of terms (see Appendix A) aids with the understanding of the language used in the report. There are some common key terms that are widely used in the report, to refer to the two key groups interviewed.

- **Service user (SU)** is a term that is used throughout the report as a catch all for people who had received legal aid i.e., 'legal aid applicant', 'client', and 'end user'.
- **Trusted intermediaries** are a person or group who assist service users in accessing legal aid, typically a non-profit organisation or charity. Trusted intermediaries support a service user with their legal issue. Involvement could range from simply signposting the existence of legal aid, to guiding them through the process.
- **Provider** is used as a catch all term for lawyers, solicitors and advocates who deliver civil legal aid services.

In the report, direct quotes from the research are used. The subsequent text indicates whether the comment was made by a service user or a trusted intermediary.

## 3. Research Approach

### 3.1 Eligibility Criteria

The research was limited to service users who were over the age of eighteen. Originally, only cases which had closed before December 2021 were included, due to the MoJ ethical research considerations dictating that no research should be conducted with service users while the legal case is ongoing. This cut off also increased the likelihood that the research would capture legal cases which occurred during the Covid-19 pandemic.

Due to low levels of engagement, in July 2023, the recruitment criteria were amended to include cases closing by December 2022. This approach did not result in any more sign-ups for interviews.

In the early stages of research, it became apparent that trusted intermediaries (being spoken to during recruitment) had valuable knowledge relevant to the research. A trusted intermediary is often a frontline worker from community or public services who helps people to identify legal needs and navigate legal issues, connecting them to sources of legal assistance and support. Due to the nature of their role, they were considered well placed to discuss the experience of the service users they work closely with. This viewpoint was not being captured by other research being undertaken as part of RoCLA, which had sought the perspectives of providers of legal aid. In July 2023, it was decided that the scope of the research should be expanded to include trusted intermediaries. This would also help address the small sample size of users in the research.

### 3.2 Recruitment approach

The ideal approach to recruitment would have been to approach previous service users directly, using details collected at the time of their case. However, the data sharing agreement which service users agreed to at the time did not seek consent for data being shared for research purposes via the LAA. Instead, a word-of-mouth approach was taken, with signposts to the research lead by key stakeholders.

- **Citizens Advice (CA) and other advice organisations** – contact was made via emailing a list of known organisations that support people through legal processes. Attached to the email were posters with study information and QR codes to a sign-up form that could be printed or shared digitally. A website was also provided to further advertise the research. Promotional messages were sent to individual CAs and a volunteer liaison coordinator to share via communication methods the organisations use, e.g., social media, email, in person.
- **Food banks and other similar community initiatives** – the researchers reached out to people via these routes as there may be overlap between these initiatives and those requiring support through civil legal aid. The researchers asked community initiatives to share recruitment materials with their service users and share any potential participant details with the research team, providing they obtained consent to do so.
- **Recruitment agency** – some participants were recruited via a research participant recruitment agency. The recruitment agency was helpful in obtaining participants with special educational needs and/or disabilities.
- **Legal Providers** – some participants were recruited through legal providers that have previously been involved in research for Justice Digital.
- **Legal Aid Agency** – a request for research participants was shared on the social media accounts of the LAA.
- **Law Society** – the team reached out to the Law Society to share recruitment materials.
- **Access to Justice Foundation** – a remote workshop was conducted with the Access to Justice Foundation and their network to advertise the research and call for participation for both service users and trusted intermediaries.
- **Incentives** – participants were remunerated with a £40 voucher in exchange for their time during the interview.

A fifth of the service user community is made up of people with special educational needs and/or disabilities (SEND).<sup>9</sup> Targeted approaches were taken to ensure service users with

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<sup>9</sup> Legal Aid Statistics <https://www.gov.uk/government/collections/legal-aid-statistics> [Accessed February 2024].



SEND were included in the research. Relevant charities were contacted that support people living with disabilities and explicit recruitment criteria were shared with the recruitment agency.

Due to the low levels of response, a quota-based approach was not taken as there was insufficient numbers of participants to subdivide according to relevant categories within the population. Key demographic data was however, collected (see section final sample).

Multiple meetings were held with academics and organisations with contacts in Wales. This did not lead to any interviews covering the experience of people accessing legal aid specifically in Wales. However, one trusted intermediary did share insights into the lack of provider capacity in Wales.

### 3.3 Final sample

#### Response

An initial screening conversation was carried out via telephone prior to interview by one of the research team. This outlined the research, data handling, established suitability, and determined whether a face-to-face or remote interview was possible. The call lasted approximately 10 minutes and the outcome of the call was either setting up the interview at a suitable date and time for the participant or not progressing the prospective participant any further due to their not meeting the recruitment candidate. There were six interviews that did not go ahead from the screening stage because their legal aid case was ongoing.

In total, fifteen service users were interviewed. Three subsequently refused consent for inclusion of their interviews and were excluded from analysis and this report. Eleven trusted intermediaries were interviewed.

The number of service users interviewed was much lower than expected, despite the multiple recruitment efforts. Trusted intermediaries shared some reasons why this user group presented recruitment challenges, including:

- In line with GDPR, trusted intermediaries could not share any personal details of service users with the research team.

- Once a legal case has been resolved, it is likely that a service user moves on from engaging with any support organisation. This makes it difficult to access retrospective service users to obtain consent to share personal details with the research team.
- Some service users believe their case is ongoing when it has been legally resolved, e.g., restraining orders, child arrangements, and therefore do not put themselves forward for an interview.
- Some service users, once their legal case is resolved, want to move on from the experience and taking part in an interview might bring up past traumas that they do not want to relive.

### Legal area

Respondents were assigned to one of four legal area categories. For service users, this was the area of law for their legal aid case and for trusted intermediaries this was the main area of law they worked in. These categories were created by analysing high-prevalence case types in Legal Aid Statistics<sup>10</sup> from cases closed between 1 April 2019 to 31<sup>st</sup> March 2022.

- Housing
- Family, including domestic abuse
- Mental Health
- Immigration and Asylum

**Table 1: Areas of Law of Service Users and Trusted Intermediaries**

Service Users – Areas of Law	Service Users	Trusted Intermediaries
Housing	4	2
Family	5	4
Mental Health	0	0
Immigration & Asylum	3	5*

\* Two trusted intermediaries worked primarily in Immigration and Asylum but also worked in other areas of law, e.g., housing, family.

<sup>10</sup> Legal Aid Statistics <https://www.gov.uk/government/collections/legal-aid-statistics> [Accessed February 2024]

The service user sample were recruited from multiple channels, with six service users being recruited by the recruitment agency and the remaining service users via organisation referrals and providers. Despite specific attempts to target these types of cases, the researchers were unable to recruit service users whose legal aid case had been related to a mental health issue, nor trusted intermediaries that work with people who require legal aid for mental health related issues.

## Geographic location

**Table 2: Geographic Location of Service Users and Trusted Intermediaries**

Region*	Service Users	Trusted Intermediaries' (location of central office)**
East	0	1
London	3	5
North East	1	0
North West	3	0
South East	3	2
South West	0	1
Yorkshire and the Humber	2	1

\* No interviews were conducted with service users of trusted intermediaries from Wales or the Midlands.

\*\* 5 out of the 10 trusted intermediaries interviewed had a central office but operated nationally.

