

VERIFICATION OF ELIGIBILITY FOR LEGAL AID: AN EXPLORATORY STUDY

Background

This research explored the views and experiences of people who had applied for advice & assistance (A&A) for a civil legal matter.

In 2010/11 the Scottish Legal Aid Board (the Board) received just over 90,000 intimations of civil A&A. The three most common case types were: contact/parentage (16% of intimations), state benefits and immigration/asylum (9% each).

Financial eligibility for A&A is based on finances in the 7 days prior to the application. It is verified by the solicitor (not the Board), although the Board will check benefits information with the Department for Work & Pensions. Applicants can be found ineligible for A&A on either capital or income (or both), eligible with a contribution (ranging from £7 to £135) or eligible without a contribution. Where there is a financial contribution this is paid to the solicitor, not the Board.

The Board was interested in finding out whether people experienced difficulty in providing

verification of financial eligibility, as well as exploring how people approached providing verification of their financial situation. A total of 26 people contributed to this research by sharing their experiences with us.

The work builds on the interviews with PDSO and CLAO solicitors undertaken in December 2010.

Aims and objectives

The research was designed to help:

- Identify what people recall of the process of admittance to civil advice & assistance (A&A) with particular reference to when they were informed about the need to provide financial documentation;
- Explore whether people felt they had problems providing information, and what these were;
- Identify how people overcame any barriers to providing verification.

Some interviews also covered more general applicant experiences around applying for legal

assistance. For instance, how they went about finding a solicitor and their perceptions of the overall experience.

Methodology

A variety of methods were used to get feedback from applicants. These were:

- face to face semi-structured interviews;
- telephone structured interviews;
- online & paper surveys.

We used our applications database to identify details of 1,585 intimations of civil advice & assistance between October 2010 and March 2011. Given that we were planning face to face interviews, it was decided to focus on those with an address within the Edinburgh (EH) postcode area.

There were a number of other exclusions. Those aged under 17, those who gave a 'correspondence address' (eg c/o solicitor), those where there had been an intimation from more than one person in the same household about the same case, those where there was an intimation from the same person more than once in the timeframe and those where the solicitor was the (Board funded) Civil Legal Assistance Office (CLAO). The CLAO solicitor view had been collected in a separate piece of research, and another Board research project, including interviews with CLAO clients, was being planned.

Telephone details were obtained for 53 of the remaining records, for the purpose of making initial contact by telephone. This was done in the first 2 weeks of June 2011. The purpose of the initial contact was to arrange a face to face interview or, failing that, a telephone interview. Up to 3 attempts (where necessary) were made to contact each person, and a total of 15 contacts were achieved. Five of the interviews came from this sample.

Another round of contact took place in mid-June 2011, using data from 3rd January - 31st March 2011 and including only City of Edinburgh postcodes. This sample of 376 applicants for civil A&A was written to in mid-June 2011, asking if they would be interested in taking part in research. They were given the option to select either 'face to face interview', 'telephone interview' or 'online survey'. From this, 29 people

responded indicating they would like to provide views. These people were then contacted by telephone to arrange face to face / telephone interviews, by email with a link to an online survey or were sent a postal survey. 21 of the interviews / responses came from this sample.

Only one of the people that we spoke to had been assessed with a financial contribution for their A&A. A number of people mentioned having subsequently applied for civil legal aid (or planning to do so). One person we spoke to had been unsuccessful in this and had given up.

The types of legal issue which people had applied for A&A to help them resolve were: divorce or separation (5), contact (3), immigration (3), employment (2), family (2), will (2), Children (Scotland) Act (2), benefits, debt or reparation, Judicial Review, guardianship, medical negligence, proceeds of crime & 'other family' (1 each).

Face to face interviews.

Three face to face interviews were held. Five were originally arranged; one respondent did not turn up, the other told us she had changed her mind about coming in. All interviewees were female.

The face to face interviews followed a semi structured topic guide which covered various issues around the time leading up to and including the A&A meeting with the solicitor. The guide also allowed interviewees to expand where they wished on the topics and concentrate on certain aspects of their experience.

All the interviews took place at the Board's headquarters in Edinburgh.

Telephone interviews.

Sixteen telephone interviews (plus one brief discussion of financial issues) were also carried out. Of these, 12 respondents were female and 5 were male.

The topic guide for the telephone interviews was a condensed version of that used for the face to face interviews, although covering the same range of topics. This reflected the expectation individuals would not be prepared to speak for so long on the telephone as they would face to face.

Online / paper surveys.

