



# An unjust system?

How changes to the justice system have affected people with mental health problems

May 2018



## Acknowledgements

This report makes use of findings from a secondary analysis of legal need survey data commissioned by Mind and conducted by Nigel J Balmer and Pascoe Pleasence.

Their analysis is cited as Balmer, NJ and Pleasence, P. (2018) Mental Health, Legal Problems and the Impact of Changes to the Legal Aid Scheme: Secondary Analysis of 2014-2015 Legal Problem Resolution Survey Data. London: Mind.

It is available on our [website](#).

Our thanks goes to the individuals who spoke to us about their experience of the justice system. We have changed the names of those that appear in this report.

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## Executive summary

**I didn't get any information about legal aid, or any other advice about what to do. I eventually found a solicitor willing to take payments in instalments, and found a job simply to cover this cost. I wasn't well enough, by any stretch of the imagination, to be working again so soon. - 'Sarah'**

Access to justice is a basic human right, but one that is increasingly under threat in the UK due to Government cuts to legal aid – the financial support that helps people meet the costs of legal advice, mediation and representation. At Mind, we're concerned that people with mental health problems have been left to handle legal problems without legal advice or help, because of these cuts.

We commissioned research into the relationship between mental health, legal problems and access to legal aid. The research reveals that people with mental health problems are increasingly unable to access justice.

It shows that changes made as a result of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) to the types of legal problem covered by legal aid (the scope), and to the financial eligibility threshold for applicants have disproportionately impacted people with mental health problems.

36 per cent of people with legal problems had a mental health problem. But of those facing legal problems removed from scope by LASPO, almost half had mental health problems. This is a shocking finding, and one that shows how urgently the Government needs to review this legislation.

When we reached out to our supporters and people with mental health problems

to ask about their experiences of the justice system, we were overwhelmed with responses. Many people told us how, years later, their mental health was still affected by the strain of the situation.

We heard from individuals who were turned down by countless solicitors, who borrowed money to pay for advice, or who went through the trauma of representing themselves against a team of lawyers. We heard about debt cases, divorces, housing issues and problems with benefits assessments. And we heard from people who tried to help others when they had nowhere else to go.

Some of their stories are included in this report to highlight the human cost of these changes. And what becomes clear, is that despite their differences, these individuals all had something in common. They had experienced a tragedy, trauma or time of deep vulnerability.

### What needs to be done?

- Government must conduct a detailed impact assessment on the impact of the LASPO Act on disabled people.
- The legal problems most frequently experienced by people with mental health problems should be returned to the scope of legal aid.
- People with mental health problems experiencing clusters of legal problems (six or more) should be exempt from the standard eligibility criteria.

## Summary of key findings

1. People with mental health problems are more likely to experience legal problems than others

People with mental health problems were far more likely to have reported legal problems. 52 per cent of respondents with mental health problems reported one or more legal problems, compared to 27 per cent of other respondents. Those with mental health problems were more likely to have experienced every kind of legal problem.

2. People with mental health problems are more likely to have more legal problems than others

People with mental health problems also reported more problems and were far more susceptible to large numbers of problems. 23 per cent of those with mental health problems reported experiencing six legal problems or more, compared to just eight per cent of people without mental health problems.

3. One in five legal problems leads to worse mental health

20 per cent of legal problems caused stress-related illness or other mental health problems. Of these legal problems, 59 per cent resulted in respondents consulting a GP, doctor or other health care professional.

**In total, it cost £2,000. The stress of this process was enormous and affected my health considerably. I had to wait until March 2017 for the hearing. I represented myself, ending up on beta blockers to get me through the day. – ‘Louise’**

4. People with mental health problems experience more adverse consequences as a result of their legal problems

People with mental health problems are twice as likely to have had to move home or become unemployed due to a legal problem. They are almost three times as likely to have suffered harassment, abuse, assault or threats, and more than three times as likely to have suffered loss of confidence. They are more than four times as likely to have become homeless or experienced poorer physical health, and more than five times as likely to have experienced a relationship breakdown.

5. People with mental health problems feel less confident handling legal issues

People with mental health problems were more likely to rate themselves as not confident or not at all confident, when asked about handling a hypothetical legal problem.

6. People with mental health problems ask more people for help with their legal problems

Those with mental health problems more often sought support to deal with problems, most notably from family, friends and independent advisors such as Citizens Advice.

7. People with mental health problems who don't seek legal advice are more likely to do so because they're concerned about the cost, or don't know where to go for support

People with mental health problems who did not seek legal advice, explained that this was due to concerns about costs associated with getting help from a lawyer, or because they weren't sure where to get less formal advice.

8. People with mental health problems are equally as likely as others to be successful in their legal case

There is no meaningful discrepancy between the merits of the cases brought by people with mental health problems and those without. People with mental health problems are slightly more likely to successfully resolve a legal problem – so we know that their cases have merit. This means that they experience a disproportionately large number of genuine legal problems and are therefore at greater risk of experiencing legal issues that were removed from the scope of legal aid.

9. People with mental health problems are disproportionately impacted by the LASPO Act's changes to the scope of legal aid

Half of those facing problems removed from scope by LASPO had mental health problems. This was higher than the percentage of people facing legal problems more generally (35 per cent), and far higher than the proportion of people surveyed who had mental health problems (18 per cent).

### What do these findings show?

This research provides analytical evidence of the relationship between mental health problems and legal problems, and between mental health and adverse impacts of the LASPO Act. It shows that the LASPO Act has unfairly impacted people with mental health problems, and proves the Government must thoroughly and urgently review the impact of this legislation.

Any changes to legal aid were bound to impact those living with mental health problems. Whilst legislators met their legal requirement to conduct an Equality Impact Assessment, this was not detailed or specific enough in remit or findings to highlight the disproportionate

impact on people with mental health problems.

The Government has pledged to tackle the burning injustices faced by people with mental health problems. Here is a clear example of an injustice that needs addressing. On top of this, any future changes to legal aid, or comprehensive changes to the justice system, should include more thorough consideration of the impact on people with mental health problems.

**People need somewhere to go for real independent advice, in terms they can understand. Everyone needs an advocate assigned to them just to help you get through it, someone to translate the legal language. I can't understand how this support has been taken away. When you're in this situation, it truly feels like the end of the world. – 'Liz'**

## Introduction

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) changed the types of legal problem covered by legal aid, and changed the financial eligibility threshold for applicants. The Act resulted in drastic reductions to expenditure and case volumes in civil legal aid.

Before 2012, legal aid helped many people to manage life's day-to-day challenges, stay well and avoid crisis by making sure they could access the courts when they needed to. If people are unable to get legal aid, problems with housing, debt and benefits can quickly spiral out of control, and the impact can be devastating. Evidence shows legal advice saves public money by solving problems at an early stage and preventing them becoming more complicated and more expensive to resolve.

Since the introduction of these changes to how people access justice, Mind has been concerned about the deeply negative impact on people living with mental health problems. We were aware that people with mental health problems might feel the effects of the cuts more acutely than others, because they are more likely to receive disability benefits, fall into debt, and to live in the poorest quality homes.

At the end of 2017 we commissioned independent research to investigate the effects of these changes on people living with mental health problems. Dr Nigel Balmer and Professor Pascoe Pleasence of University College London completed this research for Mind – this report is based on their analysis which is available on [our website](#).

Their research investigates how legal issues adversely impact those with and

without mental health problems. The evidence indicates that people with mental health problems are more likely to experience every kind of legal problem listed, as well as being more likely to experience high numbers of legal problems, and more adverse impacts than their peers without mental health problems.

The analysis by Pleasence and Balmer gives a clear picture of how people with mental health problems seek advice, and how confident they feel about handling legal problems. Shockingly, but sadly unsurprisingly, their research shows that the scope changes the LASPO Act introduced have disproportionately affected those with mental health problems: one in two people who are financially eligible for legal aid, but whose issue fell from scope as a result of the Act, have mental health problems.