## Disability – service users

Only limited existing data is available regarding the disability status of legal aid clients. According to the MoJ's legal aid statistics<sup>11</sup> a fifth of service users from cases which closed in 2021–2022 were disabled, over half were not disabled and disability status is unknown for the remainder. No further breakdown is available regarding the nature of disabilities. As mentioned in the recruitment approach section, specific targeting of service users with SEND was carried out during recruitment.

<sup>11</sup> Of cases which closed in the year to 31 March 2022, 51% not considered disabled, 21% disabled, and 28% unknown. [Legal aid statistics England and Wales bulletin Jan to Mar 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/legal-aid-statistics-england-and-wales-bulletin-jan-to-mar-2022).

Six service users from this research self-reported having one or multiple mental, physical, and neurodiverse conditions, e.g., Autism (n=2), Dyslexia (n=3), Mental Health Issues (n=2), long-term pain (n=1), hearing problems (n=1) and mobility impairments (n=1).

### **Languages – service users**

English was the second language for three service users.

### **Technology confidence and access – service users**

Nine out of the 12 service users described themselves as ‘confident/fairly confident’ at using technology. Two service users described how they struggle with completing online forms (one of those due to living with Autism) and one service user described themselves as ‘tech savvy’. All users noted they had a smartphone.

## **3.4 Interviewing approach**

Semi-structured interviews were held via remote video calls. Recordings of the video calls were made if the research participant gave consent. In some cases, participants agreed only to the recording of audio from the video call.

Interviews were all conducted between January and December 2023. A discussion guide was used to lead the conversation. When the scope of the project was extended to include trusted intermediaries, the existing interview guide was adapted accordingly. These can both be found in Appendix B.

The two interview guides covered the same main topic areas:

- Respondent background
- Legal problem or area of expertise
- Awareness of legal aid, and information sources
- Finding a solicitor or legal aid provider
- Provider experience
- The legal aid process
- Financial contributions
- Feelings towards the outcome

### 3.5 Data management and analysis

The interviews were transcribed verbatim. The resultant data was analysed using an inductive thematic analysis. The approach taken in this research used Clarke and Braun's method,<sup>12</sup> where the analysts familiarise themselves with the data set by listening and watching the interviews before iteratively generating codes from the data. The codes were used to categorise the data and themes were then identified from the codes. Following this, the themes were reviewed, defined, and labelled, before writing up the findings. To limit researcher bias, multiple researchers sense checked the codes and themes throughout the process.

### 3.6 Research limitations

As with most qualitative research, this research is based upon a small sample of participants. The experiences of those who participated cannot be generalised across the wider population of civil legal aid service users and is no indication of the prevalence of these issues outside of the study group. Similarly, it is not possible to gain representation from all sub-categories, such as region or law area, meaning there is inherent bias which cannot be avoided nor measured. All views expressed in this research report are those of the service users and trusted intermediaries who took part in the interviews.

The cases discussed with service users happened a minimum of 12 months prior to interview, and at a potentially stressful and difficult time in their lives. Their accounts of what happened may therefore be affected by recall bias. The criteria for the case closing 12 months prior to interview may have also impacted the recruitment process. Once a case is closed, people might want to move on and not recall the potentially stressful and difficult time they went through, as well as no longer being in touch with support organisations or providers for an extended period, making it difficult to recruit via this route.

All but one of the service users described themselves as being confident with technology and all had access to a smartphone, whereas trusted intermediaries felt that a sizable number of service users had challenges with access to technology. It is not possible to tell

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<sup>12</sup> Clarke, V., Braun, V., & Hayfield, N. (2015). Thematic analysis. *Qualitative psychology: A practical guide to research methods*, 3, 222–248

whether this difference is due to the online-focussed recruitment approach of service users, or an artefact of the low sample size due to the qualitative research approach. Either way, the report has limited discussion of the legal aid process from the perspective of users who are not confident with technology.

Trusted intermediaries' knowledge of the user experience is based on observations of service users' experience, rather than first-hand experience. During interviews, trusted intermediaries were encouraged to share prevalent issues they come across while supporting service users, however, it is possible that certain examples they provided were isolated incidents.

The focus of this research was to understand the experiences of people who had *received* legal aid. The scope of the project did therefore not capture the experience of people who do not receive legal aid. For example, those being rejected due to ineligibility, or choosing to obtain private legal assistance, or because they lacked the awareness or capability to seek it.

The research does not draw comparisons between legal aid and non-legal aid users. Some of the issues discussed may be common among anybody undertaking civil legal proceedings, and not just limited to legal aid users, such as the potentially stressful nature of any legal process.

### **3.7 Ethical considerations**

A review of the research approach was conducted with members of the trauma-informed working group at Justice Digital to ensure the research was designed to be trauma-informed. This meant the researchers were considerate that people who were interviewed might have had a traumatic experience. The research was designed to reduce the harm and likelihood of unintentionally re-traumatising participants, as well as minimising harm to the researchers by managing exposure to vicarious trauma. A wellbeing protocol was followed to ensure the psychological protection of both the research participants and the researchers.

All research participants were provided with information about the research prior to the interview to ensure informed consent. The purpose of the research was detailed in the consent form and participants were given the opportunity to provide consent about how their data was recorded and shared. Participants could withdraw from the research at any point, without needing to provide an explanation.

All research data was stored on a secure, password protected network drive and was anonymised when transcribed. As per the Ministry of Justice data retention policy, all identifiable data will be destroyed after two years.

## 4. Findings

This section details the findings of the research, sharing the experiences of service users and trusted intermediaries that were interviewed.

It begins with an overview of the awareness of legal aid, this is followed by an exploration of legal aid provider capacity and the impact this can have on service users. The following subsection describes the role trusted intermediaries play and how they often work to fill the gap when provider capacity is reduced. The findings then detail several of the barriers and difficulties shared by interviewees. There are then findings related to specific experiences of the legal aid process and working with the provider. The section concludes with a discussion of the overall experience of legal aid and the positive impact legal aid had on the service users.



## 5. Awareness of legal aid

This section explores awareness of legal aid and the impact on a service users' experiences when there is a lack of awareness and understanding.

Service users were negatively impacted by a lack of awareness of legal. Some service users on low incomes, who had no awareness of legal aid provision, believed that because legal fees are high, they had no option but to represent themselves, or to take on debt in order to hire a provider. Some had spent time and money on other legal help before determining their eligibility with a legal aid provider. Some respondents noted that time is lost, stress levels are raised, and legal resolutions are not found because service users are not aware of their own legal entitlements.

A common misconception service users raised was that legal aid does not exist for cases like their own. Some users thought that the cost of hiring a provider appeared unaffordable and were unaware any kind of legal aid was available for someone in their circumstances. Here, some service users reported continuing to live in circumstances detrimental to themselves and their family, as they could not imagine alternatives at the time.

“I was very confused. I didn't even know legal aid was a thing actually, I thought that you always paid. So I guess that's sort of what I was looking for.” – **Service user, Housing**

Trusted intermediaries described the negative impact on service users when eligibility is not understood: crucial time is wasted, and costs are incurred upfront. They described how some service users paid private providers to represent them through their dispute due to not knowing about legal aid.

Some service users with a housing issue expected they would have to resolve it themselves. It was only through talking to friends, family members or Citizens Advice that they realised legal aid was a potential option.

One service user had been trying to find someone to represent them to get power of attorney for their elderly father, “I was just going around in circles, I’ve had meetings, various different stuff. And then when I went to Citizen Advice Bureau, that’s where they actually advised me that I should apply for a legal aid to get all these services sorted for me and they’ll be able to help me, and I didn’t have to pay a penny.” (service user).

