

The Impact of Legal Aid Cuts on Advice-Giving Charities in Liverpool: First Results

Jennifer Sigafoos
Debra Morris
Charity Law & Policy Unit, University of Liverpool

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Key Points

- Respondent advice workers cannot meet the 'ever-growing' need as a result of the welfare reforms. Legal aid cuts have resulted in redundancies.
- 86% of respondents report unmet need for advice services.
- 95% of respondents report unmet need in their area for welfare benefits advice, followed by debt and housing.
- Few referral options exist. Respondents are most likely to report that there is nowhere to refer clients for welfare benefits, special educational needs, and discrimination advice.
- Agencies are now only able to offer a lower level of service. Clients who would previously have been served by a specialist adviser are now seen by generalists. There is an increased focus on self-help and education, rather than direct assistance with appeals and submissions to tribunal services.
- Agencies report restricting eligibility for their services, hours or the scope of types of matters they can handle.
- Respondents are no longer able to assist clients with early interventions, resulting in matters escalating and additional reliance on welfare benefits. Also, costs are being passed along to tribunals and courts, which will have to cope with parties representing themselves.
- 91% of respondents report that they now provide worse service, with half reporting that it is 'much worse service'.
- Some agencies are exploring alternative funding mechanisms that would allow them to charge for some services. Efforts are being made to streamline inter-agency referrals.

Background

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 abolished legal aid for most social welfare matters from April 2013.¹ The large charitable advice sector was heavily hit,² as it plays an integral role in social welfare advice provision, with more than 4,000 sites providing advice nationwide.³ The government's own revised assessment estimated that the cumulative impact of civil legal aid proposals would result in an 83% reduction in legal aid income for charities.⁴

Liverpool is the most deprived area in England, with 51% of its districts within the most deprived in the country.⁵ Significant reforms to social welfare programmes will have a disproportionate impact on Liverpool, due to high rates of benefits claims and widespread deprivation.⁶ A recent study of the amount that the major reforms will take out of the local economy per working age adult placed Liverpool joint 7th nationwide, with a loss of £700 *per annum* per working age adult.⁷

How charities respond to the civil legal aid cuts will be crucial in determining access to justice for society's most vulnerable people, especially in deprived areas such as Liverpool. For example, charities have, with legal aid funding, assisted citizens who have been incorrectly denied welfare benefits through improper application of eligibility criteria. It is not uncommon for these decisions to be incorrect. According to the National Audit Office, 38% of challenges to just one programme (Employment and Support Allowance) have been successful.⁸ However, the legal aid reforms have eliminated funding for this area of work. This study represents the first assessment of the impact of the legal aid reforms on advice-giving charities in Liverpool.

¹ With limited exceptions: welfare benefit, debt, employment (except discrimination) and housing.

² For the impact on charities see D. Morris and W. Barr (2013), 'The impacts of cuts in legal aid funding on charities', *Journal of Social Welfare and Family Law*, 35(1) 79-94.

³ Cabinet Office (2012). *Not-for-Profit Advice Services in England*.

<https://www.gov.uk/government/publications/not-for-profit-advice-services-in-england>.

⁴ Ministry of Justice (2011). *Reform of Legal Aid in England and Wales: Equality Impact Assessment (EIA)*, Table 27. <http://webarchive.nationalarchives.gov.uk/20111121205348/http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-eia.pdf>.

⁵ Communities and Local Government (2011). *The English Indices of Deprivation 2010*. 51% of the Lower Layer Super Output Areas within the city were within the most deprived areas nationwide. Liverpool was also the most deprived city in the 2007 Indices. The North-West is the most deprived region. <https://www.gov.uk/government/publications/english-indices-of-deprivation-2010>

⁶ M. O'Brien (2012) 'Fairness and the City: Public-sector cuts, welfare reform and risks to the population of Liverpool and its wider region,' An independent submission to the Liverpool Fairness Commission. <http://liverpoolfairnesscommission.com/report.php>.