### The Legal Aid, Sentencing and Punishment of Offenders Act 2012

The LASPO Act was introduced as a result of the 2010-15 UK Coalition Government's drive to reduce spending. The act aimed to reduce the legal aid bill significantly by removing many parts of law from 'scope'. The Ministry's four objectives for the reforms to legal aid were to:

1. Discourage unnecessary and adversarial litigation at public expense (part two of the legislation)
2. Target legal aid to those who need it most (part three of the legislation)
3. Make significant savings in the cost of the scheme (part one of the legislation)
4. Deliver better overall value for money for the taxpayer.

The Act saw many areas of law being taken out of scope and greater reliance

placed on self-help in the resolution of legal disputes. Almost all housing related legal problems were removed from scope, with the exception of eviction, and all debt and money issues were also removed. The Act changed the financial eligibility criteria – lowering the income and capital threshold below which you're entitled to legal aid. Overall this means fewer people are now financially eligible for legal aid, and far fewer legal problems are covered by legal aid. It's a double whammy of cuts.

As legally required for all primary legislation, an Equality Impact Assessment was carried out by the Government in advance of the Act being introduced. The assessment acknowledged receipt of consultation responses which highlighted the close connection between debt and mental health and pointed out that removal of debt issues from the scope of legal aid would impact this group. Nonetheless, all debt issues were taken out of scope in 2012.

Although the impact assessment repeatedly mentions specific issues where disabled people or people with mental health problems might be adversely affected, the overall assertion was that the disadvantage would not be substantial, or would be mitigated by various exceptions like Exceptional Case Funding (ECF):

*'In headline terms we have not identified any reform where there is likely to be a failure to comply with the duty. Whilst disabled people and individuals with specific disabilities are likely to experience a greater impact under some of these changes, we are not of the view that this impact in all cases would place them at a substantial disadvantage.'*

Since the implementation of the Act there has been widespread concern amongst third sector bodies, as well as

members of the House of Commons Justice Select Committee, the Joint Committee on Human Rights and other parliamentary groups, that the legislation has not met its non-financial objectives and in fact has threatened access to justice.

The National Audit Office (NAO) reported that there had been a substantial shortfall in the number of legal aid matters approved following the LASPO Act, compared to forecasts: the Legal Aid Agency expected to approve over 361,500 cases in 2013-4, after LASPO was implemented, but only approved 300,500. This means 60,000 fewer people than intended had access to legal aid – and the NAO believes that the Ministry of Justice does not even know whether all those eligible for legal aid have been able to access it.

This lower number of cases means the Ministry has saved £28 million more than originally forecast, going far beyond the already deep cuts intended. But the NAO's report also highlighted that the reforms have the potential to create additional costs – for instance on the NHS due to the adverse impact of drawn out legal processes on litigants' health and wellbeing.

The Justice Select Committee has also expressed concerns about the functioning of the ECF scheme, which was intended to protect the most vulnerable individuals from the full extent of the cuts:

*'Parliament intended the exceptional cases funding scheme to act as a safety net, protecting access to justice for the most vulnerable. We are very concerned that it has not achieved that aim. We heard of a number of cases where, to our surprise, exceptional case funding was not granted. The Ministry was too slow to respond to the lower than expected number of such grants; we*

*now expect it to react rapidly to ensure that the system fulfils the purpose Parliament intended for it.*

The Lord Chancellor's Exceptional Funding Guidance states that "the less able the applicant may be to cope with the stress, demands and complexity" of proceedings, the "more likely" they should be awarded exceptional funding. Exceptional Case Funding is only awarded after the fact, refunding solicitors for their hours worked, and only if the case is successful. Without a guarantee of payment, the vast majority of solicitors are not willing to take these cases on, leaving the most vulnerable without their safety net. People with mental health problems are very likely to be in this group, as this research indicates.

## Methodology

This report is based on the analysis conducted by Dr Nigel J Balmer and Professor Pascoe Pleasence, which Mind commissioned in late 2017. They made a secondary analysis of the 2014-2015 Legal Problem and Resolution Survey (LPRS) which was a telephone survey of 10,058 adults in England and Wales. The survey asked participants about their confidence handling legal issues, before moving onto their experience of, and response to, a broad range of civil, administrative and family legal problems. It asked about their experience of legal aid, and drilled into more detail on one of their legal issues.

Franklyn et al., (2017) provides a broad overview of the LPRS survey results, while technical details and the survey data are available online at the UK Data Service. The full questionnaire used in the survey is published on the [UK Data Service's website](#). The LPRS was undertaken by the Ministry of Justice, with the fieldwork conducted by TNS

BMRB and questionnaire designed by Pleasence and Balmer.

This research builds upon a significant body of legal need survey research in England and Wales exploring the interaction of mental health and legal problems. This includes Miles et al. (2012), Balmer et al. (2006, 2010, 2015), Pleasence & Balmer (2007, 2009), Balmer & Pleasence (2012) and Pleasence et al., (2008). Existing research has consistently identified a powerful association between the experience of legal and mental health problems. It has also demonstrated the potential for mental health problems to cause or result from legal problems, with significant knock-on costs for health services.

Previous studies have highlighted the potentially important role of advice services that acknowledge these links through, for example, service co-location or integration. This new research provides the strongest case yet for the connection between mental health, legal problems and the scope changes brought about by LASPO, and so fills an important gap in the existing literature.

## Calculating incidence of mental health problems

The survey is the largest of its kind in the UK, and provides a wealth of information about legal experience. It includes two questions which allowed the researchers to calculate the numbers of respondents with experience of mental health problems, and thus the relationship between legal and mental health issues.

**18 per cent of respondents had a mental health problem**

The first question gauged the respondent's mental health status. 1,828 of 10,042 survey respondents (18.2 per cent) reported having experienced stress, depression or some other kind of mental health problem in the eighteen months prior to the date of interview. It's worth noting that the survey may have under sampled people with mental health problems because previous research has found that one in four people will experience some form of mental health problem in any given year.

The second mental health related question asked whether the legal issues the respondent said they had experienced had led to any adverse consequences: respondents were read a list of possible consequences the first of which was "stress-related illness or other mental health problem". These questions allowed Balmer and Pleasence to build a picture of the impact of legal issues on individuals' mental health, as well as to track the differences in how people living with mental health problems and the rest of the cohort experienced the justice system.

### Legal aid eligibility

In order to receive legal aid you have to be eligible in two ways: firstly you have to meet the financial criteria, and secondly your legal issue has to be 'in scope'. The researchers needed to analyse both these types of eligibility ('variables') in order to determine who would and would not get legal aid. The demographic data included in the LPRS allowed the researchers to calculate how many respondents are financially eligible under the LASPO Act's thresholds.

In order to illustrate what issues were in or out of scope pre and post LASPO, Balmer and Pleasence manually

categorised the legal problems experienced by respondents of the survey as:

- 'in scope' post-LASPO Act
- 'out of scope' post-LASPO Act
- 'reduced scope' post-LASPO Act
- 'not in scope' pre-LASPO and still out of scope.

The descriptions of legal problems listed in the survey are fairly broad, so some assumptions were required in order to categorise problems in this way. While it is not possible to categorise problems exactly and with absolute confidence, the scope variable provides reasonable indication of problems likely to fall into each of the four groups, and allowed them to calculate overall legal aid eligibility. Appendix 2 goes through the main legal problem areas and whether they are in or out of scope. Only the 'main survey' problem of respondents - the single problems that respondents were asked about in detail - was categorised in order to simplify the process of manually calculating the scope variable.<sup>1</sup>

### Qualitative interviews

Mind also interviewed nine members of the public who responded to a call for evidence (publicised on social media and through our external channels). These people were interviewed over the phone about their experience of navigating the justice system, how their legal problem was resolved and how it impacted their mental health.

The stories of six of these people have been included in this report. Names and key details have been changed to protect their identities. Their experiences highlight the realities of the findings of this research, and help to illustrate what these statistics mean in human terms.