A service user who received legal aid for family mediation after the breakdown of her relationship with her partner wished she had known about legal aid sooner. She delayed ending her relationship as she believed the cost would be too high to hire a provider to resolve child arrangements. She had to prioritise everyday living expenses rather than try to resolve the legal issue.

A trusted intermediary working with victims of human trafficking shared the implications of people not knowing their legal rights and what they are entitled to, explaining that people are often vulnerable to further exploitation because they ‘stay underground’ not knowing they can get a solicitor or advice.

A service user does not necessarily have any understanding of legal processes. The distinction between legal help, legal representation and exceptional case funding (which can include both legal help and representation) can be difficult for service users to understand when researching guidance. Trusted intermediaries often support service users through understanding what they can receive.

“People think that any legal advice they’re getting for free is legal aid. Whereas obviously legal aid is a very particular thing. I don’t think anyone really outside of legal aid firms knows the difference between legal help [here referring to other support and advice] and legal aid.”

– **Trusted intermediary**

Some organisations take positive action towards increasing service users’ legal aid comprehension. For example, one trusted intermediary reported doing outreach with advice booths in local communities, while another reported sharing case studies of former clients to demonstrate what legal aid does and does not cover. Trusted intermediaries felt

that some service users can be more empowered and feel confident with moving forward when they have the right information.

The service users in the research sample that had family issues were made aware of legal aid due to a letter they received from social services. The service users described how the letter contained information about seeking legal aid support and contained a list of local legal aid firms that may be able to support them.

Some service users that required legal support for their issue, e.g., housing, were made aware of legal aid at a stage when their legal issue had advanced to court proceedings.

The lack of awareness of legal aid can be a barrier for service users to resolve their dispute efficiently. The delay sometimes increases the severity of the issue, as time is taken to understand what legal aid is.

## 6. Capacity

This section explores provider capacity and the impact it has on a service user's legal aid experience. All trusted intermediaries and some service users reported that finding a provider was a significant challenge to commencing the legal aid process, increasing stress and worsening legal issues.

### 6.1 Finding a provider

Service users went about finding a provider in a variety of ways. Over half of the service users interviewed found their representation through a recommendation. Trusted peers, colleagues, charities, and social services were some of the main routes where service users receive these recommendations.

Two service users found a legal aid provider through a Google search and calling provider firms directly. Service users who had social care involvement and family law issues were provided with a recommended list of legal aid providers in their local area via social services.<sup>13</sup> Service users seeking asylum found representation through immigration and asylum charities or via other refugees who had been represented successfully. Two service users resolved their housing law issues through the legal help provided by Citizens Advice. The users found their local Citizens Advice online and obtained support from the housing team via an arranged appointment. Citizens Advice sent letters to the landlords inviting them to resolve the dispute via mediation.

All trusted intermediaries noted finding a provider for legal aid cases as a challenge. Most trusted intermediaries told of the increased effort it takes to call or email providers in their procurement areas to find one that is currently available to take on legal aid cases. They also shared the view that finding a firm that offers legal aid does not mean that the firm will necessarily take a case on, despite having capacity. They felt that sometimes there might not be the financial incentive for firms to take on certain cases. In these instances, the

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<sup>13</sup> This would only happen with public family law issues; social services would not be an information source for those with private family law issues.

search for a provider to take on the legal aid case continues, or potential service users seek alternatives to legal aid, e.g., self-representation or private providers.

## 6.2 Demand versus availability

Service users and trusted intermediaries both reported that the demand for legal aid providers outweighs the availability. When trying to find a legal aid provider, a few service users described how they contacted large volumes of providers (one service user contacted approximately 200) often with no reply or receiving a response when it was too late, such as when they had already secured advice or assistance from elsewhere, such as Citizens Advice.

Generally, where a provider could not be found in their procurement area, service users then tried to obtain a provider from other regions. Multiple trusted intermediaries spoke about the lack of legal aid provider representation in certain areas of the country, with specific references made to Wales and the North of England.<sup>14</sup> This often led to service users trying to source legal aid representation outside of their geographic area. Trusted intermediaries' viewpoint was that providers seem less likely to take on a service user that is not within their geographical area. They felt providers could be concerned that they might not be remunerated for conducting work outside of their procurement area.

One trusted intermediary reported that legal aid legislation required service users to provide evidence to the LAA that they had tried to find a legal aid provider locally before moving further afield. There was confusion shared by the trusted intermediary about how service users supply evidence of making a phone call to a provider in their local area when contacting multiple providers and being rejected.

Respondents also reported a common situation where both parties involved in a case required legal aid, but there was only one suitable provider in the area. For example, a family case such as child arrangements where two individual parties needed separate providers to minimise the conflicts of interest. In these instances, due to a conflict of

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<sup>14</sup> The majority of these comments were made by Trusted Intermediaries based outside of Wales and the North of England, so are a perception rather than a first-hand experience.

interest, one of the parties must go further afield to seek legal aid representation, pay for private legal representation, or proceed as litigant in person.

For two trusted intermediary organisations, they reported peaks and troughs in the year for demand, and their resources to support sometimes being mismatched. For example, peak times when individuals wanted to begin legal proceedings to separate from partners occurred after the school holidays, at which time volunteer law students were on leave and staff numbers reduced.

### 6.3 Impact on the legal process due to low provider capacity

Responses from service users and trusted intermediaries suggest that the consequences of not finding legal aid representation due to the reported lack of provider availability and capacity can have adverse effects on a person and their legal journey. Respondents described how decreasing provision resulted in lost time trying to find a legal aid provider, further adding to an already stressful time in their life. In some cases, interviewees said that the lack of provision for resulted in worsening issues, for example, housing disrepair getting worse.

Trusted intermediaries reported that some service users can be vulnerable and the lack of response from reputable providers can represent another challenge during an emotionally trying time.

“We need to think about the human cost of people trying to actually get lawyers and they’re not able to access legal aid because it can be quite stressful and if they’ve already got mental health issues, it can exacerbate those as well. You know, it can be quite stressful and very time consuming to try and get a lawyer and very often you don’t really know how good they are.” – **Trusted intermediary**

Trusted intermediaries reported that the closure of law centres and the reduced number of providers with legal aid contracts places additional pressure on providers who are still working on the frontline. This in turn means that providers who continue to take on legal aid cases are overstretched, which can have a detrimental impact on the relationship

between the service provider and service user (described in further detail in section 4.6 – Working with a provider). Trusted intermediaries felt that providers must balance competing priorities with a higher workload.

One trusted intermediary also noted lengthy delays to begin the legal work after legal aid has been granted, due to providers' increased workload and them being overstretched. They stated that sometimes it can take three to four months for anything to get started, which can have a negative impact on a person's wellbeing when dealing with stressful legal cases. This was sometimes the case during the Covid-19 pandemic, when service users reported that there were increased delays to their case progressing, which negatively affected their wellbeing.

## 6.4 Alternatives to Legal Aid

Where potential service users cannot find a provider, trusted intermediaries reported they had seen more litigants having to represent themselves (a litigant in person) in civil and family court proceedings. No service users in the research sample reported having to represent themselves.

