



‘A Steep Learning Curve’

*Review And Rapid Priority Setting Exercise Of Civil Legal Aid
For Cases Of Domestic Abuse In Northern Ireland.*

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INTRODUCTION

Background

Domestic abuse is defined in Northern Ireland as ‘threatening, controlling, coercive behaviour, violence or abuse (psychological, virtual, physical, verbal, sexual, financial or emotional) inflicted on anyone (irrespective of age, ethnicity, religion, gender, gender identity, sexual orientation or any form of disability) by a current or former intimate partner or family member’ (Department of Health, Social Services and Public Safety and Department of Justice, 2016 p. 2). It is a form of abuse that can ‘occur in any relationship and its destructive impact can have far-reaching physical, emotional and mental implications for victims and those closest to them’ (Criminal Justice Inspection Northern Ireland, 2019). While once consigned to a private issue, domestic abuse is now recognized as a major human rights concern, with a range of supranational bodies responding to the issue (see e.g. European Convention on Human Rights; Istanbul Convention 2011; European Union Directive 2024).

In Northern Ireland, prior to 2022, domestic abuse was limited to violent or physical behaviour and prosecuted under a range of offences (Department of Health, Social Services and Public Safety and Department of Justice, 2023, p. 14). On 21 February 2022, the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 came into effect, creating a new, specific offence of coercive control. The updated legislation was a significant step forward in acknowledging the patterned and repetitive nature of domestic abuse incidents within relationships, and the related enduring harms faced by victims and often, their children: harms obscured by the ‘violent incident model’ approach traditionally dominating responses to domestic abuse (Gelles, 1997).

As a consequence of the multifaceted nature of domestic violence and abuse, legal remedies cut across criminal, civil and family court systems and victims/ survivors have to navigate this complex legal terrain (Burton, 2008; Robinson, 2007). While legal remedies are among some of the most important protective and deterrent efforts which can support victims/ survivors and their children (Public Prosecution Service, 2024, p. 8), this is only true when they can be accessed and implemented effectively. Within this context, access to civil legal aid has been identified as a ‘life-saving resource that secures access to justice and safety from violence’ (Rights of Women, 2013). The aim of this report is to capture the lived experience of those seeking civil legal aid following domestic

abuse in Northern Ireland within the context of the Department of Justice's broader review of civil legal aid.

Nature, Prevalence and Complexity

Domestic abuse is a pervasive harm across Northern Ireland. While underreporting is a common challenge (Department of Health, Social Services and Public Safety and Department of Justice, 2016, p. 22), Police Service of Northern Ireland (PSNI) statistics for the period between April 2023 and March 2024, recorded over 32,000 domestic abuse incidents, yet '[N]ot all domestic abuse incidents will result in the recording of a crime, as what has occurred in the incident may not be of the level of severity that would result in a crime being recorded' (PSNI, 2024, p.4). During this reporting period, 19,954 domestic abuse crimes were recorded, including criminal damage, theft, sexual offences and breach of a non-molestation order. Research has found that women are disproportionately the victims of domestic abuse, but that it is an issue that can affect all genders (WHO, 2024; Hester, 2013; McGlinchey, Spikol & Armour, 2020). For instance, in the 12 months to the end of September 2022, 68% of domestic abuse victims recorded by the PSNI were female, while 32% were male, and 83% of offenders were male while 15% were female. Within this context, 1 in 4 lesbian and bisexual women and 4 in 10 gay and bisexual men experienced domestic abuse (Department of Health, Social Services and Public Safety and Department of Justice, 2023, p. 15).

Domestic abuse tactics are often varied and can be unique to each relationship (Devaney, et al. 2021), resulting in a range of serious physical and psychological harms including injuries, poor reproductive health, depression and anxiety (Doyle & McWilliams, 2019). The consequences of domestic abuse can extend to other family members and children who are exposed to it, with severe and lasting psychological effects (Doyle & McWilliams, 2019; Ho, 2022). While some research concerning statutory responses to domestic abuse in Northern Ireland has been positive (Doyle & McWilliams, 2018), the failure of statutory agencies to take emotional/psychological violence seriously has been noted (Lagdon, Armour, & Stringer, 2015; Doyle & McWilliams, 2018) and a range of challenges associated with the ability of statutory agencies to correctly identify domestic abuse under its new coercive control formulation have been

highlighted (Killean, 2020; Bettinson & McQuigg, 2024). Further to this, Northern Ireland has been identified as a conservative and patriarchal society wherein domestic abuse may become normalized (Doyle & McWilliams, 2019), and empirical research into public understandings of coercive control found that a significant number of respondents were not aware of the term and therefore unlikely to recognise the signs of this type of abuse (Lagdon, et al. 2023). The recognition of domestic abuse is further complicated by wider gender norms and heterosexual assumptions that represent unique challenges for male victims and those from the LGBTQ+ community (Brown, 2008; McGlinchey, Spikol & Armour, 2020).

Determining the harm caused and navigating the law in relation to such varied harm can therefore be complex and usually requires legal expertise to ensure appropriate support, protection and prosecution. Such a pursuit can be costly and thus not easily accessible to those most in need. Civil legal aid and advice is a government funded service aimed at providing legal advice and aid in civil cases to individuals who might be unable to afford to pay for such expertise and support themselves; access to such support is therefore means tested. While in theory, the concept of legal aid presents as a pragmatic solution for access to justice, the reality of this has been contested (Lee & Backes, 2018; Domestic Abuse Commissioner, 2024). Navigating the administrative requirements to access legal aid can be, and is, burdensome to those who are already facing significant distress as a result of their domestic abuse experiences (Rights of Women, 2024). Indeed, the difficulties associated with evidencing domestic abuse as part of the application for legal aid, as well as the way the system interacts with a recipient's social security and/or immigration status, have been highlighted as particularly traumatic (Rights of Women, 2015; Rights of Women, 2024; Domestic Abuse Commissioner, 2024). The complex and intertwined nature of an individual's finances within the context of their personal relationships can also act as a barrier to accessing legal aid, prolonging and exacerbating their precarious financial situation (Robinson, 2007)

Moreover, the fragmented, and at times conflicting, nature of civil and criminal justice systems can negatively impact a victim's/ survivor's access to, and experience of, justice (Robinson, 2007). Within this context, a lack of expertise and experience on the part of the legal profession has been identified (see e.g., Domestic Abuse Commissioner,

2024), particularly in respect of those seeking help from rural areas (Rights of Women, 2015; Uygur & Skinnider, 2022), as well as a perceived hierarchy of representation, with those in receipt of legal aid at the bottom. The way domestic abuse survivors encounter civil legal aid can thus amount to a form of 'secondary victimisation' (Laing, 2017) acting as a justice deterrent among survivors, who therefore will remain at risk of harm if legal intervention is not pursued (Rights of Women, 2024).

Report Aims

The objective of the current research report was to capture the voices and perspectives of those seeking civil legal aid following domestic abuse. This exercise was conducted in the context of the Department of Justice's (DoJ) review of civil legal aid in Northern Ireland. While the DoJ implemented a large-scale public survey to allow for public feedback that will support future reform and delivery of civil legal aid provision, it is recognised that those who experience domestic abuse are often faced with additional complexities in this process, including safety concerns. The main aim of the current review is to support and add to the feedback garnered from the DoJ call for evidence, through a Rapid Priority Setting Exercise with women and men who have received civil legal aid following a domestic abuse incident(s).

METHODOLOGY

The current project adopted a qualitative design with the objective of rapid priority setting with relevant stakeholders. This was achieved via a blend of focus group interviews and facilitated workshop dialogue to support end-user feedback. While there is no formalised priority-setting approach (O'Connor et al., 2022), the team endeavoured to follow a formal process of procedures to ensure meaningful and ethical conduct.

Recruitment and Participants

Participants were selected through purposive sampling, choosing individuals on the basis that they hold knowledge or a clear opinion that relates directly to the research questions (Patton, 2002) thus ideally can generate vast amounts of insight and understanding of the area of interest. All potential participants were required to be over the age of 18 years and have experience with civil legal aid related to a domestic abuse incident(s). Information about the study was shared with relevant support organisations who then passed this on to relevant beneficiaries who might be interested in taking part. This included the study information sheet and consent form which was to be completed and returned to the research team before interviews would take place. Each participant was provided with a £50 shopping voucher as a way of thanking them for their time and acknowledgement of the cost of taking part in research (e.g. time out of usual activities, childcare etc.).

A total of 13 individuals took part in the focused interviews, this included 8 women and 5 men. The majority of participants ($n = 11$) were born in Northern Ireland and lived across Northern Irish regions including Antrim (38.5%), Armagh (7.7%), Down (23.1%) or Derry/ Londonderry (30.8%). Participants were aged between 37 – 66 years old and on average had 2-3 children. Participants reported a range of educational backgrounds and financial circumstances with some working either full-time (23.1%), part-time (23.1%) studying (7.7%), not in employment (7.7%) or not in employment linked to caring responsibilities (38.5%); 38.5% of participants also reported as having a disability. Participants had accessed civil legal aid across a number of years, ranging from as early as 2010 right to the current day. Over 76% had accessed civil legal aid in the past 5 years.