## Research Findings

One:

**People with mental health problems are more likely to experience legal problems than others.**

Far more people with mental health problems have experienced legal problems, and therefore have interacted with the legal system, than people without mental health problems. 52 per cent of people with mental health problems reported a legal problem, compared to just 27 per cent of those without a mental health problem.<sup>ii</sup>

This could be for many reasons, but we know that people with mental health problems are more likely to receive benefits, to struggle with debt, to live in insecure and undesirable homes and to experience stigma and discrimination as

a result of their mental health status – all of which may too easily develop into legal problems.

In fact, people with mental health problems were more likely to experience every kind of legal problem listed in the survey (Figure 1). This indicates that experience of legal issues is widespread amongst people with mental health problems, and not just connected to direct discrimination or medical legal problems that one might most naturally link to mental health.

**At the time I felt like we were in a unique situation, but lots of people are going through legal problems every day. There should be a way for everyone to get legal advice and support, especially at the very first stages, easily, and for free.** - 'Sarah'

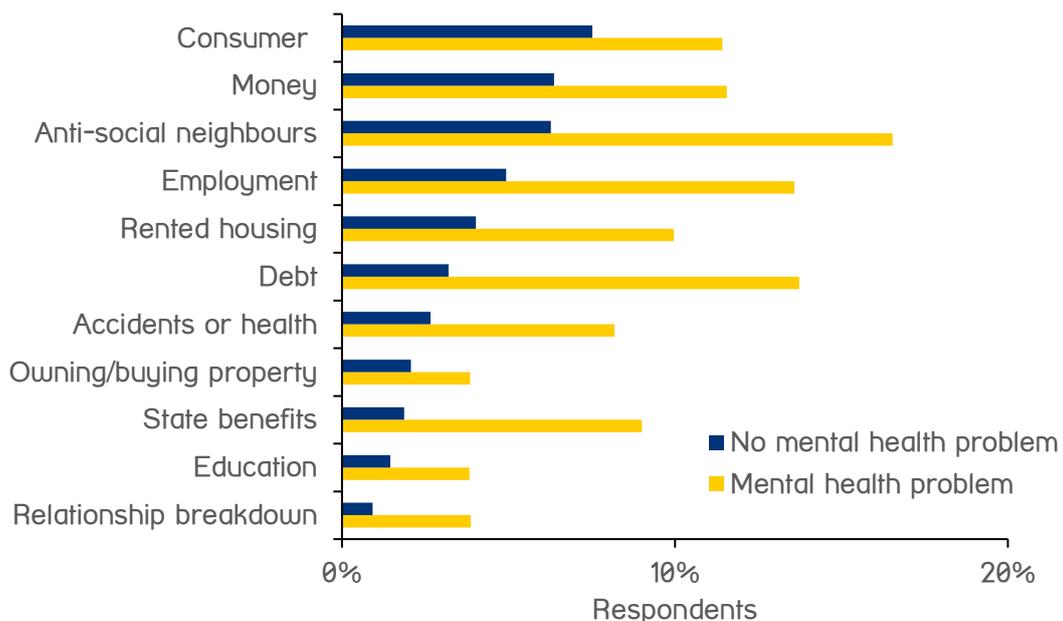


Figure 1. Legal problem types reported, by mental health status.

## Two:

### People with mental health problems are more likely to have more legal problems.

Research shows people with mental health problems also experience many more legal problems. There was a stark difference in the number of legal problems reported by each group: people with mental health problems reported an average of five legal problems, compared to an average of three legal problems for those without mental health problems.<sup>iii</sup> This is a highly statistically significant difference which means it's very unlikely to have happened by chance.

There was also a particularly large difference in the 'six or more' legal problems category, which accounted for 22 per cent of those with mental health problems, but only 8 per cent of other respondents (Figure A, Appendix 1).<sup>iv</sup>

These findings confirm anecdotal evidence, including from the interviews referenced in this report, indicating that people with mental health problems are likely to experience clusters of legal problems. As a result of this fact, any changes to legal aid or wide-ranging changes to the justice system should be made with an understanding of the

disproportionate impact on people with mental health problems.

The impact of clustering on people with mental health problems means their legal difficulties will often be interconnected. We are concerned that the way LASPO removes certain problems from the scope of legal aid actually negates the benefits of any legal resolution in other areas. It's difficult to separate problems, for example, with debt, and housing rent arrears, so without tackling all of them, any resolution is less likely to be successful. This situation is particularly acute for the more than one in five people with a legal problem and a mental health problem, who were facing six or more legal problems.



### Three:

#### One in five legal problems leads to worse mental health.

The research details the impact of legal problems on the lives of people experiencing them in a number of ways. As well as being asked about any mental health problems experienced during the past 18 months, respondents were also asked about stress-related ill health as a direct result of legal problems.

Overall, 20 per cent of all legal problems were reported to have caused stress-related ill health, making it the single most common adverse consequence of legal problems (Figure 2). 59 per cent of legal problems which led to stress-related ill health, resulted in respondents consulting a GP, doctor or other health care professional.

This statistic shows the striking impact legal problems are having on the already strained NHS. Given one of the Government's objectives for the LASPO

Act was to provide value for money for the tax payer, it's important to remember that legal problems don't just impact justice budgets. On a personal level too, it's appalling that people are experiencing such a negative impact on their mental health problems as a result of a legal issue.

Different legal problems impacted on stress-related illness or other mental health problems to different degrees (Figure B, Appendix 1). This type of negative consequence was particularly common in relation to legal problems concerning the break-up of a relationship. This is followed by problems with benefits, reinforcing our understanding of the negative impact on mental health of changes to the benefits system, sanctions processes and other benefits related issues. If we're going to begin to tackle legal problems as a cause of mental health problems, this indicates where efforts should be focused.

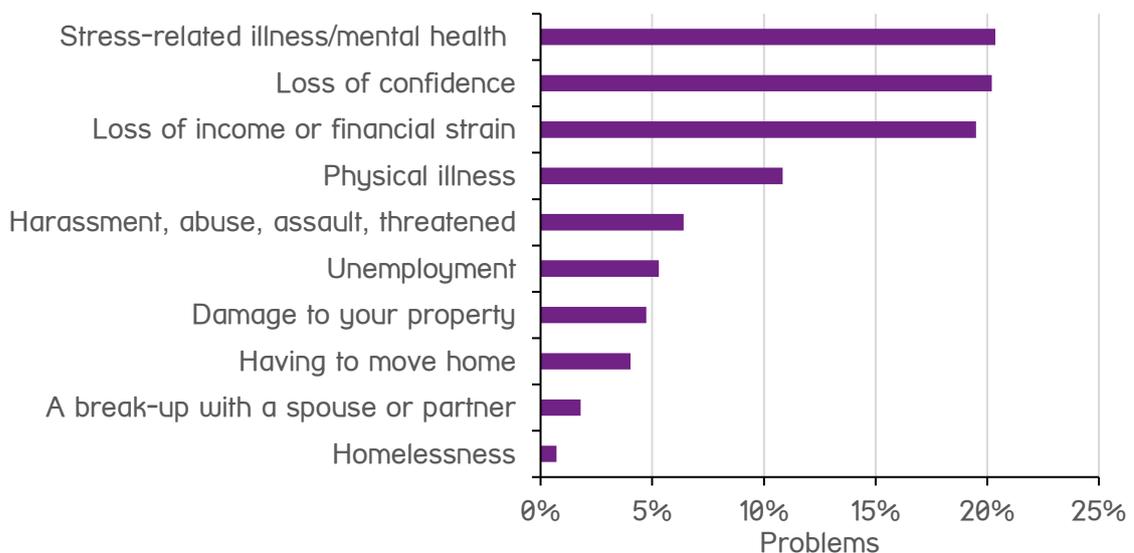


Figure 2. Adverse consequences resulting from legal problems – reported by all respondents

#### Four:

### People with mental health problems are more likely to experience adverse consequences of legal problems.

It is of little surprise that the research found that those who had experienced mental health problems were far more likely to report stress-related illness or other mental health problems as a consequence of their legal problems (Figure 3) – we know that legal problems can be the cause of mental health problems, and certainly can worsen pre-existing conditions.

