

## Last rites

**Vicky Pearlman** calls for a fundamental review of social fund funeral payments

When a loved one has passed away, worrying about the financial burden should be the last thing on your mind, but many people on a low income struggle to pay for the funeral of a close relative or friend. A Social Fund funeral payment is supposed to help people in these circumstances. In 2011/12, 69,000 people applied to the DWP for a funeral payment and 38,000 were awarded. The average amount awarded was £1,241<sup>1</sup>, covering just under 40 per cent of the average cost of a funeral, which is £3,284.<sup>2</sup>

CAB evidence shows that the DWP's current rules and procedures for claiming a funeral payment do not help bereaved people make quick and informed decisions about paying for a funeral following a death:

A CAB client on jobseeker's allowance could not arrange for his mother's body to be removed from the hospital for five weeks following her death, because it took the Social Fund that long to respond to his claim for a funeral payment. He had already arranged the funeral, at a cost of £2,318, but was unable to pay the necessary deposit of £1,363 to the funeral director and so the funeral could not go ahead.

A 62 year old CAB client in the South East of England faced a £1,200 shortfall between the funeral

payment she received from DWP and the actual cost of a basic funeral for her husband. She could not pay the shortfall from her weekly income of £141. The worry about falling into debt, and the prospect of possible court action against her, was adding to her distress following the death of her husband.

The need for urgency when dealing with the body of the deceased, and dignity in the funeral act, both shape behaviour when arranging a funeral. Cost often becomes a secondary issue in the minds of the bereaved. It is not acceptable that people have to make these decisions without knowing, or misunderstanding, what resources they have to spend.

Citizens Advice recommends that the DWP should launch a full review of funeral payments. Such a review must include:

- The adequacy of funeral payments – costs could be kept to a minimum if DWP bulk purchased simple dignified funerals on a local basis for applicants to the funeral payment scheme.
- The clarity and timeliness of information about funerals and funeral payments.
- The speed and efficiency of the processing of funeral payments.

- Extending eligibility for a funeral payment.
- Ending the practice of taking gifts or loans from family, friends or charities into account when deciding on the funeral payment, when these are being made to alleviate hardship.

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1. *Annual report of the Secretary of State for Work and Pensions on the Social Fund, 2011/12*, DWP (2012)

2. *Cost of Dying* report, Sun Life Direct (2012)

# Light at the end of the tunnel?

*Nick Waugh looks at recent developments in access to basic bank accounts*

The recent decision by the Government to amend the law to help banks offer accounts to undischarged bankrupts could finally see the end of the one of the great injustices in financial inclusion.

At the moment fewer than a third of bankrupts are able to open a bank account after they are declared bankrupt, something which makes it next to impossible to receive wages and benefits and pay bills. This puts their financial recovery in jeopardy.

The government's decision follows the move by the Co-operative Bank in September to no longer offer basic bank accounts to undischarged bankrupts which brought into sharp relief the issues plaguing the basic banking market.

Even before the Co-operative decision, undischarged bankrupts struggled to open a bank account, with Barclays and the Co-op their only choices. This restricted choice in large part created the conditions which led to the Co-op decision, as it was receiving a disproportionate share of new basic bank account applications as a result.

While it is clear that the Co-op is keen to be a socially responsible corporate citizen, we recognise that basic bank accounts make very little money for the banks who provide them. As such, a consistently increasing share of new basic bank account applications driven by undischarged bankrupts was never going to be a long-term sustainable position for a relatively small player in the UK retail banking market.

Meanwhile, Barclays has reiterated their continued commitment to

providing basic bank accounts to undischarged bankrupts and has clarified that it will offer such accounts to existing customers who are declared bankrupt even if they have a debt to Barclays included in their bankruptcy. Similarly, the Co-op will offer a basic bank account to existing customers who are declared bankrupt. This has helped, but it is far from a sustainable long-term solution and it is in any case unfair to expect one bank to carry the cost of other banks' lack of a social conscience on this issue.

## The nub of the problem

The reason that other banks have not and do not at the moment offer basic bank accounts to undischarged bankrupts is, on the face of it, because of a theoretical risk posed by Section 307 of the Insolvency Act.