Study Materials:

Prior to meeting with the researchers, participants were asked to complete a short survey to help gather demographic and contextual information (e.g., gender, age, sexual orientation, family context, job role etc.). Interview questions remained broad and open-ended with a clear focus on civil legal aid experience. All interviews were recorded using a digital device and later transcribed for analysis purposes.

Procedure:

Both in-person and online focus group interviews were held to further explore the experience of civil legal aid in Northern Ireland and set priorities for future reform of the scheme. The research team followed a number of steps to achieve this.

Step 1: The research team met with the Department of Justice (DoJ) team managing the call for evidence survey as well as the Commissioner for Victims of Crime team to consider survey insights including topic uncertainties that had been identified and further areas for exploration with end-user representatives. This initial step helped to focus the interview questions on the lived experience of those who had used civil legal aid services as well as supporting a realistic time management plan for the project and related outcomes. Following this step, the research team moved forward with the project design and submission of an ethics application to the Ulster University Psychology Ethics Committee.

Step 2: Following ethical approval, the research team worked with the CVSNI team to circulate an expression of interest email and participant information sheet to relevant organisations (e.g., Assist NI, Women's Aid and Men's Alliance Project) to share with organisational beneficiaries who might wish to take part. Of note, the focus groups were split based on gender to counter potential sensitivities regarding positionality on this issue.

Step 3: Two separate focus groups were held with study participants as well as one individual interview. One focus group was held in person at the Ulster University Belfast campus, while the other focus group and interview took place online. The flexibility of engagement with participants was incorporated in order to support involvement with the research. Prior to meeting with the researcher(s), participants were provided with an overview of the interview process including further details about what

to expect (including time commitment reminder). When participants arrived (or joined the researchers online), the aims and focus of the group discussion/ interview was further reiterated as well as the voluntary nature of participation. Once everyone had agreed to proceed, the researcher(s) started a recording device and invited responses to the first question from the semi-structured interview schedule.

Group discussions ranged from 1 -3 hours. The in-person group discussion tended to last slightly longer as tea/ coffee breaks and lunch were incorporated into the day. Following the recorded interview, each participant was asked to write down/ consider the things they felt would improve civil legal aid in the future. The researchers then also presented the DoJ's previously identified priority areas from the larger survey and asked participants to order these numerically in terms of importance for addressing in the future.

Analysis:

The team implemented a rapid qualitative analysis that included a thematic approach to the interpretation of interview discussions and priority-setting exercise. The thematic approach was used to identify codes, categories, and themes (Braun & Clarke, 2013) across all interview data. Reliability was ensured by having a sample of the transcription and analysis independently reviewed by an additional member of the research team not involved in the initial analysis. All findings and interpretations were discussed and consolidated. Of note, interview recordings were shared for transcription via One Drive (as per university guidance for data management) with a University supplier with whom the team have worked on sensitive research for many years.

Ethical Considerations:

The proposed project presented some ethical considerations. Firstly, there is 'sensitivity' to consider regarding study participants given their engagement with civil legal aid following domestic abuse incident(s). The purpose of discussions with participants was not focused on their lived experience of domestic abuse, rather a clear focus was placed on civil legal aid process. Any personal experience shared was voluntary from participants themselves who were reminded that they could discuss as much or as little as they wished.

All participants were provided with a study information sheet and consent form prior to any form of research participation and invited to follow up with the research team if they had any questions. Limits to confidentiality were clearly stated within the interview information sheet and reporting obligations were explained before the interview commenced (e.g., if the information shared suggests risk to the person or someone else). All potential participants were also required to provide consent before taking part.

Participation will remain confidential and no identifying information about participants will be shared in any publication of information. Any personal information shared with the research team has been stored on a password protected device and will not be matched to interview transcripts. Transcripts have been anonymised and any identifying information redacted before analysis.

Annotated Bibliography Method:

In addition to the primary data collection as described above, the research team conducted a literature review of research regarding legal aid, with an initial focus on international examples of legal aid systems and challenges associated with civil legal aid more broadly. This scope was then narrowed, with specific focus being placed on literature specific to survivors of domestic violence and abuse, in addition to challenges associated with civil legal aid salient to this population. Relevant literature was then compiled into an annotated bibliography (see Appendix 1.), and key findings from the research were organised into overarching themes.

RESULTS

This next section will focus on the key insights gained from the thematic analysis of interview data. While women and men were interviewed separately, themes and sub-themes to be discussed reflect the common expressions and patterns of responses from across all interviews. Any differences in commentary linked to a gendered position will be noted as such. From the thematic analysis, four major themes and subsequent subthemes were identified, these included (1) Just Sign The Form: Understanding and Access To Civil Legal Aid, (2) The Bare Minimum – Civil Legal Aid as a Barrier to Justice and Support, (3) Surviving the System – Distress and In-Justice, and (4) A Better Way – Civil Legal Aid and Wider Justice Reform. The remainder of this section will discuss each theme in turn and support meaning with quotes from interviewees.

Just Sign The Form: Understanding and Access To Civil Legal Aid

The current theme and related subthemes explore the interviewees initial engagement and access to civil legal aid, including notable barriers which made this process more difficult. These included issues of meeting and maintaining the financial threshold, navigating different practices and procedures from solicitors and facing blocks in demonstrating their victim status, particularly when cases involved non-physical abuse including coercive control.

Understanding Civil Legal Aid

At the beginning of the discussions, the researcher asked what interviewees had understood or knew about civil legal aid when they accessed this service. The majority reported that they knew '*Nothing*' and that it was "*a steep learning curve in terms of trying to figure out that information*". Those who had any insight described it as "*If you're not working you can get free legal representation...*" but as later theme exploration will demonstrate, such limited insight resulted in many feeling underprepared, blindsided and let down.

The researcher also asked about experience and insight offered about civil legal aid from legal staff. Often the process was treated as a tick box exercise with the majority being told to 'just sign the form';

“I think my experience was, just sign these forms and the office will deal with it. Aye. No information given. No knowledge of anything given. Just sign the form, away you go”

“When I instructed the solicitor at the start, they shoved the form in front of my face and goes, sign that.”

Interviewees shared that for most, entering the justice system and needing legal aid is a first and therefore *“...the ins and outs and workings of legal aid wasn’t a priority at that time”*.

“you never know about anything until you go into it. I didn’t know anything about Family Law and Family Court until you’re referred there, and suddenly you spend all your time. It’s the same, like when you go to first meet your solicitor, you know nothing. I didn’t know it was a thing.”

Indeed, clients are heavily relying on the expert legal advisor to guide them; *“you know, you’re trusting your solicitor very much”*. Limited communication regarding civil legal aid eligibility can leave individuals feeling worried about their next steps. As one respondent stated *“... just the stress of not knowing whether it was going to be covered or not covered”* on top of everything else.

Barriers to Civil Legal Aid – Meeting/Maintaining the Financial Threshold

Interviewees were asked what they perceived to be some of the greatest barriers to legal aid access. One of the most commonly discussed barriers was related to meeting and maintaining the financial thresholds required. Some felt it was *“like you were being punished for being employed...”* and that *“Quite often your reason for being turned down isn’t well explained.”* Some individuals gave examples of occasions where they did not qualify for legal aid, but they also couldn’t afford the legal support *“even though I was on minimum wage...”*. Many were also caught unaware when they learned that *“if your income increases you have to start paying”* which resulted in accrued debt or making tough decisions to leave employment just so that legal support could and would be retained. *“It all depends on the money, essentially.”*

“And unknown to myself, at a certain point, I ended up running up quite large debts, with the assumption that I was on legal aid, this was going to be covered for me.”

No Standard Administration Practice

During the women's focus group, interviewees also shared their experiences of trying to access legal aid while facing barriers linked to the different practices and procedures from solicitors; *"Everybody kind of has different fees and different outcomes"*. Some solicitors are not making clients aware of legal aid or not exploring eligibility from the outset;

"...well I've had two different solicitors. The first one made me aware of it, but didn't apply for it until I later asked about it a couple of months in. And at that point she told me about it and then gave me a bill for the first bit that she hadn't told me about."

"When I first went to my solicitor, I was told I wouldn't qualify for legal aid. So I paid ... well, when I went back to the solicitor, there was police involved and whatnot. I was told, oh we'll check, we'll probably put you through legal aid this time. And I was like, oh but I didn't get it the last time. But I didn't know what... what that all meant or what checks had been done, because nothing had been put to me".

Wider understanding of coercive control

The reality for many is that deciding to access civil legal aid, particularly when there is domestic abuse involved, can be complex when the harm caused is not always clearly visible. During the women's focus group, some shared the barriers they faced in telling and showing others what had happened and why legal support was needed;

"... if he'd have just broken a few bones, that I had enough photos that I could post, that everybody around me could go, God, that was wild!..."

"Like I know loads of women who would love to speak out, but they are absolutely terrified of even saying that they're in family court"

"... it's hard for me to accept it. It was hard for me to accept it, or realise it as it was happening that it's wrong. So I think for people that don't live it, it's incredibly hard for them to accept. Or know it. Or see the signs. Or understand..."