But it is perhaps more surprising that people with mental health problems were also more likely to report other types of adverse consequences. People with mental health problems are twice as likely to have had to move home or become unemployed as a result of a legal issue. They are almost three times more likely to have suffered harassment, abuse, assault or threats, and over three times more likely to have suffered loss of confidence. People with mental health problems are over four

times more likely to have become homeless or experienced poorer physical health due to a legal problem. They are over five times more likely to have suffered a relationship breakdown as a consequence.

Legal problems are difficult for everyone, but people with mental health problems are more likely to experience a greater impact on their lives. Anecdotally, we know that drawn out, stressful, legal processes negatively impact mental health, and that without early intervention, and access to legal aid, problems are likely to reach crisis point. To counter this situation, the Government needs to urgently improve people with mental health problems' access to legal support and resolution, and prevent more people experiencing these devastating consequences.

**For over a year, we had no money to pay for anything - it was a miracle that we survived. The process took an enormous toll on my mental health. My family's income was halved and we had to borrow money from family and friends to get by. My two children missed their birthdays and went without Christmas. – 'Ian'**

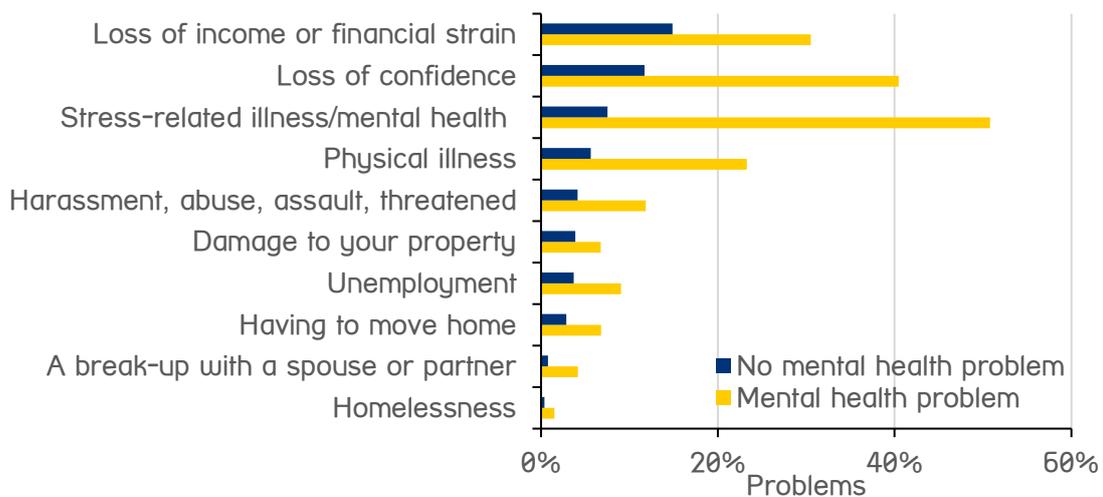


Figure 3. Adverse consequences resulting from legal problems, by mental health status.

Five:

People with mental health problems feel less confident handling legal issues.

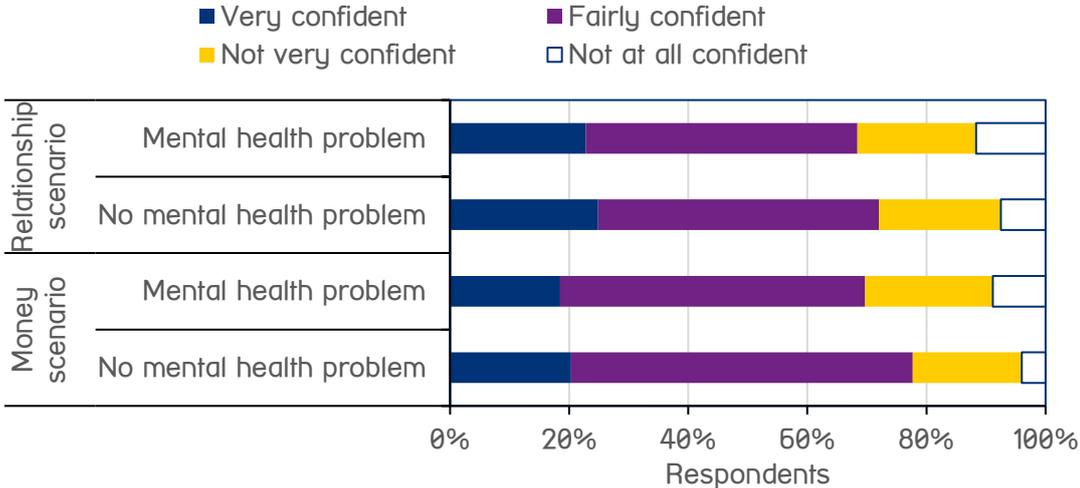


Figure 4. Responses to the ‘money owed’ and ‘division of assets’ legal empowerment questions, by mental health status.

The survey included two questions designed to determine a person’s ‘legal empowerment’ – that is, how confident they feel about the prospect of handling a legal issue. The questions asked the participant how confident they would feel about handling two types of disagreement - one about being owed money, and one about dividing possessions with a partner after a break up - with and without help from a professional advisor.

For both scenarios, there were highly statistically significant differences in responses between those who reported suffering from stress, depression or some other kind of mental health problem in the eighteen months prior to interview and those who did not.<sup>v</sup>

For example, for the ‘money owed’ question, those with mental health problems were significantly less

confident and, in particular, were more than twice as likely to belong to the ‘not at all confident’ group (Figure 4).

It’s concerning that the legal confidence of people with and without mental health problems is so disparate even in hypothetical situations. Those responsible for designing legal advice services and reviewing the courts system should involve people with mental health problems in the design process to better understand their needs.

Legal professionals advising people with mental health problems and government officials must also seek to better understand the barriers that people face when they engage with the justice system.

## Liz's story

'I helped someone from my mental health support group out when she has nowhere else to turn. I found a solicitor who gave her a free consultation, but after that we had to scrape together the money for a further session at £50 hour, or £100 an hour in court.

She had no money, and her partner had sold the family home when they split up. The legal costs were too much so I ended up drafting letters for her and trying my best to act as a legal advisor – I'd been a legal secretary so I knew how to phrase things, but that was about it.

The stress of her partner's behaviour and the uncertainty about whether she'd be able to see her children worsened her borderline personality disorder, and she wasn't getting any health support at the time. I shouldn't have been the only place she could go for help.

She was powerless, and the system is self-perpetuating so she (and I) were just feeling more and more vulnerable.

People need somewhere to go for real independent advice, in terms they can understand. Everyone needs an advocate assigned to them just to help you get through it, someone to translate the legal language.

I can't understand how this support has been taken away. When you're in this situation, it truly feels like the end of the world.'



## Six:

### People with mental health problems ask lots of different advisors and types of advisors, for help with their legal problems.

People with mental health problems were more likely to try to obtain information, advice or help, and more often consulted family and friends and used independent advisors like Citizens Advice, rather than more formal advice channels (Figure 5).

There are a number potential reasons for this trend – it could be related to the fact that people with mental health problems feel less confident in legal settings. It may also be connected to the increased likelihood of this group experiencing clusters of legal problems, and more complicated legal problems. What it indicates most strongly, though, is that people with mental health problems are more likely to try to get as much help as possible to handle their legal problems.

The research also found that those with mental health problems were less likely to successfully get support from an advisor than those without a mental health problem (14 per cent compared to nine per cent<sup>vi</sup>) despite being more likely to try to contact an advisor – see the penultimate category in Figure 6.

Most often, failed attempts for those with mental health problems related to local council advice services and Citizens Advice. In the latter case, this reflects the high use of Citizens Advice services, and potentially the higher demand on their services due to the closures of alternative advice channels.

Again, this finding underlines the fact that the system is not rewarding people with mental health problems for their efforts to get legal advice, and in fact is disproportionately failing to support these individuals. It also pinpoints some clear, tangible (albeit costly) changes which could improve the legal experience for people with mental health problems – namely, increasing the number of advisors or staff in these organisations so fewer people in need fail to get advice.