Section 307 concerns potential liability for so-called 'after-acquired property'. In this context, it describes a situation where an undischarged bankrupt unexpectedly receives a cash windfall into their bank account. Under the terms of the bankruptcy, this money must be declared to the trustee who may claim it for distribution to creditors but if it is withdrawn from the bank account and disposed of in some way which means the trustee cannot recover it, the bank could potentially be held liable.

For example, if an undischarged bankrupt inherited some money after a relative died, and they withdrew the money and gave it to a friend to prevent the trustee recovering it then the bank could in certain circumstances be held liable

for the money.

There is disagreement over what those circumstances are, with banks claiming that failure of a bankrupt to abide by the terms of their bankruptcy could see them drawn into a dispute between the trustee and the bankrupt, or see them expected to monitor activity on bankrupts' accounts to an uneconomical level of scrutiny.

Although both Barclays and the Co-operative Bank judged the risk to be manageable, after years of pressure from organisations such as Citizens Advice and Consumer Focus, the other banks have not yielded on this issue. It has become increasingly clear that the only way to comprehensively deal with the problem is to amend the Insolvency Act to explicitly detail the circumstances under which a bank could be held liable for after-acquired property.

The Government has now announced that it will do this at the earliest opportunity in the parliamentary timetable, with a new arrangement whereby a bank can only be held liable if they ignore a written request from a bankrupt's trustee.

We recognise that it will remain a business decision for banks whether or not to offer bank accounts to undischarged bankrupts but we have had encouraging noises from a number of banks on the issue. We expect that the amendment to the Act will materially improve the prospects of opening an account for undischarged bankrupts.

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## Wider implications

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There are of course wider issues in basic banking, such as general difficulty opening an account, restrictions on counter service in branches and access to the ATM network, but in many ways the undischarged bankrupts issue has acted as a brake on progress to comprehensively addressing the problems in the market.

We would like to see a set of common standards and features for basic bank accounts which would be offered by all banks but it would be difficult to agree this while there is a distortion in the market that sees a significant proportion of applicants have only one option of provider. The amendment to the Insolvency Act will help remove this distortion.

In recent years, there has been an apparent retreat from the principles behind basic banking. RBS Group and Lloyds Banking Group do not allow their basic banking customers to access the LINK ATM network and others have restrictive policies on counter service. Many make it very difficult to open an account in the first place, either strictly interpreting EU money laundering legislation by insisting on forms of ID that many people on low incomes do not have, making information about basic accounts hard to find, trying to sell a packaged account instead or just simply rejecting applications to open an account.

Retail banks generate revenue from bank accounts by four means: account charges for packaged accounts, overdraft fees and interest, net credit interest<sup>1</sup> and interchange income associated with debit card usage. Clearly only the latter two apply to basic bank accounts in any significant way (although it is still

possible to incur overdraft fees with a basic account) and the net credit interest is not generally particularly large given that *most* basic bank accounts are not likely to have high average balances.

Undischarged bankrupts are likely to have particularly low average balances and potentially fewer debit card transactions that would generate interchange income. The minimal revenue generated by undischarged bankrupts relative to other customers and the mooted risk from after-acquired property helps explain why most banks have never offered accounts to them. Both Barclays and Co-op have implicitly recognised this by commenting that they see (or saw, in the Co-op's case) access to transactional banking as an important part of the reintegration into financial health for undischarged bankrupts and see providing them with accounts as a socially responsible thing to do.

Clearly a solution which allows the potential costs to be spread across the banking sector is required. Addressing the issue of after-acquired property is a necessary precursor to this, as it would then allow, for example, banks to agree a system whereby they offer a basic bank account to any existing customers who are declared bankrupt, as Barclays and Co-op both currently do. In circumstances where a customer has an existing debt to their bank included in the bankruptcy petition it may be desirable to open an account with another bank, although the right of set off should not be a risk after any funds in their current account at the point of being declared bankrupt have been dealt with (such funds can be set off under insolvency law).

There is also a pressing need to address the wider issues around access and functionality in the basic bank account market. We therefore strongly support the adoption of common standards for basic bank accounts by all UK banks. This could be done by voluntary agreement. Alternatively, the new Financial Conduct Authority, with its new requirement to have regard to whether consumers in areas of social or economic deprivation can access and use financial services when using its competition powers, might have to step in.