⁷ C. Beatty and S. Fothergill (2013). *Hitting The Poorest Places Hardest: The local and regional impact of welfare reform*. The report included the following reforms: Housing Benefit – Local Housing Allowance; Housing Benefit – Under-occupation; Non-dependant deductions; Household benefit cap; Council Tax Benefit; Disability Living Allowance; Incapacity benefits; Child Benefit; Tax Credits and the 1% Up-rating. Knowsley, another local authority in Merseyside, was the third most affected nationwide, with a loss per working age adult of £800 *per annum*.

http://www.shu.ac.uk/research/cresr/sites/shu.ac.uk/files/hitting-poorest-places-hardest_0.pdf

⁸ National Audit Office (2012). *Contract management of medical services*. <http://www.nao.org.uk/wp-content/uploads/2012/10/1213627.pdf>.

Measuring the Impact

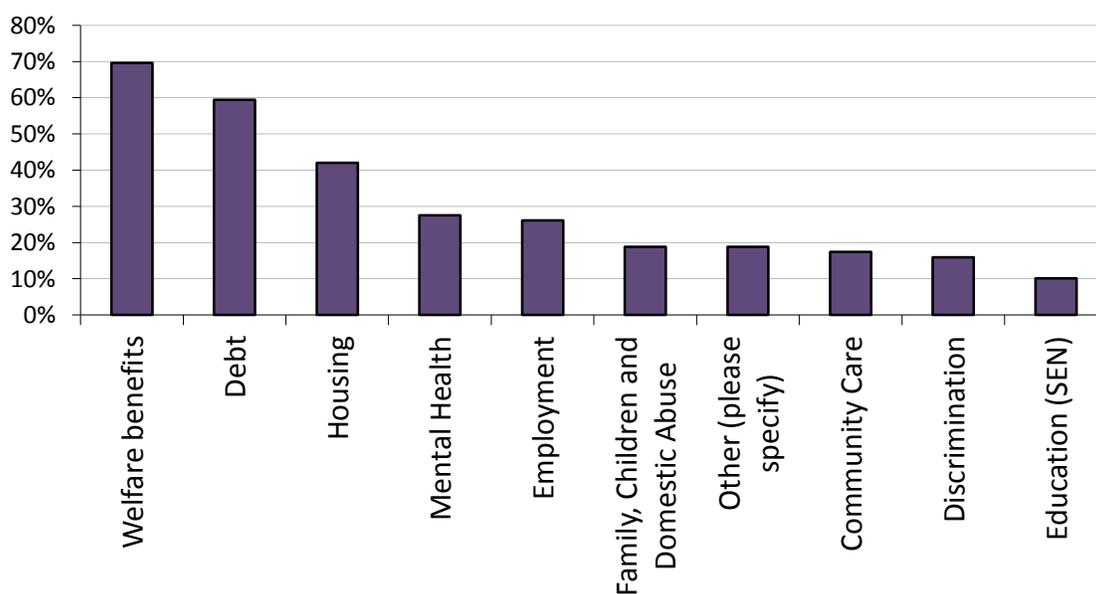
The impact was measured via a survey of advice workers in Liverpool. The survey instrument was developed and piloted with our partners, Liverpool Specialist Advice Services (LSAS). LSAS is the local Citizens Advice Bureau (CABx) umbrella body, and it also leads a wider consortium, the Liverpool Advice Alliance, that includes independent advice agencies. The survey was administered online in May 2013, and a total of 80 responses were collected, approximately half of the population. Respondents were invited to submit qualitative answers to several questions, which were coded and analysed using the nVivo software. In addition, researchers attended a meeting of the advice services Welfare Reform Task Group, read minutes of past meetings and gathered data from agencies via questionnaires.

Results

Characteristics of survey respondents

80 staff and volunteers at Citizens Advice Bureaux (CABx) and independent advice charities completed the survey. 85% of respondents were associated with CABx and 10% with independent advice charities. This roughly reflects the breakdown of advice workers in Liverpool. 51% of respondents were generalist advisers, 28% were specialist advisers and the remainder were other types of advisers, such as solicitors, managers and triage advisers. 86% of respondents were employed, while 14% were volunteers. On average, respondents provide advice 24 hours per week. Respondents provide advice across a variety of areas, as set out in Figure 1, below.

