

Refugees to be denied backdated benefits

Decision is 'grossly unfair' says leading charity

The Government has confirmed that it intends to remove the right of those granted refugee status to claim backdated benefits. The announcement follows the Home Office having said in March 2004 – see review 104 – that “we are not convinced this is the right way to help refugees. It is in their interests to make sure they find work and stand on their own two feet, not to receive benefits once they have permission to stay in the UK.”

On 8 June 2004, the Government tabled a series of amendments to the Asylum and Immigration (Treatment of Claimants, etc) Bill that included a proposal to replace the current system of back payments of Income Support, Housing Benefit and Council Tax Benefit to refugees with a loan system which would be ‘forward looking and designed to assist integration.’

The amendment proposes that –

- entitlement will be discretionary based on, for example, a person’s income or assets, and their likely ability to repay the loan;
- the Secretary of State will specify (and vary from time to time) the minimum and maximum amount of the loan;
- regulations may make provision for the loan to accrue interest; and
- repayment can be made by deduction from social security benefits.

Responding to the announcement the Child Poverty Action Group said –

“This decision by the government is grossly unfair. It will hit refugees at their most vulnerable time.

Refugees often have to wait many years for the Home Office to process their application for asylum. During this time, they are expected to live on a minimal payment from the National Asylum Support System.

To then be informed that they have been granted asylum but not the much needed financial support is a slap in the face.”

NB – The regulations that currently allow backdating of benefits are a legal remedy passed by parliament in recognition that the denial of benefit to refugees is contrary to international law.

The Bill will now be recommitted which means that the relevant parts of the Bill go back to be considered in Lords Committee and be subject to scrutiny. □

Earlier notice of appeal hearing dates

The Appeals Service has written to representatives to advise of new procedures to be introduced ‘in the coming months’, designed to ‘improve operational performance’.

The new procedures aim to give appellants and their representatives an oral hearing date immediately on receipt of the TASI pre-hearing enquiry form.

The Appeals Service says that responding to appellants immediately on receipt of the TASI means earlier contact is made to ensure that s/he understands that it is now handling their appeal; encourages them to get in touch if they have issues they need to raise; and emphasises the importance of early preparation (including the possibility of securing representation).

The Appeals Service hopes that the new procedures will lead to better prepared appellants and representatives; appellants and representatives having a better idea of time-scales within which to produce additional evidence or submissions; reduced requests for postponements or adjournments; reduced waiting times; new hearing dates allocated, wherever possible, at adjourned hearings; and improved interaction with representative groups. □

www.rightsnet.org.uk

the welfare rights website for advice workers

Urgent improvements needed to benefit medical assessments

The DWP should speed up the introduction of systems to improve the quality of medical evidence provided by doctors carrying out examinations in relation to claims for incapacity and disability benefits, and should consider whether the standards used to assess the adequacy of medical reports should be raised, according to a new report from the Commons Public Accounts Committee.

The report – *Progress in improving the medical assessment of incapacity and disability benefits* – is based on evidence taken by the Committee from the DWP on the extent to which performance has improved since 2001 when it last took evidence. The Committee also looked at whether the DWP, together with its medical services contractor SchlumbergerSema, could carry out medical assessments more efficiently. The Committee examined the quality of medical evidence in the light of the continuing high numbers of successful appeals for incapacity and disability benefit, and whether improvements had been made in the standards of customer care.

Amongst its conclusions and recommendations the Committee highlights –

- since 2001 performance has improved in many aspects of medical assessment. For example SchlumbergerSema has halved the number of substandard medical reports and the number of complaints

against them has reduced steadily.