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<sup>1</sup> The difference between the interest paid on a credit balance and the return the bank generates by investing that balance. From the consumer perspective it is referred to as foregone interest.

# Rotten apples – and what to do about them!

*James Sandbach looks at the regulatory challenges facing the legal service and justice sector*

With new consumer landscape responsibilities coming Citizens Advice's way, our work on justice and legal policy may start to take a noticeably different slant. Advocacy for legal aid to assist access to justice, tackling discrimination, protecting human rights, supporting offender rehabilitation, and improving courts, tribunals and redress will all remain key themes for Citizens Advice. However, the role of *agency* or rather *agents* within the justice system takes on greater prominence in the way the justice system interacts with consumers. Much of the justice sector is run by private business – solicitors, insurers, paralegals, debt collection agencies etc – operating within regulatory (or quasi-regulatory) frameworks. And from time to time, reports from bureaux throw up 'rotten apples' operating in the justice system who seem more interested in making a fast buck than delivering services which add value to the justice system, or serving its users' needs.

It is often said that our court system and legal services sectors are international beacons of justice; indeed justice ministers are aggressively promoting the sector "to boost UK growth" with the UK jurisdiction "as a centre for global dispute resolution."<sup>1</sup> However, rotten apples bring this into question. As the new regulatory system of the 2007 Legal Services Act beds in with its emphasis on putting consumers first, encouraging competition, professionalism and new 'alternative structure' business models, the rotten apple problem throws up regulatory as well as professional ethics challenges.

Letting even a few rotten apples fester brings the integrity of the whole justice system into question. So where are these rotten apples to be found?

## Overpriced solicitors serving their customers poorly

It's easy to take cheap shots at solicitors – in fact most give a professional, honest service with a cost base reflecting the complexity of the work. However, bureaux sometimes report experiences of solicitors firms' clients where standards fall well short – just the sorts of problems that the Legal Ombudsman was set up to deal with. For example:

A CAB in the East Midlands reported that a man had approached a local solicitors' firm in June 2010 for assistance with gaining a power of attorney over his parents' affairs. He paid £1,000 for the solicitor to complete the paper work and arrange the power of attorney. The client told the CAB that no power of attorney had been set up. In the meantime his mother had died in December 2010 and his father in April 2011. The client had complained to the ombudsman and accepted a compensation payout of £150 after the death of his father, and following the death of his mother wanted to claim the full fee back. He had complained directly to the firm, but was told that the firm did not have the funds to set the power of attorney up.

## Claims management companies

I'd wager that all readers of this article in possession of a mobile phone, landline or email account will have been recently 'spammed' or cold-called offering them a compensation claim for an accident or mis-sold PPI policy. Confident people are able to either ignore these as a nuisance, or if they do have a genuine PPI refund claim, can do it themselves via the Financial Ombudsman. But for vulnerable consumers or just less savvy financial consumers it can be a different story:

A CAB in the West Midlands saw a woman with physical and mental health conditions who was accompanied by her support worker. She had been cold-called by a company about mis-sold PPI sometime in the summer of 2011. She agreed that she had been mis-sold PPI and the company asked for a payment of £99 to start the investigation. The client made this payment with her debit card and then received a form along with the terms and conditions for the service. This form stated that the claims management company would take 30 per cent of any recovered PPI. On reading this, the client decided that she did not wish to pursue the claim and she returned the form not completed along with a covering letter stating that she did not want to take the matter any further. The claims management company rang her a few days later and 'bullied' her into continuing with the case, taking all the details of her bank loan. Following this phone call the client received a lot of forms from

1. [www.justice.gov.uk/news/features/feature281011a](http://www.justice.gov.uk/news/features/feature281011a)

the bank, who subsequently sent her £1,000 compensation. The claims management company now wanted £243 fees – it was constantly contacting her by phone and had written to her threatening legal action. The client was stressed out by this experience and felt that the company did not deserve any fee as she had had to fill in all the forms from the bank herself.