**I don't know how people who work full time or who have other responsibilities are meant to get legal help and advice when everything happens during working hours. All these processes are difficult enough as they are – why does everything need to be that much harder? It's wearing me down. I'm not sure how I can get fully well when the systems that are supposed to be there to support you are just making me more ill. – 'Sam'**

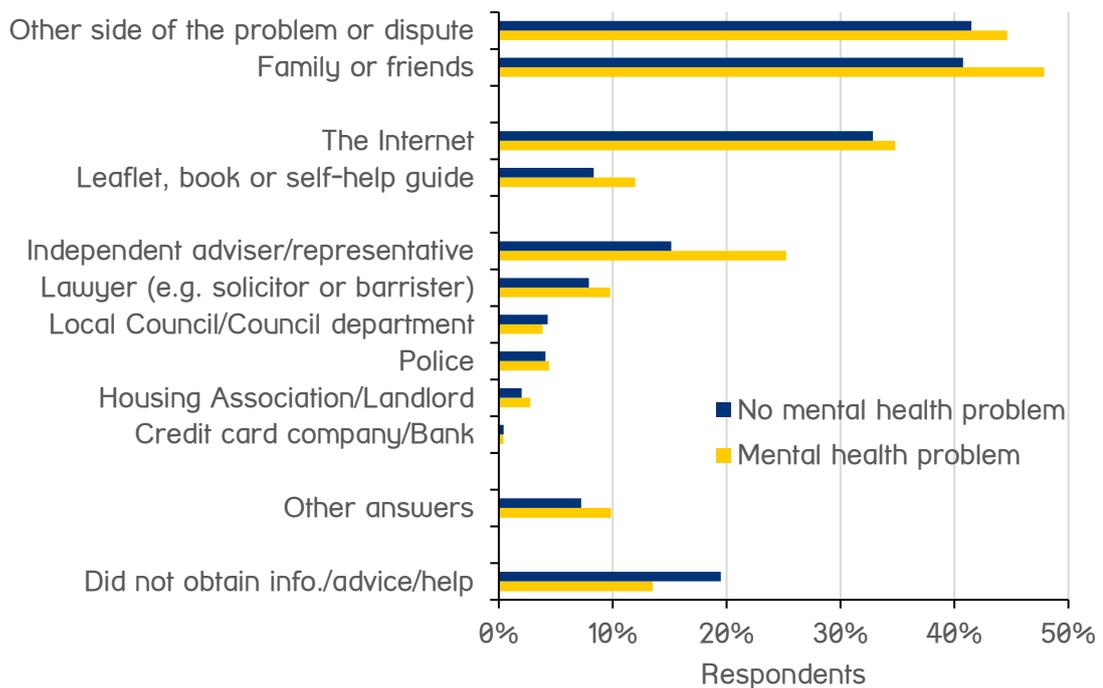


Figure 5. Sources of advice by mental health status.

**I was already struggling so much and this extra stress and uncertainty was extremely difficult for me and my two younger brothers. For people with mental health problems, and for people in crisis - like me and my brothers were - it's so important to have someone there to help. Someone who understands how to support people in those situations, and someone who understands the legal system. It was like speaking another language. - 'Sarah'**

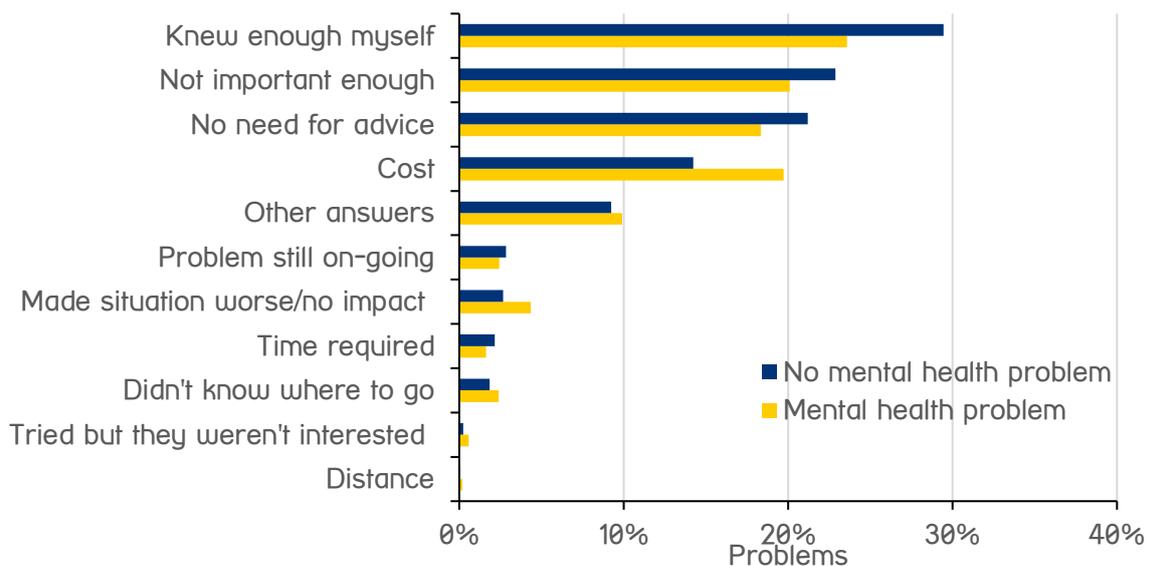


Figure 6. Reasons for not obtaining help from a lawyer, solicitor or barrister, by mental health status.

## Seven:

People with mental health problems don't seek legal advice or help because they're concerned about the cost, or don't know where to go for support.

There was a considerable number of people who took the survey, who chose not to seek advice when faced with a legal issue. Figures 6 (previous page) and 7 set out the reasons why respondents did not want seek help from various types of advice service, by mental health status.

In the case of lawyers, cost was more likely to be cited as a barrier among those with mental health problems, as were fears advice would make the situation worse. This makes sense when considering the average financial

status of a person with mental health problems is likely to be less stable, and their propensity to feel more comfortable approaching informal advice channels.

'Knew enough myself', 'not important enough' and 'no need for advice' were less commonly cited as reasons for not seeking advice by people with mental health problems than for those without, as is commensurate with their differing confidence levels.

In the case of other types of advisor, not knowing where to go was more common among those with mental health problems compared to other respondents. This implies that improved sign-posting to advice services would ease people with mental health problems' experience of the legal system.

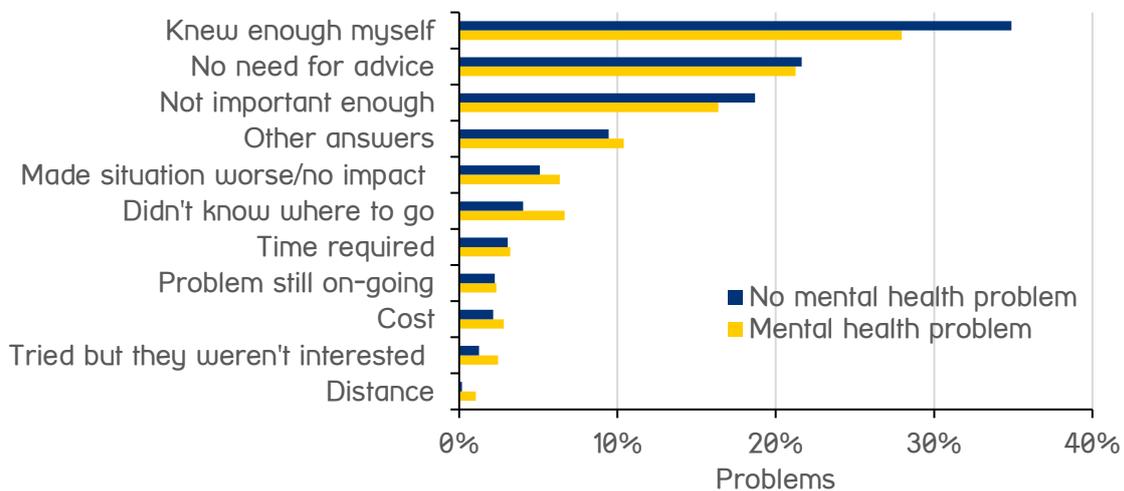


Figure 7. Reasons for not obtaining help from another type of advisor or representative, such as Citizens Advice, trade unions, Shelter or money advice services, by mental health status.