- the Department has improved the time taken to process medically-assessed benefits, but performance in poorer offices needs to be brought up to the standard of the best. With pilot Incapacity Benefit reforms having led to further reductions in the time taken to carry out examinations, the DWP should make these levels the norm.
- the re-tendering of the medical services contract should be used to seek further service improvements and more innovative ways of delivering medical services.
- the DWP should assess the risk that a significant proportion of decisions are incorrectly overturned at appeal. If so it will need to improve the training of appeals tribunal doctors and provide for more systematic review of their work.
- it is difficult to see how doctors and decision-makers can improve their performance if they do not know the outcomes of the cases they examine. In consequence the DWP should provide regular feedback on decisions reached and on the results of appeals; speed up implementation of systems to improve the quality of medical evidence; and look

again at the standards used to assess the adequacy of medical reports and consider whether they should be raised, or the contractor set a more demanding target.

- the calibre of the doctors conducting examinations is crucial and the DWP and its contractor should enforce rigorous standards – acting swiftly to identify and, where necessary, remove those who fail to reach the necessary standards of care.
- the DWP must understand better the causes of non-attendance and introduce measures to address them, and should make it easier for people to attend by for example, rethinking where examinations take place and improving the accessibility of medical examination centres.
- improvements should be made to medical assessments for specific groups, such as those with mental health problems. There is evidence that people with mental health problems experience greater than average difficulties in attending examinations, being assessed and getting a fair hearing.

The Commons Public Accounts Committee report is available from www.publications.parliament.uk

NB – In February 2004 SchlumbergerSema was acquired by international information technology services company Atos Origin – for approximately \$1.5 billion. □

Help end the age bar on DLA

A group of more than 20 leading charities – including Age Concern, Disability Alliance and Carers UK – have launched a campaign – *Mobilise* – that calls on the Government to remove the age bar on Disability Living Allowance (DLA) and bring about age equality in the provision of disability benefits.

An early day motion – EDM 953 – has also been tabled in Parliament that calls for the Government to support the campaign, and make a genuine commitment to active ageing and the full participatory citizenship of older people. The EDM argues that –

- it is unjust and discriminatory to deny people who become disabled from the age of 65 the opportunity to claim DLA;
- the alternative benefit offered to older disabled people, Attendance

Allowance, is inadequate because it does not contain a mobility component, is not available to those with lower-level needs, and requires a claimant to wait three months longer before making a claim;

- Attendance Allowance does not passport its recipients to the Motability scheme, or exemption from vehicle excise duty; and
- the differentiation between older and younger disabled people is based on an outmoded and unfounded conception of older people as inactive and non-contributing members of society.

For more information about the *Mobilise* campaign, see www.helptheaged.org.uk. A copy of the early day motion is available from <http://edm.ais.co.uk> □

JSA regime intensified

New regulations have been issued that provide for changes to the Jobseeker's Allowance regime designed "to reduce the number of people who become long term unemployed."

In force for new claimants from April 2004, the *Jobseeker's Allowance (Amendment) Regulations 2004* (SI.No.1008/2004) –

- increase the area over which JSA claimants are expected to travel to find work; and
- increase the number of steps claimants are required to take in their search for work.

Regulations previously prescribed that a person would not have good cause to refuse a job due to the length of time to get there if their travel time was less than an hour in each direction. The new regulations increase the travelling time after the first 13 weeks of the claim from one hour to one and a half hours.

In addition, a person will now, from the start of their claim, have to take at least three job-search steps in any week instead of two as was previously the case.

NB – The new provisions will be extended to existing claimants from October 2004. □

Cheque payment still possible for 'vulnerable customers'

DWP Minister Chris Pond has announced that, following the conversion of benefits and pensions to Direct Payment, 'vulnerable' people who cannot open or manage an account (for example due to illness or disability) will be paid by cheques that can be cashed at the Post Office.

In a statement to Parliament on 11 May 2004 the Minister said –

"Direct Payment is a more modern, reliable and safer method of payment which has proven popular with pensioners and benefit recipients. More customers are now paid into an account rather than by order book and enjoy the increased flexibility and security that this brings.

We have already announced that we will stop using order books from next year and

so we have to protect those vulnerable customers who are genuinely unable to manage an account.