It was due to the complaints of bureaux and Citizens Advice,<sup>2</sup> that statutory steps were taken to regulate the claims management sector directly by the Ministry of Justice. But as the market has shifted from personal injury to financial compensation claims, and with ever more aggressive marketing strategies, it is now time to revisit the issue. Citizens Advice's recent report has called for tighter regulation of PPI claims management and marketing activities, including banning cold calling, improving data protection, and greater use of consumer protection law and regulatory sanctions.<sup>3</sup>

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## Private bailiffs and debt enforcement

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No one would ever claim that this is an easy job to carry out – but there is a gulf of difference between a good practice approach that engages debtors on their liabilities and encourages sustainable repayment, and the aggressive approach followed by many private bailiffs which bullies, frightens, fleeces and misrepresents, adding to the misery of the debtors' lot. Evidence from bureaux suggests the latter is commonplace in the enforcement industry, and below is the sort of example which gives cause for concern.

A CAB in Wales reported how a 74 year old widow with terminal cancer and a matter of weeks to live was harassed by bailiffs for council tax arrears of £2,439.71. Unable to manage her grief, she had become an alcoholic after her husband's death, her money problems had got out of control and she concealed the extent of her debt and illness from family until her final days. When the family situation was explained to the council, the bailiff left but said he would return in a month to remove all her goods.

By historical anomaly private bailiffs, which now undertake the majority of debt enforcement work for courts and local authorities, have been able to escape robust regulation and operate like a private vanguard force with impunity – this has to change for enforcement agent activity to be a legitimate part of the legal system. Citizens Advice has launched a campaign, in light of a Ministry of Justice consultation on tackling 'aggressive bailiffs', to put statutory regulation of this sector back on the agenda.

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## Civil recovery agents

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There is little more to add here beyond the two recent Citizens Advice reports<sup>4</sup> which exposed the practices of a few niche 'specialist' firms sending out threatening letters with escalating costs on behalf of the retail sector, often on the basis of limited legal authority, demanding substantial sums as compensation for alleged shoplifting or employee theft of low value items.

Whilst civil recovery itself – using civil proceedings to recover unlawfully obtained property – may be a legitimate practice, the Law Commission has highlighted how

misleading and aggressive practices using hollow threats of legal action can be a cause for concern may constitute 'deceitful', 'unfair' and 'improper' business practice, as defined by the consumer protection and unfair trading laws.

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## Will-writers and probate

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A recent win for consumers has been the Legal Services Board's decision in response to their Consumer Panel, Citizens Advice and others that all will-writing and probate activity should be brought within the scope of regulation. Consistent complaints over fees and quality have brought issues in this sector to the forefront of regulators attention.

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## Towards an 'end-to-end' approach to justice regulation

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Readers who have stuck with this article will notice certain themes emerging, a growing market for paralegal services, transactions involving vulnerable consumers, regulatory gaps especially around intermediary services, and the injustices that arise at different ends of the legal system when its agents put profits before ethics. Rotten apples deliver rotten justice. It's time now for the Legal Services Board to take a more holistic look at the legal sector, and how regulation can be delivered to serve the consumer interest.

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2. *No win, no fee, no chance*, Citizens Advice (2004)

3. *The claims pests*, Citizens Advice (2012)

4. *Unreasonable demands and Uncivil recovery*, Citizens Advice (2009 and 2010)

# A little less conversation, a little more action please!

*Anne Pardoe argues that struggling fuel poor households need action, not a new definition*

Much recent media attention has been given to the fact that energy prices are rising, putting ever more pressure on already tight budgets. In 2010/11 the average electricity and gas bills grew by eight per cent and nine per cent respectively and five of the 'big six' energy suppliers have announced further increases of around 10 per cent in the past few months. This rate of increase is significantly out of step with household income. In 2011 most benefits were uprated by 5.2 per cent in April 2011, while average earnings for full time employees grew by 1.4 per cent and the minimum wage by 2.5 per cent in 2010/11.<sup>1</sup>

The latest fuel poverty statistics published by DECC showed that 4.75 million households in the UK, approximately 19 per cent, were in fuel poverty in 2010, 4 million of which were considered to be vulnerable, due to elderly people, children or a disabled person or someone living with a long term illness in the household.<sup>2</sup> The devastating impact that fuel poverty can have on the health and wellbeing of households is well documented, most recently in Professor Hills' report *Getting the measure of fuel poverty*, the final report of the review of the definition of fuel poverty commissioned by the Government in early 2011.

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## The Hills review – masterstroke or damp squib?