Six people requested a link to an online survey, and 5 completed it. Where respondents indicated they could not read English the online survey was translated (2 into Mandarin and one into Bengali). These were sent in the form of a paper survey; one was returned.

The online and paper surveys were based on the telephone interview guide.

Table 1 below shows the numbers of responses by gender, age category and response type.

Table 1: Responses by method, gender & age category.

	Face to face		Tel		Online		Post		Total	
	F	M	F	M	F	M	F	M	F	M
18 -24	0	0	0	0	1	0	0	0	1	0
25 -34	0	0	5	0	0	0	0	0	5	0
35 -49	1	0	4	3	1	0	0	0	6	3
50 -64	1	0	1	2	2	1	0	0	4	3
65+	1	0	2	0	0	0	0	0	3	0
d/k	0	0	0	0	0	0	0	1	0	1
Total	3	0	12	5	4	1	0	1	19	7

Findings

The following describes some of the key things that we were told regarding verification of financial eligibility for civil advice & assistance.

Sources of guidance

Respondents who were asked to bring financial information mostly reported being asked before or at the first meeting.

Being advised beforehand enables people to bring the relevant documentation to their first meeting. One interviewee was told by a receptionist when making her appointment that she would have to bring proof of finances. Because she was told this at this stage, she was able to bring financial verification to her first meeting with the solicitor. As she explained; *“it wasn’t a hassle. Although I didn’t have anything myself at home, because I usually read them, then shred them. I went to the Job Centre and they gave something”*. Another interviewee mentioned being able to get

replacement documentation from the DWP, and that this took a few days.

Although respondents were not always able to recollect exactly when, being asked for proof of finances at the first meeting seems to have been a relatively common experience. One person told us *“before I left [after the first meeting] I booked another appointment”*. At this point the solicitor asked for details of benefits (the interviewee had already provided verbal information on her financial situation). This was also reported by those who had spoken to someone from the solicitors’ office before the first meeting. They recollected being asked to bring details about the legal problem to the first meeting, but not financial documentation.

Client experiences - income

Most of the people we spoke to found it fairly easy to bring in documentation verifying their income.

Those who had legal aid before seemed to be aware of the verification procedure: *“I’d had legal aid before so I keep it [proof of finances] handy”, “I knew already that I needed to do that [provide verification] for legal aid”*. There was also an example of good practice by the solicitor, with one interviewee noting that he was asked to bring proof of income and savings to his meeting with the solicitor who *“I’ve had for 30 years”*. However one respondent was clear that she had not been asked to bring verification of finances to her first meeting with the solicitor, or subsequently.

One respondent, who had not applied for legal aid in Scotland before, did not recall being asked to bring verification to her first meeting but brought bank statements, benefits information and identification anyway. She had worked as an office manager and had learnt by experience to be organised.

Not all of those who found it easy to bring verification of income were so organised. One interviewee, who told us he had a bad memory after many years of alcohol abuse, had no problems providing details of his benefits to his solicitor. Although he had not brought paperwork (and indicated that he did not have any) he was able to provide personal and benefits details

verbally¹, and recalled being given legal aid papers to sign. Familiarity with legal aid over 30 years (*"I've always had legal aid"*), only having benefits income, and no savings probably made his financial situation relatively straightforward.

Respondents mentioned getting proof of finances from an ATM. One respondent noted having to go to a friend to get a printed statement from her online bank.

However not all people had documentation available; when asked how easy it was to get proof of income the respondent to the paper survey selected the option *"impossible - I do not have this"*.

Client experiences - capital

Compared to income, people spoke less about experiences providing verification of capital. This may have been because they had little or none. A single bank statement was often used to verify both income and capital; as one person told us *"my bank statement also covers capital; I don't have much"*.

A few respondents (including those who remembered bringing verification of income) did not recall ever being asked *specifically* about their capital or savings: *"I've never been asked - but I don't have a lot anyway"*.

When asked how easy they found it to access proof of savings two respondents to the online survey thought it was 'fairly easy - I spent some time but I was able to get hold of it'. This again emphasises the need for advance notice, to allow people time to gather proof of finances.

It was not uncommon for people to say that they had no savings, and therefore no paperwork. People remembered signing 'legal aid' papers; one specifically recalled signing the form to say he had no capital.

Understanding the process

People felt that they understood legal aid reasonably well. One interviewee was pleased to find out from her solicitor that she was eligible for legal aid. She had previously spoken to friends in

England with similar issues and been told that she would probably not be.

