

# Retaining legal aid for appeals against welfare benefits decisions

## Joint briefing on Amendment 11 to the Legal Aid, Sentencing and Punishment of Offenders Bill

House of Lords, Report Stage

The Bill as it stands removes all legal aid for advice on welfare benefit issues, including appealing against official decisions. **Amendment 11 would retain legal aid for assistance in challenging official decisions via a review or an appeal.** It excludes both representation (which is not currently covered by legal aid in any case) and more general help (with form filling, for example) which falls under legal aid currently but can be dealt with via general advice. We support the amendment for the following reasons:

- **It would protect disabled people:** 58% of those using legal aid for help with welfare benefits issues are disabled. Legal assistance is vital, for example, when appealing decisions on entitlement to Employment and Support Allowance, for which 40% of appeals are successful. For seriously ill or disabled children, legal aid can be a vital resource, for example, 65% of children seeking support with welfare benefits do so in relation to Disability Living Allowance.
- **During major reform to the Welfare System, legal aid is vital:** as Universal Credit is introduced and Personal Independent Payments replace Disability Living Allowance, people will fall through the net. Legal help will be vital in allowing individuals to challenge incorrect decisions, thereby highlighting to the Government where the system can be improved. If the Government meets its aim of achieving improved decision making through a more simple benefits system, demand for advice will drop accordingly.
- **It would save money:** The opportunity to challenge wrong decisions early can enable people to stay in their jobs and in their homes and prevents them falling further into debt. Leaving it too late places a much heavier burden on the public purse. Citizens Advice estimate welfare benefits advice saves £8.80 for every £1 spent. The Government have made no credible attempt to estimate the knock-on cost to the public sector of cutting legal aid in this area.
- **It would trim the current scope of legal aid:** The Amendment specifically excludes representation (which is not covered currently) and excludes simpler welfare benefits cases which are currently eligible for legal aid. This compromise achieves savings compared to the current budget while still ensuring that an individual challenging official decisions is able to access help. **The current budget for legal aid on welfare benefits is about £25m per year. This Amendment would save about £8.5m per year, reducing spend in this area to only £16.5m per year. It would retain help for 100,000 people to prepare their cases to prepare their cases to challenge official decisions, at a cost of just £150 per case.**



## **The Advice Fund and Cabinet Office Advice Review are not a replacement for legal aid**

In early March the Government will announce which organisations were successful in their bid to the £20m advice fund. It also frequently cites the Cabinet Office Advice Review, which is examining the long term future of advice. We believe that:

1) **The one-off advice fund is far too small and is no replacement for legal aid** - it must be spent in the next financial year (before the legal aid changes are introduced in April 2013) and at £20m does not begin to cover the cuts the sector is facing (estimated at £51m from legal aid alone).

2) **The Cabinet Office Advice Review has produced nothing**: nine months in to the review, neither terms of reference nor a timetable have been published. It is unclear if the review is focused on or has the ability to secure the long-term funding advice charities desperately need. Furthermore the review is addressing broader Government 'support' for advice charities, not legal aid specifically.

### **Consider the following examples**

#### **Dealing with a cancer diagnosis**

When 12 year old Sean was diagnosed with leukaemia his family were understandably distraught. His mum was forced to give up her job as an administrator to care for him, and his dad's salary was not enough to cover all their bills on top of the added costs of Sean's illness – regular trips from the South Coast to London for chemotherapy, special food, and mobility support. They applied for Disability Living Allowance for Sean and were turned down, but with the help of their local advice agency, funded by legal aid, they appealed and the judge found in their favour immediately. The family admit that without legal help they would have had neither the knowledge nor the confidence to appeal. They would not have been eligible for legal aid under the Government's plans.

#### **Clear-cut need for support**

A 41-year old man with learning difficulties and severe depression was refused Disability Living Allowance (DLA). He struggles with everyday tasks - reading letters, cooking meals or taking a bus - but had successfully managed to hold down a job as a part-time cleaner. His local advice agency, funded by legal aid, helped him appeal by gathering medical evidence, compiling a dossier of paperwork and preparing him for the formal tribunal procedure. The tribunal took just ten minutes to award him DLA indefinitely. The additional income has given him the security and confidence to live independently from his elderly parents for the first time. He would not have been eligible for legal aid under the Government's plans.

### **For more information or to arrange a briefing with policy experts please contact:**

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#### **This briefing is endorsed by:**

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