In rare cases, it was reported by trusted intermediaries that a service user might obtain legal advice through a provider conducting pro bono work (free legal work conducted for the public good). In some cases, it was reported that when a person acted as a litigant in person, they called on a 'McKenzie friend or lay advisor' for additional support. 'McKenzie friends' and 'lay advisors' are terms used interchangeably, but both are unregulated forms of support during a court hearing. This means sometimes legal advice is offered to a person from a McKenzie friend or lay advisor although they do not hold professional legal qualifications. This can result in further "exploitation" of an already vulnerable person and increased financial burden.

“some people have no alternative but to go to unregulated advisors and they don’t know they’re unregulated and that can be because there’s no legal aid provider... That’s an issue because with immigration advice and immigration services, you can’t actually give advice on that area unless you’re qualified.” – **Trusted intermediary**

## 6.5 Impact of self-representation on service users

Trusted intermediaries reported that self-representation can lead to increased stress and have a negative impact on the case outcome, which can have long term repercussions e.g., less favourable child arrangements, or being evicted.

Trusted intermediaries reported that when people are representing themselves in a child arrangements case, there are challenges with navigating a complex legal system. As family law is complex, without the correct legal background, a litigant in person may not fully understand their legal rights, which could lead to costly mistakes. Trusted intermediaries also noted the power dynamic (between the two parties in dispute) that can be a factor in civil legal cases, highlighting how in cases where people are self-representing, the impact of this can be exacerbated.

The same trusted intermediary discussed the difficulties domestic abuse victims encountered when representing themselves, having to share important, and often intimate, facts to court and how this could have a negative impact on the hearing.



## 7. Trusted intermediaries

This section outlines the varying roles that trusted intermediaries provide to support service users and some of the impacts they have.

For some service users, their journey to accessing legal aid begins with a visit, email request or phone call directly to a local legal aid provider firm. In other cases, signposting to legal aid comes through a dedicated third party, such as legal support charities or Citizens Advice. These organisations are referred to as trusted intermediaries in this report.

### 7.1 Initial contact

For many trusted intermediaries, initial contact comes from a phone call inquiry to their general switchboard. The prospective service user is allocated an adviser who may have specialist knowledge in their area of need. This approach has not changed since Covid-19 began, when ways of working changed to remote first. Many trusted intermediaries said they have operated remotely since Covid-19. With staff distributed across different areas, they are often not meeting service users in-person. For many service users we spoke to, the trusted intermediary they recounted was Citizens Advice.

Some trusted intermediaries receive new cases through outreach work. They attend community spaces where marginalised people go and can signpost or offer short legal advice clinics which then begin the legal aid journey for these service users.

Typically, the trusted intermediaries will explain to a potential service user what legal aid covers, that sometimes a financial contribution towards funding is required, and that a service user will need to find a legal aid provider to represent them.

### 7.2 Provision of legal assistance

All trusted intermediaries said they were able to offer initial casework assistance to their clients. In some cases, the trusted intermediaries would then give the prospective clients details of legal providers to contact. Other times when a client had certain vulnerabilities,

they would contact legal providers that they have experience with, to establish a link on behalf of the client.

### 7.3 Casework

Trusted intermediaries stated there was a mixed team of volunteers and paid staff members working to assist service users. Where trusted intermediaries were unpaid volunteers, they typically worked a few days a week with responsibility for 3–4 cases. In these cases, the trusted intermediaries worked as a caseworker gathering the evidence to create a credible case for the service user to take to the legal aid provider. During the litigation, they also helped with explaining the meaning of letters to the service user.

Some trusted intermediaries supported the service user with writing a compelling email to a provider to take on their case. The participant organisations that operated in this way would also follow up with providers for information if there were many weeks or months when no progress was made.

### 7.4 Limitations of trusted intermediary provision

Some trusted intermediaries involved in the research felt there were sometimes limitations to the help they could offer because of complex legal aid regulations and processes, which they did not fully understand. A trusted intermediary in the immigration charitable sector felt there wasn't enough awareness of how legal aid can help. For example, it can be difficult for trusted intermediaries to understand when a person might be eligible for ECF. In many of the interviews, trusted intermediaries were aggrieved that the rules and regulations that govern legal aid are complex to follow, and difficult to keep up to date with. The trusted intermediaries expressed a desire for all their staff to know more about navigating legal aid, but instead they spend a lot of time managing people who represent themselves and handling their complex needs.

Trusted intermediaries expressed a desire to empower service users with information and support, but to not create a dependency on them. The trusted intermediaries routinely gave lists of potential legal aid providers for the service user to contact themselves. They would show them a template of how to write a compelling letter and run workshops about

legal rights. They would not necessarily maintain contact if somebody was successful in finding a legal aid provider.

Many trusted intermediaries reported they did not have the capacity to “hand-hold” a service user through many months, or years, of legal fight. They felt there had been a reduction in legal aid providers in recent years, meaning that placing someone with a suitable legal aid provider is more time consuming, and additionally, they spend more time supporting individuals who must represent themselves, or trying to find them alternative, pro-bono legal representation.

## 8. Barriers service users face

This section highlights some of the barriers service users face when trying to access legal aid. The barriers were not experienced equally by all service users as a multitude of factors would determine an individual's ability to secure support for their legal issue. It is relevant to highlight barriers to reading, accessing technology, and language difficulties that intersect during the journey to receiving legal aid.

### 8.1 Literacy and comprehension

For some service users, the need to read written documents presented a challenge when applying for legal aid, both in terms of literacy levels and comprehension. Often legal aid providers had to carefully explain the users' rights and the legal aid documentation to help them. Literacy and comprehension barriers were reported for service users with English as a first language, not just an additional language. One service user said she had read the documentation "over and over to sink in", while another had arranged additional calls with their provider to explain the "jargon".

Trusted intermediaries shared the view that some service users struggle to navigate the system and found it challenging to read about legal aid on government websites. The challenge of long pieces of text on a web page made it more difficult to read and understand the process they were going through.

The trusted intermediaries reported that the language used by providers is sometimes difficult to understand. These factors would result in the process of resolving legal issues feeling increasingly stressful for service users.

The trusted intermediaries shared workarounds they have adopted to reduce the reading burden on service users. Several stated that they increasingly use WhatsApp voice notes as their clients understand what they say, but not their writing. One trusted intermediary said their organisation uses Sonos reading software to reduce this reading barrier. The software sends a service user a link which verbally reads out the email or update so the person can understand it.

The lack of understanding of the process led some trusted intermediaries to offer other practical support, for example, some service users applying for legal aid will not have the awareness that their personal data should be protected. The trusted intermediary working with vulnerable immigration clients said that they ensure clients destroy their documents correctly to safeguard their information. The individual doesn't necessarily get this kind of additional support from a provider who they might only interact with for brief moments of time.

"A lot of disabled people that don't have family members, partners, volunteers, people that can help them. They will go on that [government website about legal aid] and then just like, 'I can't understand it. It's over for me', you know, that kind of thing. They need to have support."

– **Trusted intermediary**

Service users and trusted intermediaries shared that an inability to be able to read, or to digest complex legal language, can create challenges. As information about legal aid has become increasingly concentrated online, skills for digital literacy need to be understood (e.g. obtaining digital evidence for means assessment, finding providers online and learning about legal aid through government websites). The burden of explanation often falls on providers and trusted intermediaries.

## 8.2 Language barriers

Language barriers can present themselves in many different forms. This can range from difficulties understanding English, legal terminology, or communication preferences. Some of the trusted intermediaries reported that victims of trafficking may be disproportionately disadvantaged as they may have received little education in their home country and have been trafficked to the UK with few or no opportunities to learn English. One trusted intermediary reported the benefits of working without language barriers.