**Eight:**

**People with mental health problems are just as likely as others to be successful in their legal case.**

This research also shows how people with and without mental health problems differed when it came to resolving legal problems and reaching an outcome.

Whilst the methods for reaching conclusion differed, the final resolutions are broadly comparable between people with and without mental health problems - although people with mental health problems slightly less frequently just put up with the issue, or had an issue that simply sorted itself out.

This indicates that there is no meaningful discrepancy between the merits of the cases brought by these two groups. People with mental health problems are not less likely to successfully resolve a legal problem – in fact they slightly more frequently reached an agreement. This means we can infer that their cases have merit, and thus that they experience a

disproportionately large number of genuine legal problems (rather than experiencing the types of trivial problems the Ministry of Justice sought to remove from the scope of legal aid.)

In contrast to their preference for informal advice channels, people with mental health problems more frequently used formal processes to resolve their legal issues than those without mental health problems. People with mental health problems were twice as likely to have to go to court or a tribunal. People with mental health problems also took the problem to a court or tribunal in around four per cent of cases, and they were taken to court by their opponent in another four per cent of cases. The figure for people without mental health problems was two per cent in both situations.<sup>vii</sup>

This may be related to the clustering of their legal problems, or the severity of their legal problems – both of which could mean more formal and elaborate resolution methods are required. Regardless, having to go to court or using another formal resolution channel is a deeply stressful experience.

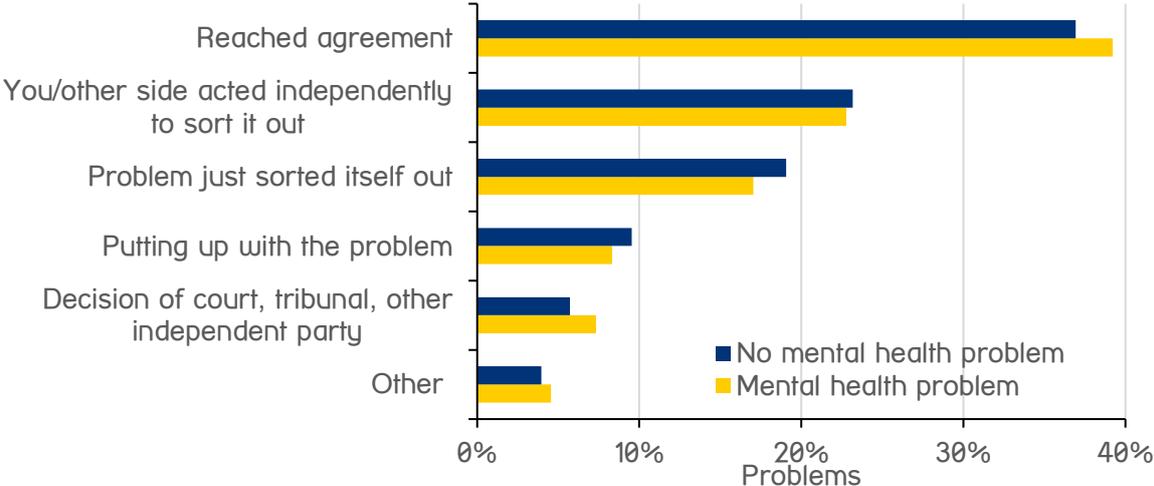


Figure 8. How problems concluded, by mental health status.

## Nine:

### People with mental health problems are disproportionately impacted by the LASPO Act's changes to the scope of legal aid.

The LASPO Act made changes to the eligibility criteria individuals have to meet to receive legal aid. To be eligible post-LASPO, two factors are taken into consideration: financial eligibility and whether the legal problem you're experiencing is within the scope of legal aid.

#### Factor one: Financial eligibility

Almost 2 in 3 people with mental health problems weren't financially eligible for legal aid to resolve their legal problem

To be eligible post-LASPO, a person has to have a disposable income below £733 – after certain deductions are made, including tax and a maximum of £545 from any housing costs. If you receive certain benefits you are 'passport' through the income assessment but are subject to an assessment of capital savings.

Anyone meeting the income eligibility must also have no capital (savings, stocks or property) above £8,000, though if you own your own home you can have up to £100,000 of equity disregarded.

The research found that only 24 per cent of people with legal problems who were interviewed were eligible for legal aid on the basis of their income and

savings. When we look at people with mental health problems and a legal issue, this figure rises to 36 per cent, confirming the connection between mental health problems, social deprivation and receipt of benefits. Still, this means that almost two in three people with mental health problems in need of legal help weren't financially eligible.

#### Factor two: legal problem is within the scope of legal aid

1 in 3 problems taken out of scope by the LASPO Act 2012 were experienced by someone with a mental health problem

The LASPO Act also withdrew many legal problems from the scope of legal aid. Appendix 2 shows Balmer and Pleasence's categorisation of each legal problem.

Because people with mental health problems experience so many more legal problems, they are overrepresented in the 'in scope' issues – 52 per cent of people with in scope issues had a mental health problem, compared to 32 per cent of people with out of scope issues (see Table A, Appendix 1). Nonetheless, this shows that a third of all out of scope issues were experienced by a person with a mental health problem.

**I'm sharing my experiences because it shouldn't be the case that people have to work this out themselves when they're most vulnerable. It almost killed us in the end, and it needs to change.** - 'Sarah'

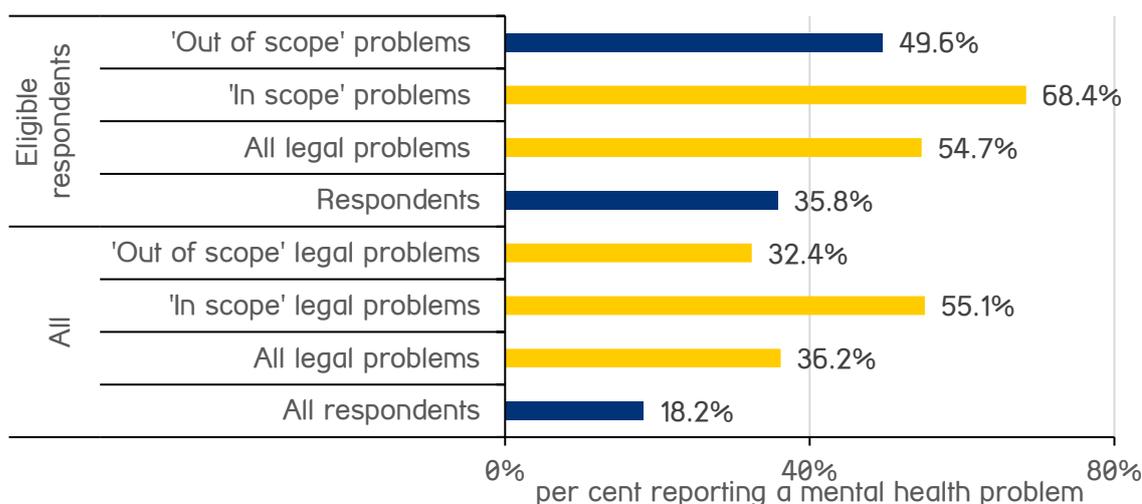


Figure 9. Mental health status by legal aid scope of problems and legal aid financial eligibility. (This information is also available in Table B, Appendix 1)

### Net eligibility

People with mental health problems are more likely to experience all kinds of legal problems, so it is no surprise that they are overrepresented in 'in scope' problems. On the face of it, this gives the impression that the LASPO Act is working, because it is still providing support to this number of people who need it.

But when Balmer and Pleasence looked at the makeup of group of people who would be most acutely affected by the LASPO Act's scope changes – those who were financially eligible – they found that actually, it was those with mental health problems who were disproportionately missing out.

