Victims of human trafficking and domestic abuse, asylum seekers and prisoners with learning difficulties or mental health issues could be denied legal aid provision under Government proposals, according to a submission from the Church of England to the Ministry of Justice consultation Transforming legal aid.

"Our concern is that good legal advice and advocacy should be readily available to all who need it, especially those whose vulnerability places an obligation on society to ensure that they are not defenceless against unjust treatment by any person, organisation or agent of government," the submission says.

The blanket 12-month residence test proposed in the consultation to limit access to legal aid would severely disadvantage victims of human trafficking in relation to compensation claims or immigration status and those who have come to this country with a partner but become victims of domestic violence, the submission explains.

The Government has previously committed itself to giving victims of human trafficking access to free legal advice and representation when they cannot pay for it. The consultation, however, would delay access to legal aid until the claimant has been legally resident for 12 months, except where there is an exceptional case determination. The submission calls on the Government to maintain access to legal aid in all such cases.

Those granted official status as asylum seekers would be denied legal aid until 12 months after their status was granted under the proposals. The submission points out that this appears to contravene Article 16 of the Refugee Convention, which states they should be treated the same as nationals as far as courts and legal assistance are concerned. Those held in immigration detention will hardly ever meet the residence test and will be hindered in legally challenging that detention.

If the proposals go through, prisoners will have no access to legal advice on solitary confinement, or a number of other matters involving important human rights issues in prison, which according to the submission falls short of natural justice. The consultation also suggests that prisoners with learning difficulties or mental health issues wishing to make a formal complaint but unable to write it down could make their complaint orally to a member of staff or seek help from a fellow prisoner, rather than accessing legal support. Yet, Prison Service Instructions state complaints should not be seen by any member of staff directly involved with the prisoner. Vulnerable prisoners may be influenced or intimidated by follow prisoners, so seeking their help is not appropriate.

"Given that these are the current arrangements in prisons, it is reasonable to expect that those who, especially through disability, are not able to formulate or write down their own complaints should have access to legal aid to make a complaint, including complaints about treatment," the submission says.

The full submission can be read at http://bit.ly/186ANuc.