The Bare Minimum – Civil Legal Aid as a Barrier to Justice and Support

This theme outlines interviewees' experience with solicitors regarding civil legal aid and their case more broadly. This was often reported as a poor experience that left interviewees with a sense of injustice and nowhere to share their concerns.

The nature and types of support

During discussions with interviewees, the researchers asked about the nature and types of support they received from their solicitor, many felt that *“...solicitors don't want to take you on if you're on legal aid and there's domestic abuse”*. Some individuals shared how their cases had been ‘dropped’ and therefore self-litigating was required and lots of ringing *“... round for more legal advice, getting second opinions, third opinions”*. Others found themselves writing their own position papers for the court and having never *“ever met a barrister.”*

“But it was just awful... every time I went to court it was a different barrister. I didn't feel anybody really had a grasp on my story and held it all sort of together”

Interviewees shared how the nature of their case and the civil legal aid component often resulted in them being *“fobbed off”* or *“constantly having to chase my solicitors.”* This was, of course, a letdown and disillusion of trust;

“And you also trust. Whenever you first go in, you be like, I trust that solicitor. You are... this is what you went to university to do. I trust that you know the best course of action to take for me and my case. And it's not like that.”

The general consensus was that availing of civil legal aid would result in the bare minimum and less commitment and effort from solicitors who are not always acting in the best interest of their legally aided client:

“But there's always that sort of impression that, half the money, half the effort, or half the desire. I think, when you're working on legal aid cases, because they're getting paid less they're very tight on time with you”

“because my case was legally aided, funded... they tended to sort of drag their heels a wee bit. They weren't expeditious in dealing with situations that arose”

“... it very much seemed that way; that the solicitor wanted this settled, out the door, take your two days every fourteen and be thankful you're getting it, and let's get this over and done with”.

However, while many shared poor experiences, some did report that they *“have a really good relationship with my solicitor, she's been really supportive of everything I've done as well”*. It seems that finding ‘good’ representation is somewhat of a lucky dip,

identifying “*what solicitor is following the rules!*”. This in itself is “*a second battle that you were having to fight on top of everything else.*” Indeed, “*even if you do have a good barrister and a good solicitor, the system is a pigeonhole.*”

Injustice

Perhaps unsurprising given initial experiences with legal staff, interviewees were left feeling that solicitors “*do not care if they’re destroying lives.*” Entering the wider justice system was also just as jarring whereby it was felt that “*possessions get given more respect within court than us as human beings.*” It was also felt that cases involving domestic abuse and wider family disputes were not always dealt with appropriately and that “*it’s all made up before you even get into the courtroom. They have it all decided beforehand.*” The client’s voice is often not heard, “*they are not paying attention.*” As one individual noted, “*stupidly I went in thinking, we will get justice!*”

Don’t want to ‘ruffle feathers’: Nowhere to complain

While interviewees were left feeling let down and treated with contempt, they also worried about raising a complaint regarding this experience, “*I certainly wasn’t wanting to push anything. I was happy to take the least and the quickest, without ruffling any feathers.*” Many worried about the consequences of raising a complaint as “*We have such a small [legal] community,*” “*You go to put in a complaint, it’s going straight to the judiciary. So they kind of try and like... sweep it under the carpet. There’s nobody to complain to.*”

“...I was told, if you want to change your solicitor, you have to get up in court and tell them why you want to change. Tell the solicitor what they’ve let you down on. And then what other solicitor is going to take you on when you’ve taken your other solicitor to court to complain about them? So I had to just put up and shut up. Again, really.”

Discouragement from solicitors themselves was also evident when concerns were raised;

“I’ve tried to complain to our judges and everything, like. I’ve gone and I’ve been told to stop that too, by my... second solicitor was all, don’t be complaining about a judge. They’re looking after your case and you need to just shut up and sit down!”

Such caution and fear of retaliation left individuals feeling that *“there’s no door you can knock. That’s it. There’s no door that you can knock, never mind talk to. That’s where it ends.”* Many women, in particular, felt that *“That’s what they’re banking on, the fact that we’re just women. We are only mummies. We are ... you know, we are small compared to anyone else. So there’s no door to knock”*.

Surviving the System – Distress and In-Justice

This theme and related subthemes offer insight into wider system challenges faced by interviewees. This included unanticipated financial costs after civil legal aid had been granted and the perpetuated abuse faced when progressing through the justice system. Interviewees report a lack of support and understanding during this process but that safeguarding their children has become their primary motivation to continue.

The Hidden Costs of Civil Legal Aid

As previously noted, meeting and maintaining financial thresholds to access civil legal aid was considered a significant barrier to justice. However, even when individuals have been awarded legal aid, there remained *“a constant worry”* that circumstances would change, and legal aid would no longer be available;

“I was actually in fear of getting a bonus or getting any additional financial gains from my job, because I knew, OK, this is going to disqualify me from legal aid.”

“So it was going through and not knowing what my bill was going to be at the end of this process”

The uncertainty regarding financial support meant that many made difficult decisions to leave employment or live a smaller life just so they could ensure they could ‘defend themselves’;

“...and you were very, very conscious that ... you were conscious that you didn’t go over whatever. You didn’t know what the threshold was, but you were trying to keep yourself on minimum wage at all time”

“guys are put in the position where they actually leave work, to actually qualify for legal aid, because they are so fearful that they won’t be able to afford to defend themselves... So those life changes are forced upon these guys”

“I went from a successful business, earning a decent wage, and then found myself on universal credit for the first time in my life.”

Additionally, many were unaware until they were already going through their court proceedings that *“although I get legal aid now, I might have to pay some of it back, depending on what the financial settlement is, as well”*. This meant that even if individuals received any form of compensation, they were *“terrified to touch it.”* One individual explained how *“... I lost a good portion of my compensation as a victim coming forward. I felt that I was being revictimised again”*.

The Justice system as a form of abuse & trauma

During the women’s focus group, a number of interviewees shared their experiences of the justice system and the threat of court being used to perpetuate abuse; *“He would have threatened me with, I’ll take you through courts”*. *“At any moment he can get a solicitor and restart proceedings again, you know?”*. Further, both women and men felt that the response they received within the justice system often served as a form of re-victimisation; *“It’s controlling again”*; *“I nearly feel like the judge is my next abuser”*.

“this is where the cycle of abuse continues through the courts, because it’s all coming down financial, legal aid, stress, whilst you’re still trying to be a mummy. Do you know what I mean?”

Many described professionals and the general public as lacking awareness and empathy when it comes to cases involving domestic violence, *“I think it’s the nuance of domestic abuse that so many people don’t understand. Even your own solicitor”*. Lack of understanding and insight was also discussed in line with an initial response when reporting, but also the later language and converse used within courts which is not reflective of the harm caused; *“You know what they say? It’s civil... it’s a civil matter. That’s what it is. It’s a civil matter.”*

“I always said that. You know, emotional, psychological abuse, if you go to... now I have reported a few incidents to the police, and every time they come back and say to me, but you’ve no evidence. And I’m like, how do I prove emotional and psychological abuse?”

“Allegations? I mean, I’ve had broken bones. I’ve had bruises. My kids have witnessed all this. Allegations? You need to refrain from talking like that”

This was particularly evident as it relates to outcomes; *“...they don’t understand the impact, not just on us but on our children.”*

“I thought that the judge would see what was going on and everything would work out fine. So I was massively disillusioned and shocked and terrified. And having to drive my three year old screaming and crying into a car, drop her off screaming and crying, drive off and leave her. It was absolutely horrendous.”

More broadly, many described the stressful nature of dealing with, and moving through the justice system; *“... every time you go, you kind of get more traumatised”*, *“it’s a hangover from my relationship.”* The elongated process, navigating legal complexities coupled with personal recovery has left many feeling *“...in shock. You’re numb.”*, *“Your head’s not in the right place to be reading legal stuff, like”*.

“You just don’t retain anything, because you’ve got legal aid stuff and law stuff and family stuff. And police stuff. And this and this. All this going on. Plus this little tiny person who relies on you to be in a mental state that’s functioning. And someone to explain the jargon. Someone to... solicitors’ emails when they come in, they’re terrifying. They attach statements from the other side and it’s written in legal jargon. And I’m walking along, holding her hand, like internally panicking, trying to read... what’s the bit that I need to get to?”

Doing what you have to do (for the children)

During discussions many shared that they often felt *“like just walking away from it now. Honestly”*, an understandable response to a situation that requires you to be both *“cooperative and... terrified”*. That said, all interviewees were parents and described their motivation to keep going as a result of their children;

“But whenever you are going in there to, one, protect your child, safeguard your child and stop contact from an abusive parent, you’re going to do whatever you have to do”

“it’s one of these things that you don’t really have any choice, whether you’re getting legal aid or not getting legal aid. If you want to see your kids, you just have to go through this.”