Balmer and Pleasence found that of everyone who is financially eligible for legal aid, but whose legal problem fell out of scope, 50 per cent had mental health problems. This means that one in two people who lost out on legal aid due to LASPO had mental health problems.

Given that only 36 per cent of people with a legal problem who were financially eligible for legal aid also had mental health problems, this is disproportionate – it is even starker if you compare it to the fact that only 18 per cent of people surveyed had a mental health problem.

One in two people who lost out on legal aid had a mental health problem

Before commissioning this research we had gathered anecdotal evidence from legal aid lawyers and people with mental health problems who had gone through the legal system that indicated this would be the case. But this evidence shows the relationship between loss of legal aid and mental health is even stronger than expected. These findings undermine the Government's objective to make sure legal aid was going to those who need it most, and disproves the pre-legislative Equality Impact Assessment's assertion that any disproportionate impact on vulnerable people would be mitigated.

## Conclusion

People with and without mental health problems have a different experience of legal issues: people with mental health problems experience more legal problems, higher frequencies of legal problems, greater adverse consequences in both type and number, and despite seeking support in greater numbers, too often end up having to navigate formal legal processes with little help or advice.

We are deeply concerned to see the disproportionate impact the LASPO Act has had on people living with mental health problems.

**Without this free legal help I would've lost my job, my health, everything. – 'Jennifer'**

One in three out of scope legal problems is experienced by a person with mental health problems. One in two people who lost out on legal aid as a result of the Act had a mental health problem. That's not to mention the fact that people with mental health problems are more likely to experience every adverse consequence of legal problems.

This report makes it clear that the LASPO Act has failed to meet its objectives. Whilst trying to discourage unnecessary and adversarial legal cases, it has managed to withdraw support for thousands of merited cases. Although it aimed to target legal aid to those who need it most, the cuts have been felt disproportionately by those who both are in financial need (on the

Government's own terms), and are experiencing a mental health problem. And while it may have saved the Ministry of Justice money in the short term, the huge rate of medical appointments required as a result of legal issues, not to mention the negative impact to person of worsening mental health, and the impact on other support services, means the savings to the public purse are in doubt.

In order to rectify this devastating situation the Government must review the scope of legal aid urgently. This report highlights the legal problems most often faced by people with mental health problems: issues around neighbour disputes, severe rent and mortgage arrears, problem debt and other money related issues. Returning these legal problems to the scope of legal aid would dramatically improve the experience of the justice system for people living with mental health problems.

Given the shocking number of people with mental health problems experiencing six or more legal problems, there also needs to be an exemption for those individuals experiencing 'clustering.' First and foremost, however, the Government must include in their review a thorough assessment of the impact of the LASPO Act on people with mental health problems.

It is vital that action is taken as soon as possible to stop the legal problems of people with mental health problems escalating, and to protect their human right to justice.

Appendix 1 – Additional graphs and tables

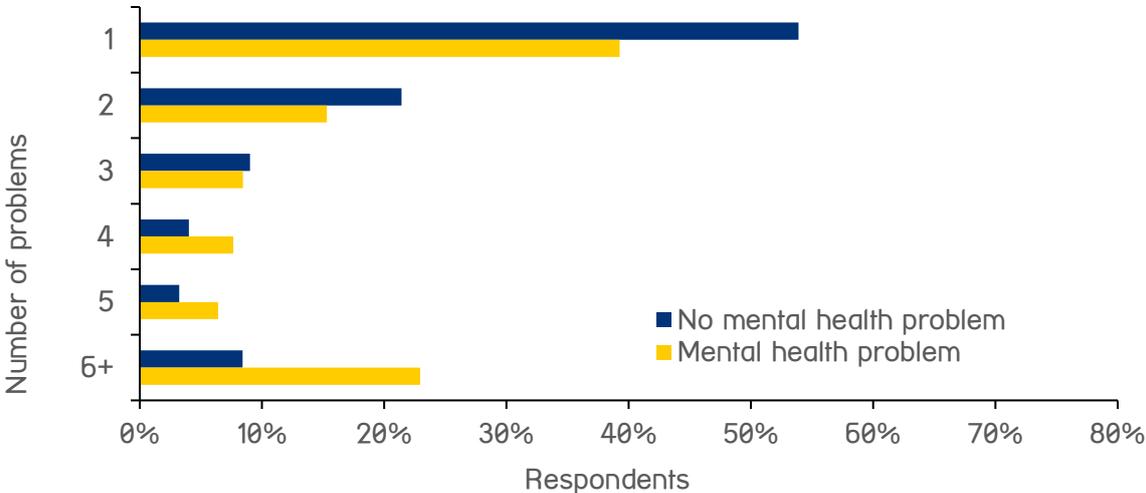


Figure A. Number of legal problems (when 1+ problems reported), by mental health status.

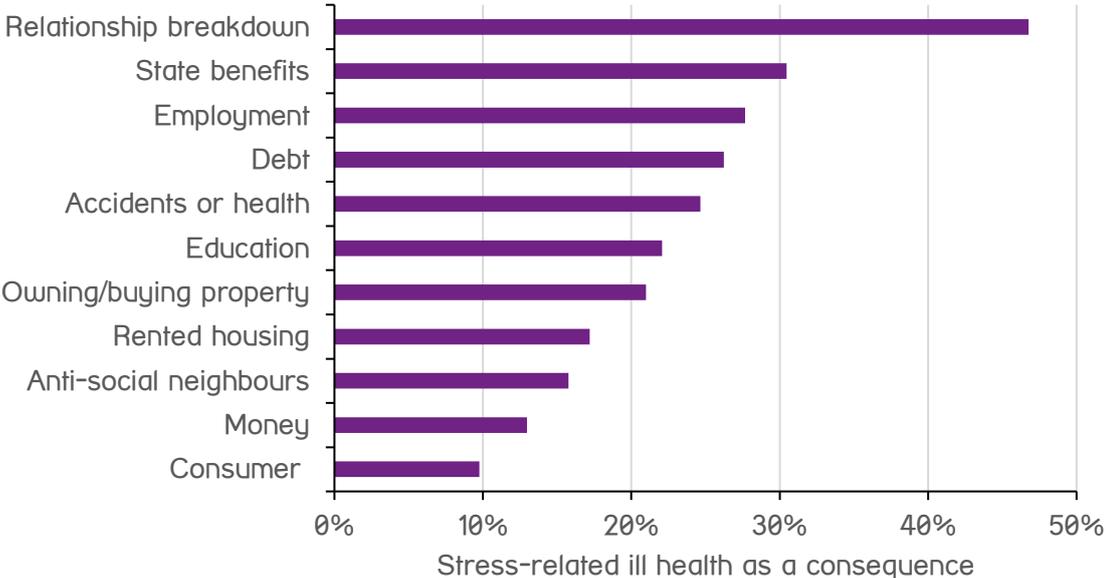


Figure B. Reported stress-related ill health as a consequence of different problem types.

Scope	Without mental health problems		With mental health problems	
	Number	per cent	Number	per cent
Remained in scope	164	44.9per cent	201	55.1per cent
Fell out of scope	1626	67.6per cent	779	32.4per cent
Reduced scope	24	57.1per cent	18	42.9per cent
Not in scope pre-LASPO	70	49.3per cent	72	50.7per cent
Total	1884	63.8per cent	1070	35.2per cent

*Table A. Legal aid scope status of main survey problems, by mental health status*

Scope	No mental health problems		Mental health problems	
	Number	per cent	Number	per cent
Remained in scope	39	31.6per cent	84	68.4per cent
Fell out of scope	257	50.4per cent	252	49.6per cent
Reduced scope	10	69.5per cent	4	30.5per cent
Not in scope pre-LASPO	6	14.9per cent	36	85.1per cent

*Table B. Mental health status by legal aid scope of main survey problems, for respondents who are financially eligible for legal aid.*

## Appendix 2 – categorising whether problems were in scope

This appendix sets out how problem descriptions in the Legal Problem Resolution Survey Data (LPRS) were categorised for the purpose of the legal aid scope analysis. While the legal problem categories used within the LPRS are very detailed, they are not sufficiently detailed to enable a definitive determination of whether each category falls within or outside of the scope of the post-LASPO Act legal aid scheme. For example, some aspects of antisocial behaviour and some cases of involuntary bankruptcy are in the scope of the legal aid scheme but cannot be differentiated through the survey. The list of problem categories included in the LPRS set out below indicates whether problems were treated as being in scope post-LASPO Act, removed from scope by the LASPO Act or never in scope. Some rented housing and private family problems were coded on a special basis, as detailed in the notes included in the list.

