

Justice in a time of austerity: the lives of people already struggling are made much harder by cuts to legal aid



[Daniel Newman](#) and [Jon Robins](#) discuss how poverty and social inequality are entrenched through a failing justice system. They argue that a denial of access to justice all too often represents a catastrophic step in the life of a person and their family.

There have been any number of studies into the impact of austerity politics and the devastation wreaked in its name. However, the tricky topic of access to justice and, in particular, the 2013 legal aid cuts, has been often overlooked. The legal aid scheme was pared to the bone as a result of what are known as [the LASPO cuts](#) (as in the Legal Aid, Sentencing and Punishment of Offenders Act 2012). The coalition government's flagship legislation was predicated on one idea: to cut £350 million a year from a total £2.1 billion budget. That was achieved by removing public funding for social welfare law advice: employment, family law (unless there is evidence of domestic violence), housing (except where there is a risk of homelessness), immigration and asylum, and welfare benefits. Such swingeing cuts took place as the coalition government imposed its austerity policies on the UK.

At the time, LASPO represented the biggest retrenchment of the legal aid scheme since it was introduced as part of the welfare state. All that remains is what couldn't be removed because of the modest protections afforded by the European Convention on Human Rights. The 2013 cuts therefore represent the death of an idea: the final severing of the link between legal aid and the welfare state. Nevertheless, commentators often understand the legal aid crisis as being exclusively about our 'broken' criminal justice system and many all too often dismiss legitimate concerns as the special pleadings of 'fat cat' lawyers 'riding the gravy train'. Yet [defence lawyers](#) have not had a pay rise for over two decades – and even had an 8.75% fee cut foisted on them in 2014.

The topic of [our book](#) is the evisceration of our system of access to justice in the civil and family courts. In 2018 and 2019, we travelled England and Wales interviewing people about their experiences of the justice system. We conducted our interviews in a range of different settings, including a foodbank in a church hall in one of the wealthiest boroughs in London; a community centre running from the old magistrates' court in a former mining town in the south Wales valleys; a homeless shelter for rough sleepers in central Birmingham; a destitution service for asylum seekers in a city on the south coast of England. We also conducted interviews in MPs surgeries, advice agencies, and court waiting rooms.

The people we spoke to were the ones who fell through the gaps. Many had never seen a lawyer, let alone received legal aid. Some would not be eligible. It is quite possible to be poor and not qualify for legal aid under the narrow terms of the means test. Even if they were eligible, they might not be able to find a lawyer or (most likely) their case would not have been covered by the post-LASPO scheme.

Our journey began [at Stratford Hearing Centre](#), a magistrates' court in east London, where we shadowed housing duty adviser, Simon Mullings. It is hard to think of a court process where stakes are higher than losing the roof over your head and, yet, where access to justice is more imperilled. Housing law specialists work under the Ministry of Justice's housing possession court duty scheme. The duty scheme means people defending proceedings for possession can (theoretically) obtain help on the day at court. They provide immediate, face-to-face help for those at risk of losing their home. The duty solicitor typically seeks an adjournment for a short period to try and resolve the matter in a way that prevents a tenant from losing their home.

There were twelve rent possession cases on the housing list for the morning session. On a busy day, Mullings could see as many as twenty people. 'It can be manic,' he told us as we sat in the duty solicitor's office next door to the court. 'You're literally running between the duty room and the court, constantly talking to housing officers and ushers.' It is a bewildering experience for tenants fearful of losing their homes. They don't know what to expect and don't know whether lawyers such as Mullings are friend or foe. 'Half of them think you're the judge,' he explained between clients. 'I have people ask me if they are going to go to prison today.'

Despite the government preserving public funding for homelessness cases, [applications for legal aid in such cases](#) fell by a third since the cuts. This happened at a time when the number of rough sleepers had shot up by 165% since 2010. Meanwhile, the legal advice sector has been decimated. At the time of our research, [almost a third of legal aid areas in England and Wales](#) had one or no local legal aid housing advice providers.

What we saw in Stratford was conveyor belt justice. The judge must get through his list and the clerk is there to make sure he does. 'If I'm not here then the judge is presented with an experienced housing officer who has all the paperwork and a tenant who's often scared witless,' Mullings told us. Housing officers can 'steamroller judges into making an order that otherwise they wouldn't.' The consequences could be an eviction or else the tenant agreeing to repay arrears which they can't possibly afford which means they will inevitably be back in court.

Our year of research overlapped with a two-week fact-finding mission to the UK by Philip Alston, the United Nations' rapporteur on extreme poverty and human rights. [According to his final report](#) published in 2019, one in five people in the UK lived in poverty and close to four in ten children would do so within the next two years. Alston invoked the 17th-century English philosopher Thomas Hobbes to say that their lives were likely to be 'solitary, poor, nasty, brutish, and short'. He reckoned that austerity politics, including the roll-out of Universal Credit, had contributed to the 'systematic immiseration of millions'. Work and Pensions Secretary, Amber Rudd, [threatened to lodge a formal complaint](#) about his 'barely believable' report.

In striking but barely noted observation, Philip Alston identified the 'dramatic rolling back' of legal aid post LASPO as one of the causes of our country's 'systematic' impoverishment. He was specifically talking about the impact of the 2013 legal aid cuts.

We agree.

Note: the above draws on the authors' new book, [Justice in a Time of Austerity: Stories From a System in Crisis](#) (Bristol University Press, 2021).

About the Authors



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