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Legal Aid Bill and the Family Justice Review. Tension.

The Legal Aid Sentencing and Punishment of Offenders Bill ("the LASPO Bill") is "a substantial and far-reaching" piece of proposed legislation. So it was described by Lord McNally when introducing the Second Reading in the House of Lords on 21st November 2011.

"Substantial" – it certainly is, running currently to some 137 clauses and 23 schedules. And "far-reaching"? – Undoubtedly, given that it contains brutal reform of the provision of legal aid in a range of civil and family cases, affecting (on the Government's own estimates) approximately 500,000 people. Of most concern to those who work in the field of family justice, the LASPO Bill contains controversial provisions to remove from

the scope of legal aid the vast majority of cases concerning family breakdown. It is predicted that some 54,000 cases will be removed from the scope of family legal aid per year. It is assessed (per Justrights) that 68,000 children and young people will be affected by the legal aid proposals.



Stephen Cobb QC
Chairman of the FLBA

In outlining the Bill's key provisions

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Young adults, maturity and sentencing

The Court of Appeal's decision in October 2011 to uphold the majority of sentences for the rioters reflected the fact that the context of public disorder was considered a hugely aggravating factor. Lord Judge defended the decision stating that the level of lawlessness required severe sentences "to provide both punishment and deterrence". He went on to differentiate between the approach taken towards these young adults (the majority were aged between 18 and 25) and the approach adopted for juveniles, "none of these appeals involves children or young offenders (where different sentencing considerations arise)....the actions were deliberate, and each knew exactly what he (and in one case, she) was doing."

However, before sentencers heed the green light to impose harsher penalties on those

still queuing up at the Crown Court, it is worth noting the new Sentencing Council guideline on burglary offences, published only a week earlier than the riot appeal judgements, included the mitigating factor of 'age and/or lack of maturity' where it affects the responsibility of the offender. This means that, just as context of wider criminality should be considered, so too should the individual offenders' age and maturity. This has clear relevance for the young adults caught up in the summer of public disorder.

A substantial body of research evidence shows that young people are not fully mature until their mid-20s. This is particularly evident in the areas of judgment, self control, resisting

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Chambers

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London

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The European Union is currently engaged in considering how procedural safeguards for suspects in criminal proceedings can be enhanced. It is a long time coming.

By Jodie Blackstock, Barrister,
Director of Criminal and EU
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