Figure 1: Areas in which respondents provide advice services



Unmet need for services

66% of respondent report that they provide about the same number of hours of advice per week as they did six months ago. However, they have more clients, and their clients are increasingly pressed. Also, redundancies had affected staffing levels at a number of agencies. One agency reported a 28% increase in people seeking advice services, while the agency has had to reduce the number of cases it can 'take on' by 15%. Some typical responses:

There is a growing demand on the advice services that we provide ... It is tangible. Staff and volunteers are under more pressure and there are reduced resources to meet the need. We have lost key paid staff and other staff have had their hours reduced.

Has resulted in redundancies/staff cuts. This puts more stress and pressure on remaining colleagues.

Ever-growing demand to address and challenge decisions related to the changes in the welfare benefits system.

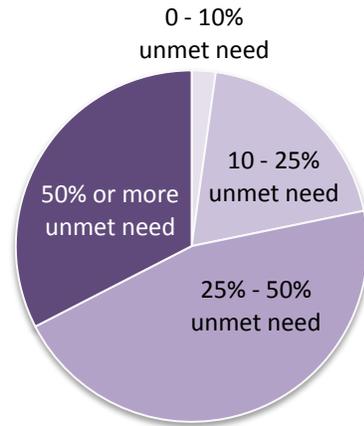
Hardship is far more paramount.

More clients, more demand for services but we are unable to offer the same level of service through access to specialists.

With all of the welfare reforms, too many to mention; add this to the council funding cuts, add this to the clients having more queries / problems (particularly clients with mental health issues) - the overall effect is more help needed, less help available.

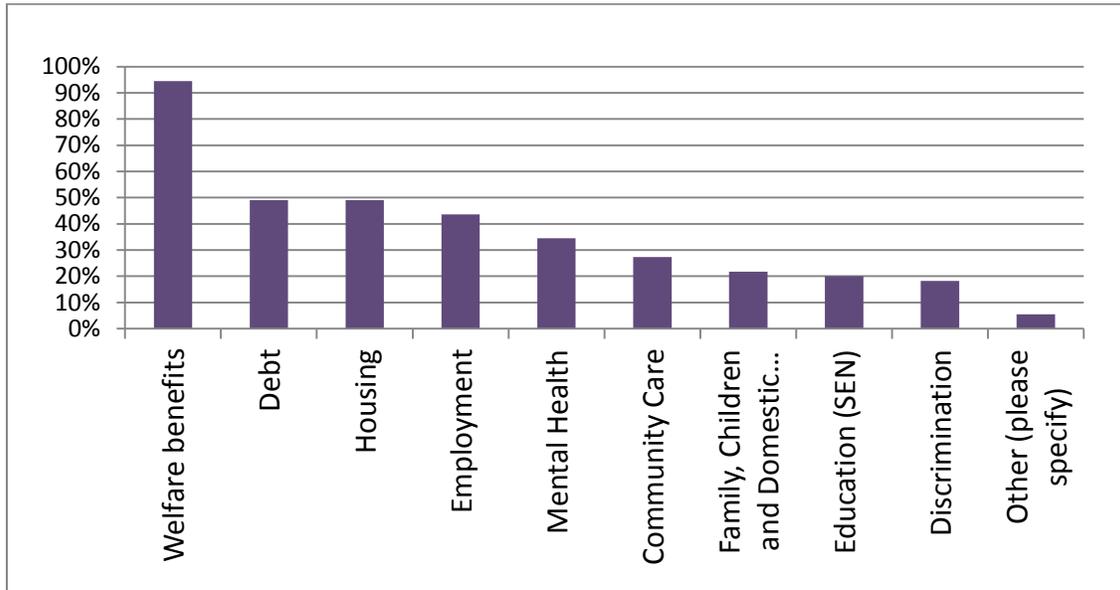
86% of respondents do not believe that all of the people in their area who need advice are able to get it. 78% believe that there are 'many more' people with unmet need for advice than there were six months ago. 33% of respondents feel that more than half of the local need for advice was unmet, and 79% believe that more than a quarter of the local need is unmet. Figure 2 illustrates the responses.