However people may feel they have more knowledge than they actually do; one person whose case involved sale of a property said, when asked at interview, that she 'had not heard' of clawback. We were given other instances where understanding of things such as clawback and the contribution was confused. A telephone interviewee described how a previous solicitor had provided misinformation, but that clawback has now been explained to him by the Scottish Legal Aid Board and that he feels he understands it.

The people we spoke to were generally clear about why they were being asked to provide financial evidence, even where they were of limited means. One face to face interviewee told us *"it's really annoying that ... how could I be asked if I have savings when people know I am not working? But if it's on the form then I think it needs to be asked [...] I think people, even working, they can get legal aid, so that's why those questions are there"*.

However, amongst those who had gone on to apply for full civil legal aid, more than one person was confused at being asked for means evidence for both A&A and full civil legal aid within a short space of time. One person told us: *"I have provided bank statements twice, which I did not understand. I wrote and asked if there had been a mistake"*. The eligibility tests for A&A and full civil legal aid require different evidence, since civil legal aid eligibility is calculated on a longer time period. However the reason for asking for similar items of paperwork in a short space of time was clearly not clarified in this case, leading to the applicant wondering if something had gone wrong.

In many cases their most recent A&A was seen as part of an on-going response to a justiciable problem (eg divorce and on-going custody issues). People sometimes found it hard to focus solely on their most recent experience of A&A. When discussing the provision of financial information, it is likely that some people were providing documentation to cover both A&A and civil legal aid, at the same time.

Other issues

¹ These would allow checks with the Department for Work & Pensions.

We asked whether people had had worries about how they would pay for a solicitor, before they spoke to their solicitor. Those who had previously used legal aid were unlikely to have been worried about cost; although initial fears about only being able to get legal aid once were mentioned. Those without experience of legal aid were more likely to mention having been worried: *“it was on my mind as to how I would pay”*.

Two female respondents spontaneously mentioned preferring to have a female solicitor. This was not something that respondents were asked about directly, although in the face to face and telephone interviews we explored how they went about finding their solicitor.

A number of interviewees reported some difficulty in accessing a solicitor. The level of difficulty varied, for instance one person phoned a legal aid solicitor but was told he would have to wait a month for an appointment. He had no problem with the next solicitor, going to a firm who he knew did criminal work and checking the sign to see that it also did civil. He was then able to go in and get an appointment with no difficulty. More than one person mentioned having to ‘ring round’ to find a solicitor to take on their case, getting recommendations from firms, or other contacts, as to who they should try next.

Once they had found a solicitor, only one interviewee reported difficulties in accessing the solicitor as an on-going concern. She explained that getting time with the solicitor is *“very difficult”* and *“not at the right time”*. She also explained that it was hard to leave messages, and when she did she was *“not certain that these are passed on or read”*.

There were very many positive comments about solicitors, and the work done under legal aid. One interviewee had initially been concerned about the quality of service she would get from a legal aid solicitor; her experiences changed this perception: *“my solicitor has been great!”*.

However not all interviewees felt that the support they received from solicitors matched their expectations. In relation to an earlier experience (of an on-going case) one interviewee noted *“I didn’t know anything about solicitors and thought ... the solicitor would tell me what to do but she just waited for my instruction”*.

Three interviewees who had a background of domestic abuse or mental health problems mentioned how these situations impacted on their experiences of getting help.

Conclusions

The applicants for civil A&A that we spoke to did not appear to have any major problems in providing financial verification. In many cases it was clearly easy for them to get hold of something suitable. In other instances it may be that the solicitor did not push them for something that was difficult to provide, but may have used other methods of getting confirmation. Generally the feedback from the people we spoke to suggests that solicitors, and frontline staff, are asking people for the documentation that is needed to assess eligibility.

The suggestion by some interviewees that they were not asked to bring financial documentation to their first meeting shows that this could be an area for ensuring good practice is followed. We did not explicitly explore differences in outcome between those who did and did not bring documentation to their first meeting. However, by not ensuring eligibility at the first meeting solicitors risk the client not returning with proof.

Next Steps

These findings have already been reviewed by the Board. They have contributed to our knowledge of applicant experiences in this area, and will support our future communications and guidance on verification.

This project was an exploration of research with applicants. We explored a variety of different methods, and this will contribute to future research projects.

Further information

This research briefing is available on our website at:

http://www.slab.org.uk/about_us/research

If you would like further information about this project please contact Jo Garrett, Research Unit, Tel: 0131 240 2042 or email: garrettjo@slab.org.uk.

Further information about civil advice & assistance and civil legal aid (including eligibility)

is available on our website:

<http://www.slab.org.uk>



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