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Professor Hills' report was widely regarded amongst stakeholders to be a comprehensive, impartial analysis of the causes and effects of fuel poverty. The key recommendation of the report to change the definition of fuel poverty, however, proved to be more controversial. The current definition, Professor Hills found, is significantly flawed, overly sensitive to price rises and captures some individuals who would not necessarily be considered to be poor or in fuel poverty. The alternative approach recommended by Professor Hills, the Low Income High Cost (LIHC) indicator, is a relative measure which considers a household to be fuel poor if they have required fuel costs that are above the national median level of all households and would be left an income below the official poverty line if they were to spend the required amount. The Government subsequently published a consultation proposing to drop the current definition and adopt the Hills definition.

Many stakeholders, such as the Fuel Poverty Advisory Group (FPAG) of which Citizens Advice is a member, favour the retention of a definition based on the one currently in use with some revisions made to address its limitations. Citizens Advice has sympathy with this view.

For example, the most contentious aspect of the proposal has been the decision to set the required fuel costs aspect of the indicator at the median for all households in the UK. The Warm Homes and Energy Conservation Act 2000, on which the definition of fuel poverty is based, states that "For the purposes of this Act, a person is to be regarded as living 'in fuel poverty' if he is a member of a household living on a **lower income** in a home which cannot be kept **warm** at **reasonable cost**."<sup>3</sup>

This aspect therefore comes down to a judgment as to what a 'reasonable cost' is. The approach proposed by Professor Hills assumes that the average fuel bill incurred by consumers to heat their home to a certain level is 'reasonable'. Citizens Advice received 97,000 enquiries about fuel debt in 2011/12, and with the price of fuel rising far in excess of household incomes many people are going to struggle to afford to heat their homes to an adequate temperature. We therefore think that a reasonability threshold should be based on affordability rather than arbitrary national averages.

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## Fuel poor households need action, not a new definition

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DECC clearly subscribes to the maxim 'save the best 'till last', because the most welcome aspect of the consultation document is

1. First two figures from the Office of National Statistics and the third calculated using data on historical rates from <http://lowpay.gov.uk>

2. *Annual Report on Fuel Poverty Statistics 2012*, DECC (2012)

3. *Warm Homes and Energy Conservation Act 2000* Chapter 31, paragraph 1.1

hidden away in the final pages. Alongside his recommendation to change the definition of fuel poverty Professor Hills also recommended that the government should set out a 'renewed and ambitious strategy for tackling fuel poverty, reflecting the challenges laid out in (the) report and the framework set out (in the report) for understanding them'. The Government therefore commits itself to setting out a new fuel poverty strategy, reflecting any changes to the definition, in the new year.

This is long overdue. It is more than two years since the Government announced its intention to commission an independent review to look at the fuel poverty definition and more than 18 months since Professor Hills and his team were commissioned to carry out this task. Furthermore, as welcome and vital as the commitment to draw up a new strategy to combat fuel poverty is, this will take further valuable time to put together and longer still to implement. Meanwhile the fuel poor continue to sit in cold homes and make tough decisions about how to make their budget stretch to meet their essential costs. For example:

A CAB in the South East of England saw an elderly married couple living in private rented accommodation. The husband was disabled and in receipt of higher rate attendance allowance. They were paying a total of £197 per month for gas and electricity-more than 10 per cent of their income. As a result, they did not have enough money for other essentials like food.

A CAB in Wales saw a man on jobseeker's allowance who had been referred for advice on how to manage his fuel bills. The client was spending almost £100 per month on fuel out of his benefit of £270 per month. Although he was using

a pre-payment meter to budget, he was running out of credit before the end of each fortnight, so he had to request emergency credit. This was not only more expensive, but it meant that every time he topped up his pre-payment meter, he was getting behind with other household bills such as water charges and TV licence.

It is now high time to stop quibbling over the precise definition of fuel poverty and take action.

## Where do we go from here?

It is generally recognised that there are three ways to lift a household out of fuel poverty – increase the household's income, reduce the cost of fuel and/or make the property more energy efficient. As already discussed, fuel prices are rising considerably faster than household incomes, and are set to continue to do so. The key to the success of the new fuel poverty strategy must therefore be improving the energy efficiency of fuel poor homes. It is therefore disappointing that there will be no Government funded energy efficiency schemes in England from the end of this year. The Government have instead placed their faith in the Green Deal and the Energy Company Obligation (ECO).