Figure 2: 'How much of the local need for advice services do you estimate was unmet in the last month?'



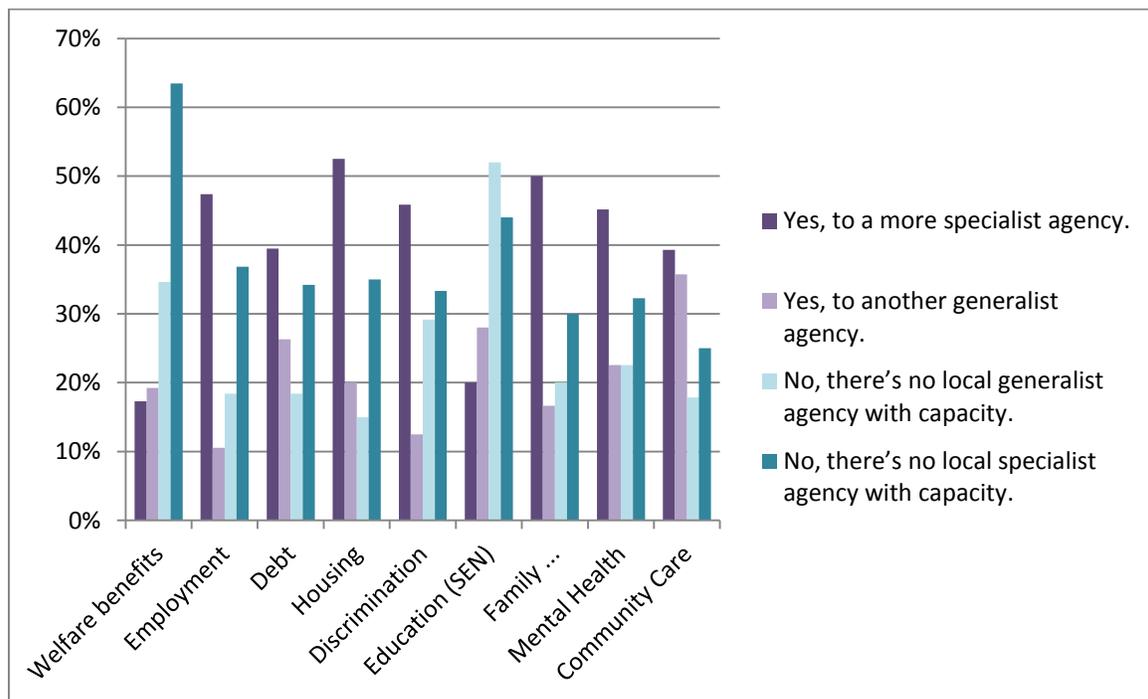
The area of advice where the most respondents perceive unmet need is for welfare benefits. 95% of respondents report unmet need in their area for welfare benefits, followed by debt and housing, each identified by 49% of respondents. Figure 3 shows the results.

Figure 3: 'In what areas do people need advice but can't access it?'



Where agencies are unable to assist clients, they report varied ability to refer clients, based upon the area of advice that is needed. There are few agencies with the capacity to accept referrals. As one agency put it, 'everyone is in the same boat.' Another agency had five potential agencies to which it could refer 6 months ago, but none now. As is illustrated in Figure 4, below, respondents were the most likely to report that there was neither a generalist nor a specialist agency to which they could refer clients in need of welfare benefit, special educational needs, and discrimination advice.

Figure 4: 'If someone needs advice, and you can't help them, do you have somewhere that you can refer them to?'