“...that’s one of the biggest difficulties. You’re dealing with all this chaos around you, but your main focus is always going to be your children and trying to get up in the morning, put a smile on your face”

Ultimately, many individuals will persevere even though *“The system itself is just broken”*. *“You will get strength. And you will look back and you will say, how did I do it?”*

A Better Way – Civil Legal Aid and Wider Justice Reform

While interviewees have described a difficult journey with civil legal aid and progression through the justice system, many also shared that *“As difficult as it is, without legal aid I wouldn’t be able to fight”... “if I was having to self-fund, I would have not been able to fight. Not because I didn’t want to, but because I couldn’t have afforded it.”* The focus of the current study was exploring perceptions and insights of civil legal aid with those who have experience with this service and domestic abuse. The legal aid service is situated within a much larger justice system that is described as *“...just a mess... If the court system wasn’t so broken, there wouldn’t even be as much need for legal aid.”* ; *“the legal aid is being used so much more than actually would be required if the system just worked.”* The remainder of this section will describe interviewees' suggestions for legal aid reform and priority, as well as further recommendations for the ‘whole system’.

Recognising the harm caused by ALL forms of domestic abuse

The reality of issues such as violence and abuse in Northern Ireland is stark. As previously described by interviewees, those accessing civil legal aid are often doing so after enduring significant harm that has long lasting impacts for both survivors and their children, *“I’m thankful that I have stayed strong... but it’s still there. I’m away nine years and it’s still there.”* Looking to the future, interviewees called for all *“professionals and judges to be trained properly in trauma and domestic violence and intimate partner violence”* which would support the system to *“Close that loophole that revictimises victims”*. Additionally, *“...coercive abuse needs to be recognised”* as a significant form of harm, particularly as it is often described as the worst form of abuse with the most lasting impact;

“I say it to everybody... I would take a hiding tomorrow, because it’s over. See mental torture, see being kept away, see being tortured, kicked out of the house, dragged from the top of my house right down, by the hair, in front of my kids? I’d take all of that. See that mental abuse? You can’t get rid of that”

Relatedly, interviewees emphasised the need for children as victims/ survivors to be recognised and therefore family courts should remain *“focused on the child instead of the kids being a possession. So that they are protected more and not focusing on the rights of the other person who is actually the problem in it all”*.

Accountability of, and from the Court

During group discussions the topic of accountability was also considered in relation to both perpetrators of violence and the courts themselves; *“This court system is the bit that upsets me, because court shouldn’t be like that.”*

Some described how ex-partners had manipulated the system in order to access legal aid; *“they’re being exploited and the money is being used to continually perpetuate that abuse of us. And that needs to be stopped..”*. With this in mind, it was suggested that *“more through background checks”* should be implemented for those accessing the service as well as *“A fact finding hearing should be the first thing that they do before anything”*. Further, given the difficulties preciously described with legal professionals and activities within the courts themselves, it was suggested that *“...there needs to be some form of regulatory body, or like court watchers or something”*.

A standard practice and price

With regards to legal aid services, everyone raised the need for *“Clear information on how the system works”*, *“clearer details. So something like flow charts”*.

“More information provided in an easy to understand format. Something that, as you say, when your brain is scrambled, you can understand. More transparency re decisions that are made as well. That’s an important one”.

“...stickers, posters. Here’s what legal aid offer. Here’s what we offer. Here’s what we can do.”

One interviewee also suggested that “*alternative dispute resolution*” (ADR) in some cases might be a useful tool to consider and reduce costs for clients; “*You don’t have to be successful, you just have to make a genuine effort. I mean, mediation costs about ten percent of what litigation costs*”. Of note, interviewees agreed that ADR would not be appropriate or recommended in cases where domestic abuse is evident, rather this approach could be useful in resolving for example financial or housing-based issues.

Transparency around legal costs including fees right from the start was also strongly emphasised;

“The one priority I would be looking for would be clarification that you have your legal aid costs covered, and that this is going to be throughout, no matter what. Because it was just a constant worry for me. Am I going to end up with a huge bill here, out of the blue that I don’t know about? Can I actually afford to fight for my child? Which is a horrible thing to say, you know? So just sort of clarification, right from the get go, right from the start, to say, yes, this is going to be covered.”

Others discussed the utility of specific “*Legal advice. Free legal advice on legal aid...*” which would help potential clients better understand the service and what to expect, “*what we can do for you, or what you need to do*”. Relatedly, when it comes to accessing legal representation, equality in the services provided should be guaranteed rather than only accessing the ‘*good one’s*’ when you can pay the higher fees. “*I don’t think that anybody on the legal side should be benefitting out of our suffering, really.*”

Dedicated support and response

As has been exemplified throughout, entering into the legal system, particularly for survivors of domestic violence, is by no means an easy or deliberate journey. As one interviewee described;

“It actually brought me to my knees at points. And you just have to dig deep, because you’ve got a little person that depends on you. And you’ve to fight and fight and fight. And I couldn’t have done that if I didn’t have legal aid.”

During interviews, voluntary services were praised for helping individuals to get through tough days in court, and whom without many would have been lost.

“I had a great support from [SERVICE NAME], she came all the time because he was so violent. And that made a difference too, because once they seen me with her, I was strong enough and straightforward enough. But I had that extra support. And I always say that that’s what helped me.”

The trauma and often hidden financial consequences of accessing the legal system have had a significant impact on those who need it most, leaving many with a feeling that *“..we don’t have any hope in the system. What does that bring the next generation?”*. It is clear that reform is required but so too is the implementation and widening access of practical and dedicated supports. For example;

“I think if you had someone to liaise with that explained, as soon as you were put in touch with them, here’s your application form for legal aid. We’ll do it together. Here’s what this means. Here’s the process of what happens.”

“Some form of early intervention mechanism to prevent homelessness upon relationship breakdown would be one. If employed, then a reduced rent type halfway house type scheme? If on UC [Universal Credit], then it would be state funded through the rent component of UC.”

As one interview aptly puts it; *“...enough is enough. This can’t go on any further, Like, is this going to be what it’s like whenever our weans are older?”* .

Priority-Setting Exercise

Prior to compilation of any interviews, potential areas of focus in relation to Civil Legal Aid were identified by the DoJ team leading on the wider call for evidence. The DoJ team were asked to review a sample of submissions they had received and identify any common themes across submissions relating to priority areas for future focus (see Table 1). Subsequently, twelve participants (8 females; 4 males) within the current study were asked to assign *priority scores* to these areas, with ‘1’ being their first priority and ‘5’ being their last priority.

Table 1. *Theme names*

Potential areas of focus	Priority score (1-5)
Focus on the needs of child victims of domestic violence and abuse	
Focus on integrating the various forms of support needed by victims of domestic violence and abuse – including servicing needs for legal help, shelter, housing, childcare, education, advocacy and advice.	
Focus on development of better (<i>practical</i>) support during the criminal justice process – for people in their roles as witnesses, as victims, or as co-parents.	
Focus on the cost and quality of legal representation, and the effectiveness of civil and criminal justice remedies.	
Focus on improving the lived experience of the court process including: <ul style="list-style-type: none">• Being believed• Reducing any risk of re-traumatisation• Reduce the risk of any abuse mediated through the court processes• Improve issues of delay• Improve outcomes for victims	

The median preference scores for the full sample, and by participant gender, were then calculated (Table 2). Subsequently, the preference scores were ranked from 1-5 (i.e., 1st, 2nd, 3rd, 4th, 5th).

Table 2. Priority scores assigned to the potential areas of focus for the full sample, and by gender.

Potential areas of focus	Median priority score			Priority ranks (Rank order of median priority scores)		
	Full Sample	Females	Males	Full Sample	Females	Males
Needs of child victims of domestic violence and abuse	1	1	2	1 st	1 st	1 st
Integrating the various forms of support needed by victims of domestic violence and abuse	2	2.5	2	2 nd	2 nd	1 st
Development of better (practical) support during the criminal justice process	3	3	3.5	4 th	4 th	4 th
Cost and quality of legal representation	5	5	3.5	5 th	5 th	4 th
Improving the lived experience of the court process	2.5	2.5	2.5	3 rd	2 nd	3 rd

Overall, the themes were ranked by the full sample as follows:

1st: The needs of child victims of domestic violence and abuse - was ranked highest in the full sample, with seven participants (58% of participants) in total ranking this as their first priority. **2nd: Integrating the various forms of support** was identified as second priority, **3rd: Improving the lived experience of the court process** was ranked third, and **4th: Development of better (*practical*) support during the criminal justice process**. **5th: Cost and quality of legal representation, and the effectiveness of civil and criminal justice remedies** - was ranked lowest, with nine participants (75% of participants) ranking this as their last priority.

There were slight differences in priority ranks between male and female participants. Females ranked '*improving the lived experience of the court process*,' joint second with '*integrating the various forms of support*.' Alternatively, males felt '*integrating the various forms of support*,' was joint first with '*needs of child victims*.' '*Improving the lived experience of the court process*,' was ranked lower by males than females, with males ranking this as third priority, whereas females ranked this as second. Males ranked '*Cost and quality of legal representation*,' higher than females, with males ranking this as fourth priority, whilst females ranked this as fifth.