The ECO scheme will provide grants to households for which a Green Deal is not suitable because the property is 'hard to treat' or because the household is fuel poor. Measures can either be funded wholly by ECO or in combination with Green Deal finance depending on the circumstances of the consumer. The scheme will be delivered by suppliers and paid for by energy consumers through their bills which is regressive as well as placing further upward

pressure on bills.

The Green Deal is the Government's flagship energy policy which allows the householder to take out a loan through an accredited Green Deal provider to cover the upfront cost of installing energy efficiency measures in their home. The loan is then repaid through a charge added to the household energy bill. While the Green Deal may be suitable for some consumers, a loan repaid over a number of years with interest is unlikely to be an attractive or viable solution for many low income, fuel poor households. Their only other option will be to access ECO funding.

It is therefore disappointing that less than 50 per cent of the £1.3 billion ECO funding is ring fenced for improving the energy efficiency of fuel poor households. While the Government's expectation is that more than 50 per cent will eventually be spent on fuel poor homes as at least some of the households receiving energy efficiency measures under the 'carbon saving' element of the scheme are likely to be fuel poor, this is in no way guaranteed. This is woefully inadequate to help the four million households currently living in fuel poverty and we anxiously await the Government's new strategy. This must be published and implemented as soon as is practicable.

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# Give us our daily bread

*Sue Royston looks at CAB evidence on food poverty*

A few years ago, it was relatively unusual for bureaux to refer clients to food banks because they had no money to feed themselves and their family. But this has changed recently. In the last year, bureaux have reported seeing a sharp increase in need for food parcels – a rise of over 50 per cent between the first and second quarter of this year. This has been so pronounced that Citizens Advice plans to develop a database for bureaux to track both the numbers affected by and the causes of food poverty on a more systematic basis.

So far, evidence from our advisers indicates the main reasons why clients need food parcels are:

- benefit delays
- benefit refusals
- benefit sanctions
- debt repayments
- homelessness.

## Benefit delays

Claimants frequently experience disruptions in their benefits caused by poor administration in the benefit system. Many of our clients do not have any resources to fall back on, and so disruptions can leave claimants in extreme hardship.

At the beginning of November 2012, a CAB in the South West of England saw a man who had recently taken over the care of his daughter from his wife from whom he was separated. This necessitated them both telling the Tax Credits Office of this change so that he could receive child tax credit for his daughter. They had

both done so, but he had still not received the money and had been sent another form to complete. Because of this delay and a delay in paying his employment and support allowance (ESA), the client had no money to buy food for himself and his daughter over the weekend. The bureau had to refer him to the local Salvation Army food bank.

A CAB in Wales reported that out of the 54 food vouchers they had issued during the period June 2011 to September 2012, 49 were given to people who were destitute due to delays by government agencies transferring claimants from one benefit to another.

## Benefit refusals

CAB advisers see many people who are refused ESA, because they are found fit for work at their work capability assessment (WCA), but who have evidence from their doctors that they are not fit for work and who are subsequently placed in the support group (the ESA group for those who are the most severely disabled) when they appeal. At present once the claimant's appeal is received and registered by DWP, their ESA is once again paid at the basic rate. However there are frequent delays in resuming payment, whilst waiting for the appeal to be registered, thus necessitating referrals for food parcels:

A London CAB client with paranoid schizophrenia did not attend her WCA as a consequence of her condition and as a result her ESA was stopped. The client's only income was disability living allowance

and although the client appealed the decision to stop benefits, she required a food parcel whilst waiting for payments to resume.

In future, however, someone who has claimed ESA but has not yet had their assessment or has had their assessment and been found fit for work will be expected to look for work whilst awaiting appeal. The steps they will be required to take to try to find work will be at the discretion of their local Jobcentre Plus. We believe this will substantially increase the numbers of people who are destitute because they cannot receive ESA until their appeal is heard but cannot claim jobseeker's allowance (JSA) because they are unable to take steps to find work. It is also likely to increase the numbers whose benefit is stopped for a period ('sanctioned') as a penalty for not meeting the conditions.