Agencies reported that it is too soon to know the extent of the impact of legal aid cuts. Matters that commenced before 1st April 2013 are still proceeding, and it will be six months at least before the full impact of the changes are reflected in numbers of clients served.

The full impact is yet to be felt in Liverpool. It will take a couple of months before the loss of experienced caseworkers starts to impact client waiting times. Provision of telephone advice will not help the majority of my clients.

Providing a lower level of service

The second reason why the impact of the cuts is not fully revealed by the numbers of clients served is that agencies now are only able to offer a lower level of service. Clients who would previously have been served by a specialist adviser are now seen by generalists. There is an increased reliance on self-help and education, rather than direct assistance with appeals and submissions to tribunal services.

As a specialist adviser I am not having direct contact with the clients who are coming into drop in to have their appeals lodged by volunteer advisers. Such clients are unable to be referred through to me for specialist advice and representation in their appeal due to the cuts. ... All other local agencies are in the same position and we have no other agencies to refer clients to for representation in their appeals.

No funding, no specialist advice. The equation is simple.

Simple – no funding no specialist legal advice and therefore no access to justice.

The inability to assist with appeals and/or submissions was a common theme. One agency reports that:

As a bureau we have decided that, from 1st April, we can no longer represent at tribunals or provide written submissions. We will continue cases opened prior to 1st April under the LSC [Legal Service Commission]⁹ contract through to their conclusion. We will not be providing welfare rights casework. We will provide information about the appeals process and will provide advice and assistance at different stages if required (for example, help to lodge the appeal, support in gathering evidence, advice on what to expect at the appeal, etc.) but the ownership of the case will remain with the client and the onus will be on them to contact us as and when they need further advice. We are producing simple self-help information booklets to assist clients appeal DLA [Disability Living Allowance], ESA [Employment and Support Allowance] or PIP [Personal Independence Payment] decisions.

Another agency handled over 1000 benefit appeals last year but is no longer able to take on appeals or do written submissions. A third agency reports that it can no longer attend hearings, but can still assist on a limited basis with written submissions, if the client has been able to independently fund the supporting medical evidence. The lack of funding to pay for medical evidence in support of claims is damaging clients' ability to appeal successfully.

Last year we were able to take on at least 28 (often more) new specialist welfare benefits cases per month and were able to offer tribunal representation to all clients. We made very few referrals. As a result of the loss of Legal Aid, we

⁹ Where respondents use acronyms, the full name is supplied on the first instance for information.

have only been able to take on 13 new cases since 1/4/13 and we have advised clients that in most cases, we will not be able to attend their tribunal with them to represent in person, we will only be able to prepare a written submission. Due to reduced capacity and redundancies, large numbers of client who require specialist advice and representation with Social Security appeals, have attended our drop in service and have been assisted with lodging their appeal by a volunteer adviser but we have had to turn them away and advise we cannot take on their case to represent them in their appeal. Clients are therefore unable to access the specialist advice they require and due to the withdrawal of legal aid funding to pay for medical evidence, many clients who would have won their appeals for ESA and DLA, when properly represented and with the benefit of medical evidence paid for via a Legal Aid disbursement, are likely to lose their appeals before a tribunal.

Cannot offer assistance with appeals now. Have to tell people about the process but many clients are scared and if they do not have support will not want to attend a hearing.

Clients unable to access representation for any benefit appeals due to legal aid cuts.

Waiting times have increased, with one agency reporting that average waiting times for debt specialist services have increased from three to five weeks.

Reductions in eligibility or scope

Agencies also report reducing eligibility for their services, hours or the scope of types of matters they can handle.

- An agency has decided to only specialise in domestic abuse, rather than welfare rights and fuel poverty.
- An agency reports that it used to serve clients from Merseyside but has had to restrict eligibility for services to clients from Liverpool only. Another has restricted its services to residents of particular postcodes within Liverpool.
- FAIR (Fazakerley Advice Service) closed down without notice as a result of the legal aid cuts. Other agencies are struggling to provide alternative representation for clients of this agency.
- LSAS lost 4.5 Welfare Benefits staff, 3.5 Debt staff and 2 Administrative staff as of 13th May 2013. These staff had been deployed to their partner CABx.
- Agencies report decreasing the number of days per week that they provide services. One agency has reduced from full time debt and housing advice provision to one day per week.
- Agencies report increased reliance on telephone advice, rather than face-to-face.
- Some agencies report an increased reliance on volunteers, or volunteers are providing a more specialist service than they have done previously.