“It’s being able to speak your own language, being able to not be judged and for people to kind of culturally understand [you]. And also, you know, as I say we’ve [the charity] been around for 40 years. I think we’re really trusted.” – **Trusted intermediary**

Trusted intermediaries work with service users and providers to ensure that they are informed and taking the most appropriate approach legal aid can provide. To apply for legal aid, the service user must speak on the phone, speak to a provider in-person, or email to request representation from a provider in the first instance, unless supported. A trusted intermediary that supports service users with lower literacy levels said that their clients would be unable to write a strong letter themselves to ask a legal aid provider to take on their case.

The service user with no or very limited English then needs a translator for the means assessment interview. Trusted intermediaries stated that they did not have the resources to offer translation for all appointments, including the means assessment, for all their clients.

Trusted intermediaries try to support the service user through other means.

“what we tend to do is we would do a sort of zoom call with a parent [service user], who doesn’t speak English well, so that they can have a translator and usually they would choose somebody, a friend or a family member or something like that who speaks English.”  
– **Trusted intermediary**

In some circumstances the trusted intermediary organisation will try to find a provider that employs a staff member who speaks the same language as the service user. Finding a provider that has the capacity as well as the language skills can cause delays to making the application and resolving the legal issue.

### 8.3 Access to technology

Some service users have reduced digital confidence or internet access while making their own enquires about legal aid. This becomes a barrier to everyone involved in the legal case. A few trusted intermediaries shared the view that a combination of affordability, chaotic lives, digital inexperience, and a lack of access to devices and the internet can make staying in contact difficult. This also presents difficulties in accessing other avenues of support and information, such as the LAA's Civil Legal Advice (CLA) helpline. One trusted intermediary said the phone line was vital, but the call back service offered by the LAA wasn't always accessible due to the barriers some users face in accessing the voicemail or returning the call.

In certain circumstances, trusted intermediaries will provide technology to a client so they can stay in contact. These kinds of interventions support people with limited access to technology. For some, technology has made correspondence far easier, but there are situations in which relying on a digital-only service increases inequality and is a barrier to access.

Some trusted intermediaries said service users were unfamiliar with processes to obtain payslips and evidence of funds while making their application. Delays can happen at the very start of the legal aid case because of this inability to access banks or printers.

### 8.4 Additional barriers to access

Trusted intermediaries reported that service users require representation for complex multi-faceted legal issues, whilst experiencing diagnosed and undiagnosed mental health issues and SEND. They may also present signs of trauma from the experience that is occurring in their life and as such, can be considered vulnerable. Trusted intermediaries stated that additional barriers, such as those mentioned, can impact a service user's ability to make decisions, to understand processes, and to be actively engaged.

“it depends on the client’s vulnerability and ability to understand because we work with very vulnerable clients... I would say about 90% have mental health issues or are not that educated to understand how things work and unable to interact. Most clients when they have a provider, they basically hand everything regarding their legal issue over to that provider. So they won’t follow up or chase up unless their friend or somebody has a decision...So they’re not that up to clued up about what’s going on or what’s happening.” – **Trusted intermediary**



## 9. Difficulties with the Legal Aid process

This section explores some of the experiences of the legal aid process and how difficulties meeting certain requirements impact a person's legal aid journey, including providing financial documentation, trapped capital, and providing evidence in a different language. The section concludes with an exploration of the reported financial burden of paying back contributions to the LAA.

### 9.1 Providing financial documentation

Most service users had needed around two weeks to gather the necessary financial documentation to prove eligibility. However, some trusted intermediaries had encountered service users who found obtaining the financial documentation difficult. It was reported that this can cause delays to the legal process.

One difficulty was printing bank statements. If doing this online, a computer and printer were required, as well as the digital literacy to access a banking application or website. When they did not have the means to access their own bank statements online (via the bank's website or through a smartphone banking application), they needed to be able to access statements using a high street bank, which can also present barriers to the process with the closure of many banks on the high street. A trusted intermediary shared that sometimes, by the time bank statements are obtained and sent to a provider, they can be out of date and the process must be started again. Particular challenges may be experienced by victims of domestic abuse, where further challenges exist if they are financially linked to the perpetrator.

One trusted intermediary working in immigration and asylum reported that some service users had no financial footprint in the UK. For example, situations arise when a person comes to live in the UK with their partner and their relationship breaks down. The person who is not a British National goes on to start proceedings to regulate the arrangements for their children, or to seek asylum, and they cannot provide the financial documents needed to apply for legal aid as they don't hold a bank account in the UK in their name.

“sometimes they’re in a very strange situation... they don’t always have very many things to prove things with... especially if they’ve experienced financial abuse or they’ve got a very controlling partner. So they may not have paperwork in their name. They may not have a bank account in this country and things like that. So having all of that evidence to prove it is quite hard to find for them.” – **Trusted intermediary**

## 9.2 Trapped capital

Some service users had found it challenging to obtain legal aid due to trapped capital; where they have an asset that they cannot access, but the capital leaves them ineligible for legal aid. Reasons for being unable to access this capital include assets being trapped by a volatile relationship, tied up in a home, or in another country.

“one of the big barriers that people seem to face is the trapped capital thing... they’ve perhaps fled the family home, but they’ve got a joint mortgage on it and there’s some equity in the property. They might be living in a refuge or wherever. They are say, not working or, or on a very low income. So, in income terms, they would be eligible for legal aid. They’ve experienced domestic abuse, they might have the evidence for that. But this equity in the family home is greater than the maximum. So they’re denied legal aid on those grounds.” – **Trusted intermediary**

This trusted intermediary noted that guidance on trapped capital had been updated, but that it is not widely understood by either signposting staff within their charity, or legal aid providers. They believe that trapped capital can form a barrier to accessing legal aid for ‘vulnerable’ potential service users. It should be noted that, following court challenges, the LAA will exercise discretion to disregard trapped capital where this is necessary to avoid a breach of the legal aid applicant’s human rights. There may be a lack of awareness of this, or providers may be reluctant to risk adopting this approach themselves when assessing financial eligibility for legal aid.

### 9.3 Providing evidence in another language

A few trusted intermediaries had encountered service users whose first language was not English. Sometimes it can be difficult for service users to obtain evidence in English to support an application for legal aid. It is permissible to provide supporting documentation which isn't in English, so long as a translated copy is submitted as well. However, difficulties were reported finding an interpreter who is suitably qualified and willing to work for the legal aid rates. Again, this can cause delays to the legal process.

### 9.4 Registered address

To apply for legal aid, service users are required to state where they are living. Legal aid legislation requires evidence of any allowance they received, the LAA may also ask for the income details of the person they were living with, and this can have an impact on their eligibility for legal aid. Some trusted intermediaries reported that service users who are seeking asylum sometimes reside with friends or peers while their application is under review. This can be problematic when the application considers the income of the household, yet the finances of other people in the household are completely separate from the legal aid applicant.

### 9.5 Paying back legal aid fees

Sometimes service users pay contributions for elements of the legal work to the LAA due to their disposable income and capital exceeding limits. Contributions may also be made when an asset is sold, which can be many months or years later. Only one of the interviewed service users contributed financially towards their legal aid costs, their contribution was £200 which they paid in one lump sum and said they thought "it was cheap".