Whilst the priority ranks are based on the views of a small sample size, the key strength of the exercise lies in the substantive discussion the focus groups had on civil legal aid prior to performing the ranking. Of note, all participants commented on the importance of all priority areas and the difficulty in 'ranking' these.

DISCUSSION

The main aim of this review was to capture the lived experience of those seeking civil legal aid following domestic abuse in Northern Ireland and to identify priority areas of focus to support future reform and delivery of civil legal aid provision. The four major themes identified from the empirical research - 1) Just Sign The Form: Understanding and Access To Civil Legal Aid, (2) The Bare Minimum – Civil Legal Aid as a Barrier to Justice and Support, (3) Surviving the System – Distress and In-Justice, and (4) A Better Way – Civil Legal Aid and Wider Justice Reform – are consistent with the themes identified from the literature reviewed for this study: (1) accessibility of civil legal aid, (2) quality of representation, (3) lived experience, (4) recommendations/good practice. The remainder of this section will provide an integrated discussion of the major themes across both strands of the research.

The results of the current review highlighted a lack of understanding in respect of civil legal aid that can negatively impact an individual's access to justice. The words of the participants in this research aptly demonstrate the uncertainty felt when embarking on the process of accessing legal aid and engaging with the court system. This uncertainty is mirrored in the literature, with Rights of Women (2015) noting that many participants in their study in England and Wales relied on the internet for information on legal aid and how to get it. Further, the lack of understanding in respect of legal aid and the justice system can be compounded by financial barriers associated with the means testing criteria for legal aid. The perceived punitive nature of the financial threshold as outlined by participants in this study is consistent with the literature, including impacts on career progression. Further, the complexities associated with accessing financial information, including those linked to joint assets, is also often described as 'trapped capital' (Rights of Women, 2024; Domestic Abuse Commissioner, 2024; Surviving Economic Abuse, 2021; Robinson, 2007).

The legal system, its processes and procedures, are distant to the lives of many and, as Holmes and Bartlett (2023, p. 174) note, 'excessive adversarialism can make the civil legal system more complex and expensive, more daunting or unpleasant, yet more removed from the substantive justice concerns of ordinary people'. Research suggests that those who have a history of trauma may find this experience particularly

overwhelming (Katz & Haldar, 2016). Indeed, the various challenges associated with evidencing domestic abuse, including the associated ‘invisible’ (Sims, 2008) harms, represented a key barrier highlighted by current study participants and is supported in the literature (Rights of Women, 2015, McGlinchey et al. 2023). The need to move beyond narrow understandings of violence in the context of domestic abuse is thus clear and further supported by PSNI (2024) statistics showing that violence without injury accounted for the largest proportion of police recorded domestic abuse crimes by crime type between April 2023 and March 2024.

Relatedly, a core finding from this research is the central role of children, both with respect to their parent’s decisions and motivations to enter and/or remain in the justice system in its current form and in the reorientation of the system to focus on the needs of child victims of domestic abuse, as identified in the priority setting exercise. Indeed, there has been an increasing awareness of the impact child abuse and exposure to domestic abuse can have on children (Moylean et al. 2010; Ho 2022). In respect of the latter, there has been a recognition that these children are direct victims rather than ‘hidden victims’ of abuse (Ho 2022; CPS 2022) and that their safety and security should be front and centre.

In terms of direct legal support, current study participants clearly articulated feelings of being ‘fobbed’ off and ‘let down’ by the legal profession, feelings that have similarly been captured in other research studies. As Lee and Backes (2018) have noted, the relationship between the lawyer and client in cases of domestic abuse is nuanced, and difficulties arise due to a lack of training and awareness on the part of lawyers in respect of this form of abuse. The complexities involved in cases of domestic abuse, coupled with the poor rates of pay and the heavy workload in these cases may, according to the Domestic Abuse Commissioner for England and Wales (2024), act as a deterrent for new lawyers. The dangers associated with the funding model for legal aid with respect to receiving proper legal representation are similarly felt internationally, as summed up in the Australian case of *Re: N (a solicitor)* [2010] QSC 267:

“I am left with the uncomfortable feeling that the errors on the part of both N and counsel for T would not have occurred had the matter not been funded by legal aid. It ought to have been abundantly clear that a statement would be needed once commerciality was denied by the client. On the evidence no additional funding was

available for taking a statement. It is a natural enough human reaction in such circumstances to seek to defer incurring the cost; but that is a reaction which is apt to blur the sound exercise of professional judgment. Having accepted a retainer, a true professional does not let the quality of the work undertaken suffer because the available remuneration is inadequate. If lawyers are not prepared to bear the cost of all necessary steps in a legal aid matter, regardless of funding, they should not take on the work.”

Consequently, some victims/survivors may opt to self-litigate, as did some participants in the current study, and therefore require more support to self-navigate (Domestic Abuse Commissioner, 2024; Surviving Economic Abuse, 2021). Yet research has found this support to be absent, leading to poor outcomes (Domestic Abuse Commissioner, 2024; Bevan, 2013).

The current research has also highlighted further the risk of secondary victimization at the hands of the justice system which aligns with much of the research on domestic abuse survivors’ justice journeys more broadly. Within this context, and as discussed above, the precarious financial situation of survivors can be exacerbated when trying to meet and maintain financial thresholds to access legal aid, hindering victims/survivors from rebuilding their lives (Surviving Economic Abuse, 2021). Additionally, the ‘cycle of abuse’ continued through the courts as expressed by some, is supported by a wealth of literature detailing how perpetrators weaponize court proceedings (Rights of Women, 2024; Ward, 2016; Campbell, 2017; Beeman, 2022), as well as how the proceedings themselves, and the treatment of survivors therein, contribute to their secondary victimization (Laing, 2017; Iliadis et al. 2021). Indeed, the negative impact of legal terminology, such as ‘allegation’ as expressed by one participant in this study, or the use of ‘legal jargon’, can be far-reaching and alienating. While it is acknowledged that care must be taken in a context where formal processes of proof are underway, those working in this area must be cognisant of the way language and legal framings may be perceived by those who have experienced abuse.

The sense of injustice felt by the participants in this research reverberates throughout this report, emphasising the need for reform. In this respect, there is consensus among participants, as well as the wider literature, that there is a need for training and awareness raising around understanding of domestic abuse, coercive control and the experience of children as victims/survivors (Rights of Women, 2015;

Rights of Women, 2024; Lee and Backes, 2018); indeed significant investment is needed in this sector (Denvir, et al. 2023; Lee & Backes, 2018; Domestic Abuse Commissioner, 2024). Further to this, there should be an increase in ‘wrap around’ services and support for victims/survivors (Speed, 2022; Rights of Women, 2015; Iliadis, et al. 2021) and a return to the foundations of legal ethics and a more trauma-informed approach when supporting victims/survivors through the system (Holmes and Bartlett, 2023; Wangmann et al., 2023).

Of note, successful reconstruction cannot occur without some form of accountability for legal actors as was often discussed by study participants. Indeed, many felt they had no voice and no choice. This sentiment was further extended to gendered specific experiences and bias with many women sharing their perceived positions in the system and society as ‘just women’ or ‘just mummy’s who should not be assertive or forthright in expressing their needs or concerns; men on the other hand report a sense of invisibility, with victim/ survivor status unacknowledged. As a specific service, legal aid can defy such social conformity and remain person centered to ensure that those in need are supported.

Study Strengths and Limitations:

The current study findings offer further context to the feedback garnered from the DOJ call for evidence. Qualitative research provides flexibility and depth of understanding of lived experience. Indeed, the research methods employed in the current study provided an opportunity for participating individuals to share their thoughts and experiences of civil legal aid following a domestic abuse incident(s) in their own words. The current research also endeavoured to include individuals who may not have had an opportunity to speak about these topics before and therefore might have been missed in the larger Call for Evidence.

Nonetheless, no research is without limitation. Given time constraints, a rapid approach to evidence gathering and literature searching was implemented and therefore more nuanced perspectives may have been missed. Additionally, the small sample size inevitably means that generalisability of findings is limited, although insights from the annotated bibliography coupled with findings from focused interviews do highlight common and important themes and considerations for future address.

CONCLUSION

Civil legal aid was designed to act as a civic remedy available to those who need it most within a just society and fair justice system. This operational definition currently falls short when applied to lived experience. Civil legal aid services operate within a wider system context and therefore it must be acknowledged that the system, rather than the service alone, requires reform. Indeed, legal representatives and the judicial process can and do impact quality of life for many. The decision to enter the justice system is by no means an easy one, particularly where domestic abuse is concerned. Often this decision is thrust upon a person who is seeking safety, support and reconciliation from harm so that they can move forward with their lives. We therefore have a responsibility to reduce any further burden by bettering our response and service to those in need.