Issue area	In scope still	In scope – if includes discrimination	Reduced scope	Now out of scope	Always out of scope
Consumer		<ul style="list-style-type: none"> <li>- Problems related to purchasing faulty vehicles or other high value items</li> <li>- Services that were substantially short of what was promised, such as holidays.</li> <li>- Supply of utilities such as water, gas, Internet</li> </ul>		<ul style="list-style-type: none"> <li>- Defective repairs to a vehicle, or other high value items</li> <li>- Defective building work or work by trades people such as plumbers</li> </ul>	
Employment	Harassment or discrimination at work	<ul style="list-style-type: none"> <li>- Being threatened with or being sacked or made redundant</li> <li>- Getting pay or a pension to which you were entitled</li> <li>- Other rights at work, e.g. maternity leave, sickness pay, holiday entitlement, or changes to your terms and conditions</li> <li>- Unsatisfactory or dangerous working conditions</li> <li>- Unfair disciplinary procedures or other treatment</li> </ul>			
Neighbours				<ul style="list-style-type: none"> <li>- Regular and excessive noise by neighbours</li> </ul>	

				<ul style="list-style-type: none"> <li>- Threats, harassment or violence from neighbours</li> <li>- Damage to your property or garden by neighbours</li> </ul>	
Owned housing	Repossession of your home	Planning permission or consent		<ul style="list-style-type: none"> <li>- Communal repairs or maintenance</li> <li>- Being several mortgage payments in arrears</li> <li>- Squatters</li> <li>- Boundaries, rights of way or access to your property - including passage of services such as water over other people's land</li> </ul>	Selling or buying property, such as a misleading property survey, or problems with lease
Rented housing	<ul style="list-style-type: none"> <li>- Being evicted or being threatened with eviction</li> <li>- Harassment by your landlord</li> </ul>	<ul style="list-style-type: none"> <li>- Getting a deposit back</li> <li>- Getting the landlord to do repairs or maintain the property (NOTE: Treated as in scope if stress-related illness or other mental health problem or physical illness resulted from the problem (proxy of harm))</li> <li>- Problems agreeing the terms of your lease or tenancy agreement</li> <li>- Problems with the transfer of lease or tenancy</li> </ul>		Being several rent payments in arrears	
Debt				<p>Being behind with and unable to pay:</p> <ul style="list-style-type: none"> <li>- Credit cards, store cards or personal loans - excluding mortgages</li> <li>- Hire Purchase or on-credit purchases</li> <li>- Council tax or income tax</li> <li>- Other household bills such as electricity, internet or TV licence</li> <li>- Fines</li> <li>- Severe difficulties managing to pay money you owed – including to</li> </ul>	

				family or friends excluding mortgages Harassment from people or businesses to whom you owed money	
Money				<ul style="list-style-type: none"> <li>- Getting someone or a business to pay money they owe you</li> <li>- Insurance companies unfairly rejecting claims</li> <li>- Incorrect information about you leading to a refusal of credit</li> <li>- Disagreement over division of property after death</li> <li>- Being given incorrect information or professional advice that led you to buy insurance, pensions, mortgages or other financial products</li> <li>- Mismanagement of a pension fund or an investment resulting in financial loss</li> <li>- Incorrect or disputed bills, excluding rent/mortgage payments or tax assessment</li> </ul>	
Benefits		<ul style="list-style-type: none"> <li>- Your entitlement to state benefits, tax credits, or state pensions</li> <li>- Getting the right amount of state benefits, tax credits, or state pensions</li> <li>- Problems relating to delays processing a claim or application for these state benefits/credits</li> </ul>			
Private family			<ul style="list-style-type: none"> <li>- The division of property, finances, other assets, debts</li> <li>- Obtaining or agreeing to pay maintenance to or from a former partner excluding payments for children</li> </ul>		

			<ul style="list-style-type: none"> <li>- Obtaining or agreeing to pay child support payments</li> <li>- Agreeing where children should live and how much time they spend with each parent.</li> </ul> <p>(NOTE: Treated as in scope if the problem resulted in harassment, abuse, assault or being threatened (proxy of violence))</p>		
Education	You/your children receiving an appropriate education, for example. access to special needs support	<ul style="list-style-type: none"> <li>- Obtaining a place at a school (you/your children) are or were eligible to attend</li> <li>- (You/your children) being excluded or suspended from school</li> <li>- School or local authority action following repeated truancy or other unauthorised absence</li> </ul>			
Accidents / health				Negligent or wrong medical treatment	<ul style="list-style-type: none"> <li>- An accident caused by someone else</li> <li>- Poor working conditions</li> </ul>

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## Endnotes

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<sup>i</sup> Analysis uses the WEIGHTLEV weighting variable as recommended in the LPRS technical report. However, it was noted that the mean of the weight was almost three, which returns a total N which corresponds to the D-loop weight on the problem level file. For the current analysis, the weight was divided by its mean prior to implementation. Failure to do this essentially constitutes severely over representing the amount of main survey problem data available. For simple descriptive percentages this makes no difference. When using frequencies this would be severely misleading. When conducting statistical tests this would not be legitimate and would inevitably lead to overstating the significance of differences.

<sup>ii</sup> There was a very large and highly statistically significant difference in legal problem prevalence between those reporting mental health problems in the past eighteen months and other respondents. Of 8,213 respondents who did not report a mental health problem, 2,251 (27.4per cent) reported one or more legal problems. Of 1,828 respondents with mental health problems 952 (52.1 per cent) reported legal problems. This was calculated by conducting a simple chi-squared test on the two by two table;  $\chi^2_1 = 418.93$ ,  $p < 0.001$ .

<sup>iii</sup> Mean number used as average. Median number of legal problems across all survey respondents: 2 (people with mental health problems), 1 (people without mental health problems.) Statistic on frequency of legal problems including those survey respondents who did **not** have legal problems: respondents with mental health problems reported a mean of 2.57 legal problems (median of 1), compared to a mean of 0.85 for those with mental health problems (median of 0).

<sup>iv</sup> Because the survey was random, not all respondents had had a legal problem. Those without a legal problem are not included in this graph.

<sup>v</sup> For the money owed question, comparing responses between the two groups using a simple Mann-Whitney test,  $Z = -6.69$ ,  $p < 0.001$ . For the division of assets question,  $Z = -3.68$ ,  $p < 0.001$ .

<sup>vi</sup> For problems where respondents did not contact an advisor, those with mental health problems tried but failed to make contact with advisors for 71 of 513 problems (13.8per cent). This compared to 135 of 1,434 problems (9.4per cent) for those without mental health problems.

<sup>vii</sup> People with mental health problems took the problem to a court or tribunal for 124 problems (3.5per cent) and the other side took the problem to a court or tribunal for 157 problems (4.4per cent). This compared to 2.3per cent in both cases for those without mental health problems. Of those who had not used a court or tribunal, those with mental health problems considered a court or tribunal in 160 of 865 problems (18.5per cent) compared to 273 of 2,137 (12.8per cent) for people without mental health problems. Similarly, of those who had not used mediation, those with mental health problems were more likely than other respondents to suggest that they had considered it (135 of 814 problems (16.6per cent) compared to 210 of 2,058 (10.2per cent)). 385 of the 3,592 legal problems those with mental health problems faced (10.7per cent) involved participation in independent conciliation, mediation or arbitration, compared to 379 of 5,116 (7.4per cent) for other respondents. Respondents with mental health problems suggested that 237 problems (6.6per cent) involved contacting a regulator or ombudsman, compared to 273 (5.3per cent) for other respondents.