If a service user recovers or preserves money or property from the case, their legal aid costs to the LAA will be recouped from that money or property after the case ends (any contributions made to legal aid costs are taken off the bill). This is known as the statutory charge. Providers should make clear the potential effect of a statutory charge if a client recovers or preserves money or property within the proceedings for which they are

receiving legal aid. The impact is reduced or avoided if the service user is able to recover their costs from their opponent, but that is unusual in family cases.

In the trusted intermediaries' opinion, paying back legal aid funding had a negative impact on a service users' legal aid experience. One trusted intermediary had experienced service users ending their legal aid journey before a case is resolved, to avoid the potential financial burden imposed by future requests for payment to cover legal aid costs. For example, when money or assets are kept as part of a family resolution, costs are recovered from that money or assets when a case ends through the statutory charge. Therefore, the trusted intermediary stated a considerable sum of money may be taken from the service user in the future if assets are sold, e.g. reducing the available equity when selling a property, potentially pushing a service user into financial hardship.<sup>15</sup>

In another situation, a trusted intermediary had encountered a service user who was receiving a higher amount of benefits than the accepted income threshold for legal aid. Consequently, they had to contribute £50 per month toward their legal costs as they continued to instruct a legal aid solicitor. The trusted intermediary's view was that not taking into consideration the person's situation during the means assessment can cause further financial hardship, worry and stress.

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<sup>15</sup> It should be noted that the statutory charge does not typically place a requirement to sell a property. Enforcement of the statutory charge is postponed on a property being used as a home for a client or dependents. The statutory charge would be redeemed if the property was sold for other reasons in the future.

## 10. Working with a provider

This section explores the service users' experiences with a provider over the course of their legal journey, drawing on both the positive and challenging experiences that were shared by respondents during the research and the impact this has on a service user's experience. The section concludes with an exploration of the different communication styles that were shared.

### 10.1 Provider-service user relationship

A good provider-service user relationship is fundamental for a positive experience of the legal aid journey and helps to facilitate successful outcomes. Service users spoke fondly of the providers that 'went above and beyond' while their case was ongoing. During intense and stressful situations, providers offered emotional as well as legal support, and responded in a timely manner to questions and queries from service users. Some service users spoke about being anxious and apprehensive but felt that their provider was a "big help", "very reassuring" and "very professional". A good relationship was also reflected in the way a provider met the needs of a service user, ensuring all telephone communication was written up in an email so the service user could be reminded of the progress "which was great... if I'd forgotten some of the things it'd ping up on my phone." (service user).

"She was absolutely fantastic. She always explained to me what could happen, what might happen, you know, even if the turnout was bad. Although, luckily enough I was doing all the right things. It was mainly positive when I spoke to her. She always, if she heard something different from say the other parties or something, she would always ring me up and, and either tell me about it or question me on it. Yeah, she was very on point on the ball" – **Service user**

## 10.2 Impact of relationship breakdown with providers

Respondents described situations where the relationship between service users and providers had broken down. Several service users described the breakdown of their relationships with their legal aid provider, which then contributed to a negative outcome of managing a legal issue overall. In some cases, the relationship was terminated by the provider and this meant the service user had to start again with their legal aid journey. In other cases, the relationship ruptured but continued with a detrimental impact on the service users experience.

Some of the reasons given for a breakdown of relationships were:

- lack of contact for weeks or months at a time, with providers ignoring calls and emails from service users.
- providers supplying little or incorrect information about their case.
- allocated solicitor leaving the firm, without prior notice.

When a relationship between a service user and provider broke down, this had a negative impact on the wellbeing of the service user and progression of the legal case. A service user described how they felt like “they didn’t matter because legal aid is essentially free”, therefore, they expected the provider did not care too much about the service they were delivering. A challenging relationship increased stress and dissatisfaction for the service user as well as limiting their understanding of their rights and legal options. One service user described how she felt like she didn’t have a voice when her relationship broke down and she was deserted by her first provider:

“I didn’t have any voice then, I didn’t know to speak English. I didn’t know who to go to.” – **Service user**

A lack of empowerment was reported to hinder a service user’s ability to actively participate in decisions. Some service users described being left without any legal aid representation part way through their case and having to start again. A trusted intermediary suggested that termination of legal aid representation resulted in individuals turning to private representation, which they had to finance themselves.

### 10.3 Face-to-face and remote contact

The way in which a provider interacted with a service user varied between service users. Respondents felt that providers preferred to work via remote-methods due to the Covid-19 restrictions. Some service users never met their provider in person at all during the case, due to the restrictions during the pandemic. Service users described handling all correspondence and signing documents through their mobile phones, which they were happy with at the time. However, some of the users described having to arrange additional calls to go through the legal jargon on the paperwork in layperson's terms, so they could understand their position. The flexibility of remote working allowed cases to progress and for service users to engage with providers who were too far away to travel. Many trusted intermediaries also echoed these views on the flexibility remote ways of working enabled for both them and the providers.

It was clear though, that face-to-face service provision is still essential in many instances, and as discussed elsewhere in this report, digital technology can pose challenges for many service users. Some of the immigration and asylum service users said they preferred meeting face-to-face to discuss their case. One trusted intermediary described the challenges of using technology in situations where an interpreter is needed, and noted that face-to-face contact speeds up the process of applying for legal aid and helps to build trust between a service user and their provider, for example:

“the difficulty was that there are some vulnerable clients that required face to face, you know, prefer to see somebody face to face because they find it quite difficult to engage with people remotely, especially with lawyers and especially a lot of migrant women don't trust lawyers, you know, and it's, it's quite difficult to engage and sort of build up trust with them. So that was an issue [during covid].” – **Trusted intermediary**

Face-to-face contact could sometimes place burdens on service users too. Service users recounted having to travel long distances on expensive public transport to meet legal aid providers for assessments and initial appointments.

Overall there were merits and drawbacks to both forms of contact. Trusted intermediaries saw it as a positive that providers can now receive many documents digitally and give service users the option to attend in-person meetings if they prefer, or via video call online if they are able. Using technology was seen as helping to ease some of the stresses of resolving a legal issue, whilst face-to-face service was clearly necessary.



## 11. Overall experience

Most service users were overwhelmingly positive about the legal aid they had received. It helped them leave unhappy relationships, regain their children from social services, ended months of anxiety about bills, rehoused them, and gave them a right to remain in the UK. The results are long-lasting, even if some parts of the process were seen as challenging.

“It’s [civil legal aid] an amazing service where if you can’t represent yourself or you know you are in any financial difficulty and need support, you know, they can really help.” – **Service user**

The research highlighted some key challenges: poor awareness and understanding of legal aid, the lack of availability of legal aid providers, issues with eligibility and evidence needed, and providers having too many cases to be able to give a quality service. Although the process had been challenging for some service users, they all had the appreciation that without legal aid, their situations would have been far worse. It is important to note that civil legal aid is positively impacting service users.

For the service users, having a legal aid provider gave them reassurance at a time when the task of overcoming their issue could feel overwhelming.

“It’s like a relief. Not everybody is actually against me” – **Service user**

“it is an absolute lifeline for people like me that can’t necessarily afford court fees and things like that at the time. But they need to be able to fight it. It is an absolute lifeline and if I didn’t have that I wouldn’t have my child right now. So the system is amazing and thank you” – **Service user**

## 12. Conclusion

Trusted intermediaries and service users recounted many of the same barriers and enablers to a service user's positive experience of the civil legal aid system.