This is not an alternative option for those who can operate an account but a way of ensuring those who cannot, continue to get their money once the switchover to Direct Payment is complete.

We have liaised with groups including CAB, Help the Aged, Age Concern and MIND to try to design the best possible service. That's why we will pay those customers concerned by cheque, with enhancements to security."

The cheques can be issued on a weekly basis to home addresses and are cashable at Post Office branches as well as payable into bank accounts. Cheque payments will start in October 2004 and until then affected customers can continue to use their order books. □

New 'right to reside' rules

New regulations, designed, according to the DWP, to ensure people from the countries that recently joined the European Union 'cannot abuse Britain's benefit system', will impact on access to a range of welfare benefits and tax credits for anyone who can not show that they have a 'right to reside' in the UK.

Despite the Social Security Advisory Committee having recommended that they should 'not be proceeded with', the new rules were introduced from 1 May 2004.

What benefits are affected?

The new rules restrict access to –

Income Support, income-based JSA, Housing Benefit, Council Tax Benefit, and Pension Credit:

From 1 May 2004 claimants of these benefits who have arrived in the UK in the previous two years will have to show not only that they are habitually resident, but also that they have a 'right to reside', in the Common Travel Area (the UK, Channel Islands, Isle of Man or Republic of Ireland). Failure to demonstrate a 'right to reside' will mean that the claimant will not be treated as habitually resident and therefore will not be entitled to any of these benefits.

NB – Anyone entitled to one of these benefits on 30 April 2004 will not be subject to the new requirement for any of the five. This transitional protection will continue until entitlement to the benefit ends (or, if there

is entitlement to more than one of the benefits, the date entitlement to the last one ends).

Child Tax Credit and Child Benefit:

Entitlement to both Child Benefit and Child Tax Credit is governed by rules relating to presence in the UK. However, again from 1 May 2004, anyone not able to demonstrate a 'right to reside' in the Common Travel Area will be treated as not being present, and therefore not entitled to either payment.

NB – For both Child Benefit and Child Tax Credit the 'right to reside' requirement only applies to new claims made on or after 1 May 2004 (and does not apply to renewal Child Tax Credit claims). For Child Benefit the requirement applies only to the claimant not the child, and for Child Tax Credit, if the claimant has a partner, both must be present in the UK.

New exemption from the habitual residence test –

The regulations that introduced the new 'right to reside' rules for Income Support, income-based Jobseeker's Allowance, Housing Benefit, Council Tax Benefit, and Pension Credit also provide for a new exemption from the Habitual Residence Test that governs entitlement to these benefits.

From 1 May 2004, workers from the countries that joined the EU on that date who are required to register with the Government's new worker registration scheme are added to the list of those who are exempt from the HRT. □

Widening the scope of eligible childcare for tax credit purposes

The Government has launched a public consultation on proposals to widen the scope of eligible childcare for Tax Credit purposes.

Whilst the Home Childcarers scheme, launched in April 2003, already allows parents who use approved childcare in their own homes access to the childcare element of Working Tax Credit, only 174 carers were approved under the scheme in the first nine months. (Under the scheme, Home Childcarers are required to undergo an induction course, have to abide by a Code of Practice based on the National Standards for Under Eights Day Care and Childminding, and agree to being assessed by Ofsted at regular intervals.)

In consequence the consultation paper – *Childcare: extending protection and broadening support* – proposes a voluntary scheme for the approval of carers who provide childcare in situations that are not regulated by Ofsted that will include care of children of any age in the child's own home by a third party, whether by an individual 'nanny' employed by the parents or by a carer employed by an agency. It also proposes widening the scope of eligible childcare to include providers of unregulated childcare services outside the home, such as out of school clubs and 'childminding'.

The new rules will not however apply where people employ family members to provide childcare in their own home as the Government says that it "does not think it appropriate to intervene in private family arrangements."