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APPENDIX 1

Table 3. Annotated Bibliography

<p><u>Accessibility of Civil Legal Aid</u></p> <ul style="list-style-type: none"> • Victims’ legal needs/ awareness of legal aid • Means testing • Service provision (i.e., logistics, funding/budgets) • Administrative effort and workload (for victims/solicitors) 	<p><i>Barlow, A. (2019). The machinery of legal aid: a critical comparison, from a public law perspective, of the United Kingdom, the Republic of Ireland and the Nordic countries (Doctoral dissertation, Åbo Akademis förlag-Åbo Akademi University Press).</i></p> <p>Doctoral thesis focusing on critical comparisons of Legal Aid in the United Kingdom, the Republic of Ireland and the Nordic countries in the context of organisational forms and procedures, decision-making discretions, human rights and rule of law, and procedural and material aspects of legal aid.</p> <ul style="list-style-type: none"> • Reduced access to Legal Aid remains an issue in Denmark, Finland, the United Kingdom and the Republic of Ireland, largely due to increased administrative burden and decreased pay. • Compared to the Nordic countries, the United Kingdom and Republic of Ireland apply complex fees provisions to Legal Aid work completed by private practitioners, which may further impact access to Legal Aid. • Mediation is increasingly used as a means of achieving access to justice without legal aid, and outside of the justice system in family cases in Northern Ireland (Civil and Family Justice Review, 2016; 2017). <p>Procedural and material aspects of legal aid systems are highly variable across the included jurisdictions, with the three jurisdictions of the United Kingdom being most similar due to their closely related legal professions and comparable court systems. However, the distribution of legal aid work, indirect public administration through practising lawyers and civil scope restrictions between these jurisdictions, the Republic of Ireland and the Nordic countries is more complex. Overall, Nordic and non-Nordic jurisdictions possess distinct differences within various domains associated with both criminal and civil legal aid.</p> <hr style="border-top: 1px dashed black;"/>
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Denvir, C., Kinghan, J., Mant, J., & Newman, D. (2023). Legal aid and the future of access to justice. Bloomsbury Academic.

Open access book regarding contemporary access to justice in England and Wales. Quantitative coding of open-ended survey responses of current legal aid practitioners (n = 836).

- Various significant challenges facing legal aid practitioners identified, including austerity measures, funding cuts, poor remuneration, unsustainably large workload and burnout, lack of progression, administrative issues related to other components of the justice system and threshold requirements being too high for clients to access justice.
- Claiming for legal aid or dealing with the Legal Aid Agency was deemed time consuming (n =32) and exceeded costs recoverable under fixed fees.
- Case preparation (i.e., time spent preparing documents, conducting legal research and bundle preparation) presents a significant unremunerated cost.

Due to significant financial insecurity that is characteristic of the present legal aid sector, the need for considerable investment in the legal aid sector is emphasised, specifically with regard to ensuring the provision of adequate pay, progression and support for legal aid practitioners to therefore facilitate consistent and effective representation for those availing of its provision, which is currently lacking.

Robinson, A. L. (2007). Improving the Civil-Criminal Interface for Victims of Domestic Violence. The Howard Journal of Criminal Justice, 46(4), 356-371.

Exploratory study of the interface between the criminal and civil courts in Cardiff based on qualitative data (interviews and open-ended surveys) of victims of domestic violence (n = 9), Women's Safety Unit (WSU) staff (n = 3) and local solicitors participating in the WSU rota (n = 5).

- Expenses associated with pursuing a civil case presented particular concern for victims of domestic violence, particularly due to their lack of eligibility for legal aid whilst the criminal case associated with their DV was ongoing.
- The potential for victims incurring substantial debt presented a further concern, even when victims are successful in obtaining legal aid.
- Difficulties may arise whereby abusers may receive legal aid because they are unemployed, whilst victims receive no legal aid because they are working.

Fragmentation between the criminal and civil justice system exacerbates the vulnerability of economically challenged victims of IPV due to their ineligibility to avail of legal aid whilst a criminal case is underway. This subjects these individuals to lengthier legal proceedings and involvement with the court systems, in addition to prolonged distress associated with this, compared to those victims with greater access to finances, indicating a demonstrable need to address the fragmentation between these systems.

Rights of Women (Dec. 2015) - Evidencing Domestic Violence: Nearly 3 years on

<https://www.rightsofwomen.org.uk/wp-content/uploads/2023/12/evidencing-domestic-violence-v.pdf>

Report based on revised survey circulated via Rights of Women's website and to member services of both Women's Aid Federation of England and Welsh Women's Aid, as well as via partner organisations and social media. Responses ($n = 239$) were collected between 22 April 2014 and 30 November 2015.

- Child contact (61%) represented the most common legal issue women sought advice and representation on, however, a range of family law issues were identified as being relevant for victims of domestic violence.

- Difficulty accessing legal aid solicitors within victims' localities remains a prevalent issue, with over half (56.7%) of all respondents indicating that they had to travel a minimum of 6 miles to find a solicitor.
- Various challenges associated with evidencing domestic violence highlighted, including lack of domestic violence victimisation evidence prior to applying for legal aid (45.7%), lack of required forms of domestic violence victimisation evidence to apply for family law legal aid (37%), lack of awareness of who to ask to obtain the domestic violence victimisation evidence (73.7%), and delay and potential cost in acquiring domestic violence victimisation evidence.
- Many participants (45.5%) indicated that they relied upon the internet for information pertaining to legal aid and how to get it.

Although victims of domestic violence often present with a variety of civil legal needs, the inaccessibility of legal aid for many victims continues to be a prevalent issue. Many victims remain unaware of the existence of legal aid, what this is, how to access it and whether they are eligible to avail of it initially. However, further barriers beyond this, such as accessing a legal aid practitioner and/or evidencing domestic violence or risk thereof, also exist. It is acknowledged that many victims do not seek legal assistance until they are at crisis point and the need for increased transparency, support and service provision pertaining to legal aid is therefore emphasised.

Rights of Women - Helping Women through the Law (2024). Evidence to: Civil Legal Aid Review

<https://www.rightsofwomen.org.uk/wp-content/uploads/2024/02/Rights-of-Women-Evidence-to-Civil-Legal-Aid-Review.pdf>

Consultation report pertaining to the provision of Civil Legal Aid for victims of domestic violence.

- Applications for legal aid have been refused because “the wording of the letter from the relevant professional (the evidence of domestic abuse) did not exactly match the form of wording set out in the Ministry of Justice’s sample letters.”
- Delays associated with acquiring evidence of domestic violence results in hearings being adjourned and associated costs, lengthening the duration of the court process.
- Survivors’ need extra support in attaining evidence due to barriers such as the survivor’s ‘own ability,’ organisation no longer exists/not responding to request etc.
- Lack of qualified legal representatives (QLR) to conduct cross-examination ‘partly related to necessary training not being widely available, but also largely to do with the fees for this work being insufficient.’ QLRs were introduced by DA Act to prevent cross-examination that could be deeply harmful and re-traumatising for survivors of domestic abuse.
- Administrative burden associated with evidencing financial means, perpetrator(s) preventing access to evidence of financial means, trapped capital (i.e., owning property with the perpetrator) may render survivors ineligible for legal aid.

The present report considers the means-testing criteria as being the most considerable barrier to access to justice for victims of IPV, exacerbating the inaccessibility of legal aid for many victims. However, further barriers relating to the lack of funding within the legal aid system resulting in a deficit in the availability of QLRs, consistent with those outlined by Denvir et al. (2024), were also highlighted.

Choudhry, S., & Herring, J. (2017). A human right to legal aid?—The implications of changes to the legal aid scheme for victims of domestic abuse. Journal of social welfare and family law, 39(2), 152-167.

Article exploring restrictions on legal aid introduced by Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) in England and Wales.

- LASPO Act 2013 implemented need for proof that there has been, or is a risk of, domestic abuse. Women's Aid (2015) found that 39% of women who had been affected by domestic violence were unable to provide the necessary forms of evidence.
- Difficulties included emphasis on public notification (e.g., contacting police); expense and delay in getting evidence; a 2 year requirement stipulating that evidence must be related to incident within the last 2 years; and challenges around medical evidence requirements (e.g., barriers to doctors signing off that injuries were 'as a result of domestic violence,' rather than 'consistent with').

Since the implementation of LASPO, legal aid is available for applications for domestic violence protection orders, but is not typically not available for family matters such as divorce or dissolution, financial orders on separation, or disputes of children (including child arrangement orders and prohibited steps orders), unless the applicant can show that they fall into a limited exceptional category. This limited exceptional category includes where there has been, or is a risk of, domestic abuse. However, difficulties associated with evidencing domestic abuse, or risk thereof, has presented a significant barrier to accessing justice for many victims of IPV.

Lee, J. G., & Backes, B. L. (2018). Civil Legal Aid and Domestic Violence: A Review of the Literature and Promising Directions. Journal of Family Violence, 33, 421-433.

Literature review of peer-reviewed and non-peer reviewed articles, reports, analyses and evaluations of civil legal aid in the United States (US).

- Several common areas requiring civil legal assistance where domestic violence (DV) is associated include civil protection orders (CPOs), and family law such as divorce and custody orders.