Overall, for the service users who received legal aid, the experience of receiving representation was largely positive, and it was the positive outcomes which left a lasting impression, more than the details of the litigation itself.

It was clear from respondents that awareness and understanding of legal aid is a common issue. Service users frequently did not know about the existence of legal aid when they started investigating their issue. For those that did know about legal aid, and for those who then discovered its existence, there were sometimes misconceptions about what it could achieve, who and what it was available for, and how it worked.

All trusted intermediaries and some service users described finding a provider as a significant challenge to commencing the legal aid process, and in some cases a barrier to the resolution of their legal issue. Trusted intermediaries described the impacts of an increased demand for legal aid providers coupled with reduced availability of providers. Provider capacity was highlighted as an issue which was impacting service users. Examples were recounted that illustrated the difficulty some people had with securing representation, with some individuals approaching large numbers of providers unsuccessfully. This sometimes resulted in individuals seeking alternatives that can have negative consequences on them and their legal case. Trusted intermediaries play a valuable role providing support and often bridge the gap between demand and availability, taking on some of the administrative burden from providers.

Service users sometimes had characteristics which could make their experience of legal aid more challenging. Key barriers to the legal aid process included reading and comprehension, accessing technology and digital literacy, and language difficulties. These barriers could sometimes intersect during the legal aid journey. However, the barriers were not experienced equally by all service users as a multitude of factors would determine an

individual's ability to secure support for their legal issue. Other challenges that were shared by respondents included providing financial documentation to prove eligibility, trapped capital due to inaccessible assets and having to pay back contributions to the LAA.

For some users, delays to finding a provider and a breakdown of relationships with their provider had a negative impact on their experience. During the Covid-19 pandemic, there were delays to the process of receiving legal aid and resolving some legal cases, but the change to remote-first allowed for flexibility and met the needs of most service users. For service users with more complex needs and language barriers, face-to-face remains the preferred method of communication.

Most service users were positive about the legal aid they received. It helped them resolve challenging legal issues which had positive tangible impacts on their lives. However, the experiences of those interviewed during this research suggests that there are improvements that can be made to the process of applying for and receiving legal aid, so that all service users have a positive experience of the journey to legal case resolution. The findings of this research contribute to the wider evidence base established by RoCLA and will help to ensure that the experience of service users is thoroughly considered in the MoJ's policy development.

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## Appendix A

### Glossary

**Service user:** The neutral term service user is used to refer to anyone searching for, applying, receiving or paying contributions to the Legal Aid Agency. During this report we will sometimes use the abbreviation SU to refer to the service user.

**Trusted intermediary:** Trusted intermediaries are often front-line workers from community or public services help others to navigate legal problems, connect them to sources of legal assistance and support the early interventions that are needed to avoid problems escalating. Trusted intermediaries provide people with legal information, make referrals to legal services, help clients fill out forms, and accompany people to meetings with legal service providers, including providing interpreting help. Community workers cannot give legal advice, but they can and do help people better understand the law and navigate the legal system. Some trusted intermediaries work for national general organisations, such as Citizens Advice, whilst others can serve a smaller section of society such as people with housing issues or victims of human trafficking.

**Legal aid providers:** This is the term for the firms of solicitors and individual barristers that have legal aid contracts. Sometimes shortened to Provider in this report.

**Exceptional Case Funding (ECF):** This is a type of legal aid funding available in circumstances when a case falls out of the scope of legal aid but failure to grant funding could breach the human rights of the person that requires legal representation.

**Protected Characteristics:** a UK government definition for ensuring that people are not discriminated against. Full definition: <https://www.gov.uk/discrimination-your-rights>

**Litigant in person:** A litigant in person is an individual, company or organisation who has to go to court without legal representation from a solicitor or barrister.

**McKenzie Friend / Lay advisor:** A support worker from a charity, or a person who is a family member or friend who provides moral and practical support to the litigant involved in the legal case. Some people can pay for a McKenzie friend through an agency.

## Appendix B

### Discussion Guides

#### Discussion guide – Civil applicant research

*December 2022*

##### **Introduction**

##### **Background – to relax, build rapport**

- Without saying your full name, can you take a moment to introduce yourself?
- Tell me a bit about yourself – work/hobbies/living situation that kind of thing
- And are you working at the moment? What do you do for a living?
- Can I ask you a bit about technology – mobile phone, computer, that kind of thing? (level of interest, expertise, confidence?)
- What do you have at home?
- What do you use?
- How comfortable do you feel when it comes to using technology?
- Do you use internet banking?
- As it's important for the government to design services that are inclusive of everyone and can be used by all people, including any individual with access needs, I'd like to ask you...:
- Do you have any access needs or conditions that impact you that you're comfortable to share? This can be anything from needing glasses for screen-work, dyslexia, colour blindness, mental health conditions or physical conditions or needs?
- Do you use any assistive technology or anything to make working more comfortable? (such as a screen reader or magnifier, any physical equipment)

##### **Their legal problem**

- Could you tell me about the legal problem that you had and why you needed legal aid?

- I'd like you to tell it to me as a story, so start at the beginning, what happened, what you did, talk me through it step by step.

(Reassure that they do not need to go into details about their initial problem, or to share anything that they are not comfortable with). To begin, let them tell the story of their legal problem and how it developed in full (they'll prob rush, skip over stuff, tell it out of order at first). Then follow up themes below (can be in any order)

### **Looking for help**

- When did the issue start / did you realise you had a legal problem?
- Steps you took
- When did you decide to seek legal help? What prompted this?
- Where did you look for help? Explore role of:
  - Websites – which sites?
  - People – friends / family
  - Organisations
  - Leaflets / written info

### **Finding a solicitor / legal aid provider**

- Talk me through how you ended up finding a legal aid solicitor
- Why did you choose them?
- Difficulties faced (referral roundabout / distance to travel / time it took to find one)

### **Tell me about your experience of getting help from a solicitor**

#### Prompts:

- Did you meet with them in person / speak over the phone? How did you find the mode of communication? Did it meet your needs?
- How well did they understand your situation and the help you needed?
- What action did they take on your behalf?
- How long did it take for the issue to be resolved?
- How satisfied were you with the help they provided?
- Tell me about your relationship with your solicitor? Was it positive / negative? Why? Any frustrations?



- How supported did you feel?
- What was the last interaction you had with them? How satisfied were you with it?

*If received representation in court*

- How much were you kept up to date with progress on your case throughout?
- How were you kept informed?
- How well did you understand what you were being told throughout?

**Learning about legal aid**

- When did you learn about legal aid?
- Did you think it was something you might be eligible for?
- How did you find out you were eligible to get legal aid?
- Did your provider give you a leaflet about legal aid at all? What do you remember from this? How useful was it? How easy was it to understand?
- Was there anything about legal aid that you didn't understand to begin with? Anything you wish you'd known about at the beginning?
- Now that you've received legal aid, how would you describe it to someone else?

**Legal aid application process**

- What do you remember of the legal aid process? What happened?
- Applying & what the process was
- Did you have to provide your solicitor with evidence to support your application, eg bank statements, payslips, benefit letters etc)
- What information/evidence did you need to provide for your application?
- How did you find this?
- Were there any documents that were challenging for you to get?
- What happened once the application was submitted?
- How did you find out whether you qualified for legal aid?
- Were there any issues around your eligibility?
- Do you remember receiving a letter about this? Any issues with understanding it?
- What letters do you remember receiving about legal aid throughout?