The consultation period will run until 16 August 2004 with the intention of introducing the new rules in April 2005. The consultation paper is available from the Department for Education and Skills website @ www.dfes.gov.uk □

New national welfare benefit specialist support service

Lasa and the Child Poverty Action Group (CPAG) have been awarded contracts to run a national specialist support service in welfare benefits from 1 June 2004.

Funded by the Legal Services Commission (LSC), the new service will deliver –

- a welfare benefits advice line

	CPAG 020 7278 2100	Lasa 020 7247 8935
Monday	2 – 4.30	
Tuesday	2 – 4.30	
Wednesday	10.30 – 1	2 – 4.30
Thursday		10.30 – 1
Friday		2 – 4.30

- ongoing support with individual cases – for example, working with advisers to research relevant legislation or case law, looking over the case papers, developing case management, tactics and strategy, and helping to draft letters and appeal submissions to tribunals and the Social Security Commissioners;
- taking on direct casework – complex cases or test cases – by referral; and

- welfare benefits training in each LSC Region.

The service can be used by any organisation in England with an LSC General Civil Contract or a CLS Specialist or General Help with Casework Quality Mark in any area of law.

For more information see www.lasa.org.uk/representation/ssp.shtml or contact the specialist support teams by email – ssp@lasa.org.uk and advice@ssp.cpag.org.uk

NB – In addition to the core services detailed above, the Lasa specialist support team will also be working with the welfare rights website @ www.rightsnet.org.uk –

- in the development of ‘briefcase’ – summaries of every unreported commissioners decision added to the Social Security and Child Support Commissioners’ website; and
- to maintain the Challenging DWP decisions series of Q&As that explore legislation and case law relating to revisions, supersessions and benefit appeals. □

Welfare-to-work for people with multiple problems and needs

The Government’s welfare-to-work policies are failing people with multiple problems and needs according to new research by the Economic and Social Research Council (ESRC).

The research report – *A Different Deal?* – looked at the labour market experiences of people with multiple problems and needs, including people who not only lack jobs, but who may also be homeless, have learning difficulties, physical or mental health or substance dependency problems, have experienced public care or custody, or have experienced abusive or disrupted family relationships.

The research found that welfare-to-work is not helping such people, as it ignores their life needs, of which work was only one part, and the continuing, flexible and independent support that they need is not being provided by the current system –

“The depressing reality was that participants were not being allowed the space in which to sort out their lives. What they needed was a ‘life-first’ approach to welfare-to-work; a holistic approach that would prioritise their life needs, including their need to work.

This would entail a certain re-conceptualisation of welfare-to-work. It would mean re-thinking what is meant by ‘job-readiness’. And it means identifying the kinds of continuing support that could sustain people with multiple problems and needs in permanent paid jobs: the evidence suggests this would need to be long-term, expert, independent and flexible in nature.”

A copy of the research report is available from the ESRC website @ www.regard.ac.uk. □

Deductions from benefit for court fines

New rules are being introduced from April 2005 that will mean offenders convicted of theft and other crimes who fail to pay court fines will face a tougher regime of weekly deductions from their benefits.

Announcing the new rules, Work and Pensions Minister Chris Pond said –

“The public must have confidence that fines are an effective penalty and a credible alternative to prison. This increase is aimed at those who either refuse to pay their fines or choose to have it deducted from their benefits.

... Right to benefits must be matched by responsibilities. Victims of crime expect justice to be seen to be done and the cash

repayment is often too low to effectively enforce penalties imposed by the court. The repayment period can be far too drawn out, leaving many feeling the punishment is inadequate.

It is important that we send out a signal ... that fines are not a soft option. People on state benefits must face the consequences of their crimes like anybody else and pay for them in a way the public demands.”

Those who fail to pay court fines and have the amount automatically taken from their Income Support, Jobseeker’s Allowance or Pension Credit will see the deductions increased from £2.80 to £5 a week. □

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