- Many individuals may not be aware that they could qualify for legal aid, or that their problems are of a legal nature.
- “Those experiencing more severe trauma are probably more likely to seek legal assistance (Wright & Johnson, 2009).”
- National Network to End Domestic Violence (NNEDV) 2015 and 2016 reports indicated the need for vast improvements in legal advocacy – in 2015, 11% of 1752 shelters/services had program to assist victims with legal issues. Eighty-three programs reported a reduction or elimination of legal advocacy programs in the last year and a further 34 programs reported a reduction or eliminated legal advocacy programs in the following year.
- Those who seek civil legal aid may frequently be turned away due to budgetary constraints of agencies, failing to meet the low-income parameters, and agencies who serve DV victims reducing or eliminating legal advocacy services.

Civil legal aid is deemed a “...promising, but underfunded” avenue for addressing IPV in the US, however, it is suggested that significant improvements must be made to and within the present system to improve access to civil legal aid for victims of IPV. As victims face a myriad of legal concerns as a result of their experiences, a key recommendation of the present literature review is increased funding towards the provision of civil legal services to bridge the justice gap between victims’ legal needs and the current level of service provision.

Domestic Abuse Commissioner [England and Wales] (2024) Domestic Abuse Commissioner’s Response to the Review of Civil Legal Aid Call for Evidence.

<https://domesticabusecommissioner.uk/wp-content/uploads/2024/03/2402-Review-of-Civil-Legal-Aid-response-DAC.pdf>

Response to the Review of Civil Legal Aid Call for Evidence.

- Obtaining legal aid certificates for clients is complex, lengthy and administratively burdensome, with outcomes to legal aid applications being unpredictable.
- Complex, stressful and time-consuming cases are unlikely to appeal to lawyers when coupled with extremely poor rates of pay, and heavy workloads may act as a deterrent for newly qualified lawyers.
- Victims and survivors may struggle to evidence experiences of domestic abuse, thereby being denied legal aid as a result.
- Some may have ‘too much equity’ within their family homes to qualify – victims might be advised to sell their homes which their children live in, so that court protection can be pursued to safeguard those same children.
- Reduced and/or reducing legal aid capacity due to demands exceeding supply within legal aid firms.

Similar to Denvir et al. (2023), the need for considerable investment in the legal aid sector is emphasised as being key to increasing the accessibility of civil legal aid for victims. Again, barriers relating to the means-testing criteria, and failure to meet the low-income parameters and the associated non-disposable capital criteria (i.e., property), exacerbates difficulties in accessing civil legal aid and overall access to justice for many victims of IPV- this is consistent with Rights of Women - Helping Women through the Law (2024) comments.

Richardson, K., & Speed, A. K. (2023). Smoke and mirrors? Regulation 12 and access to legal aid for victims of domestic abuse. Journal of Social Welfare and Family Law, 45(3), 249-264.

Survey of Family Law professionals in England and Wales (n = 24) and information provided by Legal Aid Agency (LAA) following Freedom of Information Act requests.

- The level of financial contributions that individuals are being asked to make means that legal aid is unaffordable even when the waiver is exercised.
- Urgency of applying for protection cited as a reason why professionals will not apply for the waiver.

Regulation 12 of the Civil Legal Aid Regulations 2013 provides the Director of the LAA with discretion to waive the financial eligibility thresholds in applications for protective orders, in cases where they consider it equitable, however, elements of this waiver such as remaining financial contributions and delays associated with applying for it remain an issue.

Uygun, G. and Skinnider, E. (2022) Understanding Barriers to Women's Access to Justice and Legal Aid in Türkiye. Council of Europe.

Report focused on informing a comprehensive gender assessment of the legal aid system in Türkiye.

- Due to low pay rates, legal aid units only consider a limited number of applicants for certain types of civil cases, such as divorce or child custody.
- The bars' legal aid units may approve legal aid appointments; however, these can then be subsequently rejected by the courts.
- The practice of bar associations differs depending on the region. In one bar association, a victim might be assigned three different lawyers to deal with different legal matters, in another bar association, they may try to assign the same lawyer to handle all of the victim's legal issues.
- Lack of available knowledge and information on how to access legal aid highlighted.
- Women who have no actual money may be denied legal aid on the basis that they are partial owners of property that is also in their husband's name. Women may also be denied legal aid if they receive a monthly income from their husbands or fathers; even though this income may be withdrawn at the moment of complaint.
- Women who come to Türkiye as second wives find that they have no legal rights with respect to children or property in the marriage.
- Inequity in legal aid access in rural and remote areas remains a pervasive issue.

	<p>The criteria of eligibility for getting legal aid in civil matters in Türkiye include a “means test” and a “merit test” – to justify the request by presenting evidence. However, the criteria to grant legal aid in civil cases is based on the subjective evaluation by both the bar associations and the courts, and each institution requires different documents to be submitted when requesting legal aid. Many of the barriers to civil legal aid highlighted in the literature derived from other jurisdictions, such as those outlined by Rights of Women - Helping Women through the Law (2024), are also a prevalent issue in Türkiye (e.g. inequity in legal access outside of major population areas, issues relating to trapped capital disqualifying women from accessing legal aid etc.) Yet additional barriers resulting from the procedural aspects unique to Türkiye (i.e., evaluation by both the bar associations and the courts) may further reduce access to justice for victims of IPV.</p> <hr/> <p><i>Speed, A. (2022). Domestic abuse and the provision of advocacy services: mapping support for victims in family proceedings in England and Wales. Journal of social welfare and family law, 44(3), 347-368.</i></p> <ul style="list-style-type: none"> • Applicants in receipt of welfare benefits are no longer automatically eligible for public funding since the implementation of LASPO. <hr/> <p><i>Choudhury, D. (2016). Concept of free legal aid-a comparative analysis of free legal aid in India, United Kingdom and Australia. International Journal of Law and Legal Jurisprudence Studies, 3(3), 104-120.</i></p> <ul style="list-style-type: none"> • The implementation of LASPO has reduced the availability of legal aid in many areas of law by initiating ‘...the deepest cuts to the legal aid scheme since it began.’
<p><u>Quality of Representation</u></p>	<p><i>Rights of Women (Dec. 2015) - Evidencing Domestic Violence: Nearly 3 years on</i> https://www.rightsofwomen.org.uk/wp-content/uploads/2023/12/evidencing-domestic-violence-v.pdf</p>

<ul style="list-style-type: none"> • Training needs (i.e., solicitors' knowledge of DV, legal aid) • Client satisfaction 	<p>Report based on revised survey circulated via Rights of Women's website and to member services of both Women's Aid Federation of England and Welsh Women's Aid as well as via partner organisations and social media. Responses ($n = 239$) were collected between 22 April 2014 and 30 November 2015.</p> <ul style="list-style-type: none"> • Responses revealed "a worrying lack of awareness amongst professionals of the evidence criteria," pertaining to proof of domestic violence. <hr/> <p><i>Rights of Women - Helping Women through the Law (2024). Evidence to: Civil Legal Aid Review</i> https://www.rightsofwomen.org.uk/wp-content/uploads/2024/02/Rights-of-Women-Evidence-to-Civil-Legal-Aid-Review.pdf</p> <p>Consultation report pertaining to the provision of Civil Legal Aid for victims of domestic violence. Difficulties associated with assistance received from legal aid practitioners that were highlighted included:</p> <ul style="list-style-type: none"> • Poor communication and limited availability. • Failure to meet court deadlines, prepare/respond sufficiently, and/or take full instructions. • Failure to listen to, or minimisation of the impact of, survivors' experiences of DV to 'get the case settled.' • Failure to advance the case or challenge the perpetrator who is using children and court proceedings as a means of continuing abuse. • Failure to include important evidence in the witness statement. <hr/> <p><i>Lee, J. G., & Backes, B. L. (2018). Civil Legal Aid and Domestic Violence: A Review of the Literature and Promising Directions. Journal of Family Violence, 33, 421-433.</i></p> <p>Literature review of peer-reviewed and non-peer reviewed articles, reports, analyses and evaluations of civil legal aid in the US.</p>
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- The attorney-client relationship in DV cases can be more nuanced than the typical attorney-client relationship (Stoever, 2013) and difficulties in this area might be exacerbated by lack of DV training (i.e., challenges associated with victims returning to perpetrators, length of time it takes to end an abusive relationship etc.) and lack of clarity on how to respond to DV.

Domestic Abuse Commissioner (2024). Domestic Abuse Commissioner's Response to the Review of Civil Legal Aid Call for Evidence

<https://domesticabusecommissioner.uk/wp-content/uploads/2024/03/2402-Review-of-Civil-Legal-Aid-response-DAC.pdf>

Response to the Review of Civil Legal Aid Call for Evidence.

- Inexperienced counsel conducting complex cases may facilitate the continued abuse of victims via junior barristers by an in-person litigant.

Richardson, K., & Speed, A. K. (2023). Smoke and mirrors? Regulation 12 and access to legal aid for victims of domestic abuse. Journal of Social Welfare and Family Law, 45(3), 249-264.

Survey of Family Law professionals in England and Wales ($n = 24$) and information provided by Legal Aid Agency (LAA) following Freedom of Information Act requests.

Regulation 12 of the Civil Legal Aid Regulations 2013 provides the Director of the LAA with discretion to waive the financial eligibility thresholds in applications for protective orders, in cases where they consider it equitable.

