



## ACCESS TO JUSTICE IN THE FAMILY COURT

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In March 2013 Joe<sup>1</sup> came home from work to find that his wife had left him, taking their 3 year old daughter, Tanya. His wife left only a note with no indication of where she had gone. The emotional effect on Joe needs no explanation. He had no idea what to do.

Joe has a learning disability. He is able to perform his straightforward duties at a local warehouse, as long as he is not placed under pressure, as he is liable to panic. Due to his low income he could not afford to pay for a lawyer but he was able to access legal aid. The solicitor got a court order to trace Joe's wife through the Department for Work and Pensions and issued a court application in the city where Joe's wife was now living. A barrister was instructed to pursue the application for contact, which the wife opposed, but, eventually, after a break of many months, Joe saw his daughter again. By 2014 Tanya's damaged relationship with her father was being repaired and she was enjoying weekend and holiday contact with him and his family.

If Joe's wife had left him after 1 April 2013 it is unlikely that Tanya would now be spending time with her father or his family. Applications for 'contact' under the Children Act 1989 were removed from the scope of legal aid by the Legal Aid, Sentencing and Punishment of Offenders Act 2012, known by lawyers as 'LASPO'. Even if Joe had managed to establish his wife's whereabouts he would have been incapable of pursuing an application in court. Sadly there are many parents whose relationships broke down after 1 April 2013 who are not seeing their children, because they are not capable of pursuing a court application.

Section 10 of LASPO was intended to provide a 'safety net' for vulnerable people such as Joe, who ought to be granted what is called 'exceptional case funding' so they can be legally represented. Section 10 is not working as intended, for reasons which are explained in the

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<sup>1</sup> Names have been changed to protect privacy

paper produced by the Family Law Bar Association entitled 'Access to Justice in the Family Court' which is being sent to all prospective parliamentary candidates this week.

<http://flba.co.uk/blog/2015/04/21/access-to-justice-in-the-family-court-briefing-paper/>

The purpose is to inform them of the injustices brought about by LASPO and to set out what can and must be done to protect the vulnerable people who cannot access justice without legal aid.

In most families a meaningful relationship with both of their parents is important for a child's healthy psychological and emotional development. In October 2014 statutory reinforcement was provided for that basic tenet of family law, in the form of section 11 of the Children and Families Act 2014. There are many cases which are simply not amenable to mediation. Early input from a specialist family lawyer would help to resolve a dispute as quickly as possible and restore the child-parent relationship. Due to LASPO there are thousands of children who are suffering harm by not having a relationship with one of their parents. This is likely to have knock-on effects for us all in the long-term.