

# Litigants in Person and the Family Court: The Accessibility of Private Family Justice After LASPO

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## Family Law and LASPO



- Self-Representation is the new norm in Post-LASPO private family proceedings – 81% of hearings involve at least one LIP (*FCSQ Jan–March 2018*).
- LIPs who are no longer eligible for legal aid are now coming to court with a diverse range of backgrounds, circumstances and needs, including (but not limited to):

- |  |   |  |
|--|---|--|
| • Domestic abuse                           | • Disabilities                              | • Precarious working/<br>living arrangements |
| • Learning difficulties                    | • Isolation                                 | • Caring responsibilities                    |
| • Mental and physical<br>health conditions | • Poverty or lack of<br>access to resources | • And many more...                           |

## The Research Project



- 23 interviews with LIPs about their experiences of the private family court process, focusing on:

A) What problems did they experience?

B) How did they perceive these experiences?

## Applying to Court



*'There is some help, but you really have to push to find it, it isn't readily available – like it doesn't come with the court papers. You have to go find it yourself, and the face-to-face advice you get is limited to the odd half hour or just 20 minutes.'*

**Ikraa**

## Applying to Court



### Issues:

- Finding relevant forms (or a PSU to assist)
- Understanding court forms
- Extracting 'legally relevant' information

### Compounded by:

- Geographic location
- Being time poor – caring responsibilities, working arrangements
- Learning difficulties/disabilities
- Emotional context of family breakdown

## In Court: Advocacy



*'It's like a circus act – you've got the judge there judging how well we're all performing, it's like the X factor...the barrister does this all the time, he's been put in situations like this loads of times, he knows how to act, but your performance is judged to the same standard.'*

**Maxine**

## In Court: Advocacy



### Issues:

- Goal-oriented nature of speaking
- Time-constrained opportunities to speak
- Responding to the other side ('thinking on your feet')

### Compounded By:

- Learning difficulties/disabilities
- Domestic abuse
- Educational and professional experiences

## In Court: Legal Conversations



*'They would talk among themselves in legal-type language, and I was just sat there waiting for it to be translated, but you don't know what they said at first, or if they're saying all of it to you.'*

**Grace**

*'There is a mask over their conversations – something is happening on a higher level that you aren't allowed to know and you can't control.'*

**Jon**

## In Court: Legal Conversations



### Issues:

- Waiting for things to be translated
- Unable to contribute first-hand to 'legal' conversations
- Exclusion from significant parts of the hearing

## Perceptions of the Court Process: Powerlessness



*'I just felt nobody was listening, because they don't have enough time there and then, they just want to make a decision. I was going into court with all these people that were out to get me, and the judge was out to get me because the judge wasn't listening to any of the information I was giving him, so I just felt like I couldn't win anything.'*

**Karen**

*'My personal experience is that [the judge] came into the courtroom the very first time, and she had her mind made up already.'*

**Kate**

## Perceptions of the Court Process: A game of chance



*'When I accidentally said something good, the judge would nod and agree and I'd think, 'you've saved yourself there' – and I would've done by the scruff of my neck. It's like a game. In fact no, it's like a game of chess because no one normal understands how to play chess.'*

**Gary**

## Conclusions



- LIPs experience many problems engaging with legal processes, with the consequence of being practically and intellectually excluded from decision-making processes.
- The way in which these problems are experienced is strongly contingent on the circumstances/backgrounds of individual LIPs, and solutions cannot be generalised.
- Many of these problems can only be identified as such from the perspectives of LIPs themselves.