- Legal aid solicitors may not be familiar with the provision of Regulation 12 and there is a lack of transparency regarding when the Director of LAA will exercise their discretion to use the Regulation 12 waiver, resulting in this being an underutilised provision.

	<p>-----</p> <p><i>Uygur, G. and Skinnider, E. (2022) Understanding Barriers to Women’s Access to Justice and Legal Aid in Türkiye. Council of Europe.</i></p> <p>Report focused on informing a comprehensive gender assessment of the legal aid system in Türkiye.</p> <ul style="list-style-type: none"> • There may be an increased likelihood of professional biases and gender stereotyping by legal aid providers due to a lack of training programmes connected with legal aid units and limited human resources with regard to adequately culturally and gender-sensitive trained practitioners. • Discrimination within courts towards female legal aid practitioners likely presents further issues, as victims often have a preference to be represented by female legal aid practitioners. • Legal aid practitioners are often more generalists, rather than specialists, in addition to being younger and inexperienced, which therefore raises concerns that the current system does not support assignment of experienced and trained lawyers to complex cases involving the abuse of women and children. <p>Embedded social barriers, such as discriminatory attitudes and gender stereotypes, were considered to be underlying factors that further restrict IPV victims’ access to justice in the context of the civil legal aid system in Türkiye, which may exacerbate pre-existing challenges associated with accessing and navigating the legal system,</p>
<p><u>Lived Experience of Legal Process</u></p> <ul style="list-style-type: none"> • Impact of application process on victims • Re-traumatisation through legal system/in court 	<p><i>Iliadis, M., Fitz-Gibbon, K., & Walklate, S. (2021). Improving justice responses for victims of intimate partner violence: examining the merits of the provision of independent legal representation. International journal of comparative and applied criminal justice, 45(1), 105-114.</i></p> <p>Article analysing reformed justice responses to victims of IPV proposed by the Royal Commission into Family Violence (2016) in Victoria, Australia.</p> <ul style="list-style-type: none"> • Traditional court processes for victims of IPV have “excused, minimised, silenced and ‘othered’” victims’ experiences of abuse, resulting in victims feeling “intimidated, confused and unsafe” (RCFV, 2016, p.117). In

	<p>addition, the manner in which justice systems operate increases uncertainty and anxiety amongst victims, thereby causing further harm.</p> <ul style="list-style-type: none"> • Victims of IPV often find testifying as a witness and being cross-examined particularly challenging, thereby exacerbating vulnerability and perceptions of not being believed; provision of ILR may help to mitigate these effects. <p>Iliadis et al. (2021) concluded that the manner in which elements of legal proceedings are conducted (including the conduct of judges) can potentially further traumatise or re-traumatise victims of IPV; the authors highlighted the importance of improving justice responses for victims of IPV.</p> <hr/> <p><i>Robinson, A. L. (2007). Improving the Civil-Criminal Interface for Victims of Domestic Violence. The Howard Journal of Criminal Justice, 46(4), 356-371.</i></p> <p>Exploratory study of the interface between the criminal and civil courts in Cardiff based on qualitative data (interviews and open-ended surveys) of victims of domestic violence (n = 9), Women’s Safety Unit (WSU) staff (n = 3) and local solicitors participating in the WSU rota (n = 5).</p> <ul style="list-style-type: none"> • Perceptions of judges as being ‘pro-father’ with a preference for maintaining any level of contact with children, irrespective of evidence of domestic violence and associated concerns for the safety of the child(ren).
<p><u>Recommendations/Good Practice</u></p>	<p><i>Lee, J. G., & Backes, B. L. (2018). Civil Legal Aid and Domestic Violence: A Review of the Literature and Promising Directions. Journal of Family Violence, 33, 421-433.</i></p> <p>Literature review of peer-reviewed and non-peer reviewed articles, reports, analyses and evaluations of civil legal aid in the US.</p>

- Recommendations included increased funding toward provision of civil legal services, increased ‘wrap-around’ services for victims who seek services at other agencies or organisations, research examining legal problems faced by DV victims and evaluations of existing civil justice programs or legal advocacy best practices.

Anderson, K. E. (2023). Exploring the Relationship Between Civil Legal Assistance and the Outcomes of Domestic and Intimate Partner Violence Victims: A Literature Review.

Literature review of civil Legal Aid programme evaluations in the US ($n = 5$), linking programme factors to client outcomes.

- Partial representation was positively correlated with improvement in psychological wellbeing and ‘social safety net,’ across all included programmes, whilst full representation was positively correlated with psychological wellbeing, increased safety and stability.
- Full representation found to have most benefits to individuals and society; self-help and partial representation found to be better than no assistance for individuals.

Overall, a general lack of information concerning how civil legal aid programmes can best serve clients was highlighted, emphasising the need for additional research within this domain.

Barlow, A. (2019). The machinery of legal aid: a critical comparison, from a public law perspective, of the United Kingdom, the Republic of Ireland and the Nordic countries (Doctoral dissertation, Åbo Akademi förlag-Åbo Akademi University Press).

- The potential for merging and simplifying the three distinct categories of legal aid in Scotland, and the further divisions present in non-criminal work (i.e., civil and children’s Advice and Assistance and legal aid), into a single

grant system was recommended by the Law Society to facilitate court users' understanding of available legal assistance. This has been echoed by suggested statutory framework, which incorporates a single legal aid type.

Robinson, A. L. (2007). Improving the Civil-Criminal Interface for Victims of Domestic Violence. The Howard Journal of Criminal Justice, 46(4), 356-371.

Exploratory study of the interface between the criminal and civil courts in Cardiff based on qualitative data (interviews and open-ended surveys) of victims of domestic violence ($n = 9$), Women's Safety Unit (WSU) staff ($n = 3$) and local solicitors participating in the WSU rota ($n = 5$).

- It would be beneficial to victims of domestic violence if the criminal and civil court systems were combined to prevent repetition and overlap between the two systems.
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Speed, A. (2022). Domestic abuse and the provision of advocacy services: mapping support for victims in family proceedings in England and Wales. Journal of social welfare and family law, 44(3), 347-368.

Article outlining empirical insights regarding the provision of advocacy services for domestic abuse victims. In this mixed methods research project domestic abuse specialists and legal professionals ($n = 29$) either completed an online questionnaire, participated in a semi-structured interview, or engaged in both forms of participation.

- Advocacy support is usually provided as an alternative, rather than in addition to, legal services such as legal aid.
- Advocacy support from domestic abuse services is typically more extensive than other forms of pro bono assistance, and can include practices that are both empowering for victims and make victims aware of legal aid.

	<p>Despite potential limitations associated with advocacy support (e.g., potential disempowerment of victims, need for increased support in the provision of gateway evidence etc.), the Speed (2022) article highlights how provision of advocacy support might minimise intellectual, emotional and practical barriers to family justice system.</p> <hr/> <p><i>Iliadis, M., Fitz-Gibbon, K., & Walklate, S. (2021). Improving justice responses for victims of intimate partner violence: examining the merits of the provision of independent legal representation. International journal of comparative and applied criminal justice, 45(1), 105-114.</i></p> <p>Article analysing reformed justice responses to victims of IPV that were proposed by the Royal Commission into Family Violence (2016) in Victoria, Australia.</p> <ul style="list-style-type: none"> • Provision of independent legal representation (ILR) may enable victims to regain a sense of autonomy, safety and control during legal processes, which are often experienced as daunting and uncomfortable. • Provision of ILR might facilitate protection of the quality and integrity of victims’ evidence and ensure that increased attention is provided to victims’ rights by police officers, prosecutors, magistrates and judges and defence counsel (O’Connell, 2012, p. 10).”
<p><u>Additional Information</u></p>	<p><i>PSNI (2024) Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland. NISRA.</i></p> <ul style="list-style-type: none"> • Violence without injury accounted for the largest proportion of police recorded domestic abuse crimes by crime type between April 2023 and March 2024. <hr/> <p><i>Ahlgren, C. (2021). Access to Publicly Funded Legal Aid in England & Wales and Sweden: A Comparative Study.</i></p> <p>Essay comparing access to publicly funded legal aid in England, Wales and Sweden.</p>

- The civil courts in the UK are adversarial in nature in that they are highly concentrated on rules of argument; this ‘...makes it difficult for untrained individuals with little legal knowledge to represent themselves in court,’ emphasising the need for appropriate legal representation.

Carlisle, S., Bunce, A., Prina, M., McManus, S., Barbosa, E., Feder, G., & Lewis, N. V. (2023). How effective are UK-based support interventions and services targeted at adults who have experienced domestic and sexual violence and abuse at improving their safety and wellbeing? A systematic review protocol. Plos one, 18(12), e0289192.

Review of the effectiveness of UK-based support interventions and services for victims of domestic violence and sexual abuse (DVSA) using findings of a preliminary scoping review and stakeholder input.

- Support services and interventions play a fundamental role in addressing the diverse needs of victims of DVSA. These may include advocacy, referral, outreach, financial or legal advice etc. Services and interventions are often provided by third sector organisations, such as charities, voluntary groups and social enterprises, reliant on competitive local authority funding and supplemented by insecure independent fundraising.