## Appeals

*If any appeal*

- Did you need to appeal regarding your eligibility?

## Financial contributions

- Did you have to pay financial contributions towards legal aid costs?

*If yes:*

- Do you remember when you found out you'd have to pay these contributions? How?
- Talk to me about how it's been paying contributions? What's the process been like?
- Do you think communication about financial contributions could be improved at all to make it easier for people to understand what they'll need to pay? If so, how?

## Resolution of legal problem

- How was the issue resolved?
- How did you feel about the outcome?
- Is there anything that you would like to have been told, or told earlier, about legal aid? If so, what?
- What would have helped you throughout the process?

## Wrap up

- What changes would you like to see to improve experiences of legal aid for other people?
- Is there anything else you'd like to tell me about your experience?

## Discussion Guide – Trusted Intermediaries

### Background

- Without saying your full name, can you take a moment to introduce yourself?
- Tell me a bit about your current role
  - Job title
  - How long in the role?
  - What does a typical day/week look like in your role?

- Can I ask you a bit about technology – mobile phone, computer, that kind of thing? (level of interest, expertise, confidence?)
  - What do you have at home?
  - What do you use?
  - How comfortable do you feel when it comes to using technology?
    - Do you use internet banking?
- As researchers building the digital services it's important we are inclusive as possible and can be used by all people, including any individual with access needs, I'd like to ask you...:
  - Do you have any access needs or conditions that impact you that you're comfortable to share? This can be a disability or an impairment. This can be anything from needing glasses for screen-work, dyslexia, colour blindness, mental health conditions or physical conditions or needs?
  - Do you use any assistive technology or anything to make working more comfortable? (e.g. screen reader or magnifier, any physical equipment)

### **How they provide support**

- Can you talk us through a couple of examples of how you have supported someone through the process of dealing with their legal issue.
- We would like you to provide an overview of how you helped from the start of their legal issue through to the case being resolved, if applicable.
- At what stage does an applicant come to you for support?
- Are there any examples of applicants asking for support but you weren't able to help?
- How do you usually provide support, e.g. face to face, phone, online? How do you think this works for the applicants and your organisation? Does it meet all needs?
- When might legal aid become part of the conversation with the applicant?

### **Understanding of Legal Aid (support worker)**

- How did you first learn about what Legal Aid offers?
  - Prompt – organisation wide training, resources online from organisation, self-directed learning through online resources from Gov, from colleagues, etc.
- Are materials used within your organisation to learn about Legal Aid?

- Prompt – For applicants / Organisation staff
- Print media /online resources / made by organisations / made by Gov.
- Can we have a copy of any materials used?
- What are you doing to keep up to date with what is covered by legal aid?
- Was there anything about legal aid that you didn't understand to begin with?  
Anything you wish you'd known about at the beginning?
- Could you talk me through how you would describe Legal Aid to someone else with no knowledge?
- What do you find is most complex for applicants to understand when they first find out about legal aid?
- How would you describe the current (LAA provided) resources available to explain legal aid to applicants?

### **Legal aid application process – how have you helped?**

- Draw on some of the points mentioned in question 2 or begin questions below.
- Can you tell me how you support people through the legal aid process?

#### Prompts –

- Telling people about Legal Aid – how do you do this? What materials are used? Print / online? Translated?
- Have you helped an applicant find a provider? If yes, how? Were there any difficulties for the applicant?
- How do you remain involved in the process if an LAA provider takes on the day to day legal case?
- Helping them apply for Legal Aid – how do you help applicants apply? Did you sit with them and help / fill in on their behalf or did you share a link to the application? Did you talk them through it before the provider completed the application for Legal Aid? Were there any barriers for a person completing their application?
- Did you have to help the applicant gather evidence to support their application, eg bank statements, payslips, benefit letters etc)
  - What information/evidence did they need to provide for their application?
  - How was this part of the process? (e.g. did applicants have access to these docs or did you have to help them retrieve, if yes – how did you do this?)

- Were there any documents that were challenging for them to get?
- What happened once the application was submitted?
  - Did the applicant receive any information from the Legal Aid Agency?
  - Do you think this information is clear? How likely is it an applicant will come for support? Is this information received digitally or offline, and do you have any reflections on how it happens?
  - How did you help the applicant to understand the information?
- Have there ever been any issues around an applicants eligibility?
  - What happened? How did you support the applicant? Have you ever appealed?
- Have you needed to support any applicants through the appeal process?
- Do you have any reflections on this process?

### **Financial contributions**

- Have any of the people you have supported had to pay financial contributions towards legal aid costs?

*If yes:*

- Please tell me what you think about this part of the process. Have applicants shared with you how they feel about it?
- Did you need to be involved in managing financial contributions at all?

### **Barriers – ask if not coming out in the interview.**

- In your opinion, what would you say are the top 3 barriers for applicants applying for and receiving Legal Aid?
- Can you refer us to any applicants we can interview about their experiences directly?

### **Wrap up**

- What changes would you like to see to improve experiences of legal aid for other people?
- Is there anything else you'd like to tell me about your experience of supporting people through the Legal Aid process?

## Appendix C

### Wellbeing Protocol

#### Protecting Interviewees

There are times when a person taking part in research is triggered by recalling events or experiences which may lead to distress or emotional upset. A researcher should act responsibly for the wellbeing of the person and follow the right measures to minimise further distress.

This protocol can help researchers to navigate the situation should it occur.

#### What are signs of distress?

Signs can be very different from person to person and not every sign will lead to an end in the interview, sometimes the person might just want to take a little breather. It is the researchers job to be context aware and make an informed judgement on the spot. Sometimes signs might be difficult to spot when doing remote research, especially over the phone / without camera. Here are some examples to look out for;

- Person visibly changes their behaviour in the interview when talking about an experience, e.g. head down losing eye contact completely, one word answers,
- Person visibly becoming upset when talking about an experience, e.g. filling up (teary), lip shaking, voice trembling
- Person starts crying / shaking.

## What should the researcher do?

Stop the interview and ask the person taking part if they would like to have a break, and ask if they are ok.

If after a short break they appear to have improved, ask if they would like to continue and suggest skipping past the question / experience that is distressing.

If the person is still upset, terminate the interview and offer up the incentive and provide hard copy (if in person) or email (if remote) a copy of the 'Legal aid research: support information' aftercare sheet.

## Protecting Researchers

Researchers can also experience situations that might trigger emotional responses during sessions. It is important to put our health and wellbeing first and consider a similar protocol if needed.

## What should you do?

Pause the research session if needed, moving away from the space and outside for some fresh air if possible. Let the person know you need a comfort break.

If you feel up to it after the break, continue the research session. Skip past the question that has triggered a reaction.

If you are unable to continue, close the research session and provide the person taking part with their incentive. They don't have to repeat the session at another time.

## Researcher Self Care

There are other ways we can ensure self care as researchers. This article is useful and provides background and advice on how to look after our wellbeing from two experts in the field – Steps to Self Care in User Research.

## Ten steps to Self Care for User Researchers

1. Be self aware of Transference/ Bias
2. Accept that vulnerability is not a weakness
3. Take time to know your user
4. Respond appropriately to sensitive content
5. Keep up to date with local support networks
6. Maintain professional boundaries
7. Recognise the effects of burnout and vicarious trauma
8. Be aware of safeguarding policies
9. Give yourself permission to end the interview
10. Practise self or group reflection