Resulting inefficiencies

Respondents are frustrated that they are now no longer able to assist clients with early interventions. This results in matters escalating that might have been resolved, sometimes with increased costs. Moreover, the costs are being passed along to tribunals and courts, which will have to cope with underprepared parties representing themselves.

Less scope to advise clients. Unable to assist at early stages (early intervention) in housing, only scope to assist under legal aid once possession issued.

Client with HB [Housing Benefit] problems. Advised pro bono. Unable to claim for that work and we have limited staff due to redundancies. If we had left until was in scope (possession) would have been more detrimental to client.

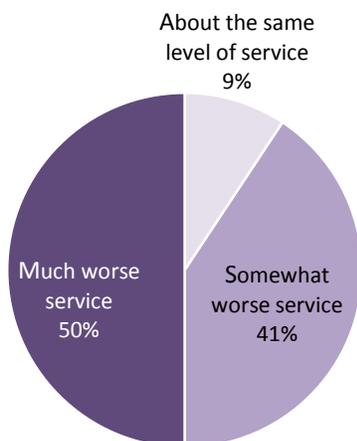
A client was bullied at work, which caused her to be ill. The client had no access to specialist advice and is now on long term sick, using up NHS and benefit resources.

As the Lord Chief Justice has already said, people will take the law into their own hands and any savings made from the removal of legal aid will be lost. In fact, all evidence shows removing legal aid will cost the taxpayer more.

Lower quality service

Respondents perceive that the lower level of service also results in a lower quality of service. Respondents report that, as a result of the legal aid cuts, they are only able to offer a lower quality service to what they previously provided. 91% of respondents report that they provide worse service, with half reporting that it is 'much worse service'.

Figure 5: 'Have the legal aid cuts affected the quality of the assistance that you are able to provide?'



Additionally, respondents report that they feel more pressured, trying to meet the needs of their clients. 98% of respondents feel pressured, and 84% say that it is worse than it was six months ago.

Alternatives

Some transition funds have been made available. However, it is targeted, rather than general funding. Agencies report unsuccessful attempts to identify alternate funding. Efforts are being made to streamline inter-agency referrals and to maximise current resources. Additionally, some agencies are exploring alternative funding mechanisms, such as setting up social enterprises that would allow them to charge for some services.

Conclusions

The legal aid reforms were predicted to have a very negative impact on the provision of advice services. The results of this study support this prediction. The reforms to welfare have created increased demand, and respondent advice workers are struggling to meet the 'ever-growing' need. Respondents report unmet need for advice services, particularly in the areas of welfare benefits advice, followed by debt and housing. Respondents report that there is nowhere to refer clients in need of welfare benefits, special educational needs, and discrimination advice.

Agencies are now only able to offer a lower level of service, using generalist advisers, rather than specialists. There is an increased reliance on self-help and education, rather than direct assistance with appeals and submissions to tribunal services. Respondents are no longer able to assist clients with early interventions, resulting in matters escalating. Respondents overwhelmingly report that this lower level of service is worse service than previously provided, with half reporting that it is 'much worse service'. Costs are being passed along to tribunals and courts, which will have to cope with parties representing themselves.

Agencies report reducing eligibility for their services, hours or the scope of types of matters they can handle. Efforts are being made to streamline inter-agency referrals. Some agencies are exploring alternative funding mechanisms that would allow them to charge for some services.

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Contact Details:

Charity Law & Policy Unit

University of Liverpool

jennifer.sigafos@liverpool.ac.uk

<http://www.liv.ac.uk/law/research/charity-law-and-policy/>