## Benefit sanctions

We are already seeing a sharp increase the numbers of clients affected by benefit sanctions. Benefit sanctions are a reduction of benefit imposed upon claimants who are perceived by officials as having failed to comply with the benefit conditionality regime. What they are required to do varies depending on their situation. For example, someone on JSA would be sanctioned for failing to seek work or accept a job if offered one, whereas someone who has been found not fit for work and placed in the work related activity group could be sanctioned for failing to attend an interview to help them prepare for work. The

new sanctions and conditionality regime from 22 October 2012 is likely to increase these numbers still further. Our evidence on sanctions shows that they disproportionately impact on people with mental health conditions or minor learning disabilities.

A London CAB reported that one of their clients did not apply for a job as directed by Jobcentre Plus because she did not think that she met the requirements of the role. Although she explained this to Jobcentre Plus and had applied for two other jobs instead, a sanction was applied to her benefit. The client's application for a hardship payment took two weeks to process and as a consequence the client needed a package from a food bank and was on emergency credit for electricity and gas.

We are concerned that as the conditionality regime becomes tighter we will see many more people facing destitution as a result of benefit sanctions.

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## Debt repayments and impact of ongoing low income

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There are a number of factors which can lead to financial hardship both for those in work and those unable to work. Clients often report that sudden drops in income because of illness or reductions in their hours of work are the reason for getting into debt. Those trying to meet debt repayments particularly to doorstep or payday lenders, can find that their financial difficulties spiral out of control.

A London CAB saw a woman who was in arrears with her rent and council tax because three payday lenders to which the client owed approximately £900 had continuous payment authorities in place which

removed money from the client's account before she could pay her priority debts. As a consequence the client's debts were growing, and she struggled to feed her children despite being in full-time work.

Additional problems exacerbate this, such as having to make up the shortfall in support to pay their rent because the level at which housing benefit is capped for their area is lower than the actual rent they need to pay. Levels of benefit are so low that deductions to cover shortfalls or repay debts can quickly lead to crises.

A CAB in the West Midlands saw a man who was selling his house as the DWP did not cover all his mortgage payment. When the property was sold, he would have more than enough to clear all of his debts, but in the meantime he had very little money for food. He had arrears of water charges and his water company had asked DWP to make deductions from his benefit for arrears and ongoing charges, leaving him with even less money for food. The water company refused to ask DWP to stop deductions even when the CAB explained the hardship the client was experiencing.

Cuts in benefits and freeze on benefit levels do not only affect those who are not working. Benefit levels for those in work such as child tax credits and housing benefit are based on levels of out of work benefits. Cuts in housing benefit or a freeze on the level of benefits so they are not uprated with inflation impacts equally on working people on a low income:

A CAB in Wales saw a woman working full time who was struggling to meet payments on a high interest mortgage and her council tax. Her expenditure far exceeded her income and she was struggling to keep up with daily outgoings. The CAB had to refer her

to a food bank as the client had not eaten for some days. The CAB noted that the client's income was only just above entitlement levels for means-tested benefits and tax credits.

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## Homelessness

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Our advisers often see people facing very adverse circumstances because they are homeless. Some are living on the streets, others are 'sofa surfing' or in temporary accommodation. Their situation means that access to food is even more important, but can be more difficult and expensive.

A CAB in London reported that a homeless woman living in bed and breakfast accommodation was receiving ESA of £71 per week out of which she had to pay £22.50 in charges at the B&B. On her remaining money, the client was really struggling to manage to buy food.

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## Conclusion

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In the coming years we are concerned that food poverty is going to be an increasing problem, particularly as the full impact of welfare reform and public sector cuts is yet to be felt. Our database will help us monitor the level of need for and reasons for needing food parcels amongst bureau clients over the next few years.

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# Will a tougher sanctions regime help benefit claimants find work?

*Katie Shaw examines whether the Government's new tougher sanctions regime will help or hinder people return to work*

The Chancellor's Autumn Statement announced that growth would be slower and the economy take longer to recover than previously forecast. Unemployment, however, is expected to peak at a lower 8.3 per cent instead of 8.7 per cent and the latest employment figures showed a fall in unemployment since the previous year.

Whilst it's clear that the economic downturn of the last four years has seen fewer job losses than might have been expected, there are still 2.5 million unemployed people. These figures also disguise the stark fact that one in ten workers are now classified as under employed – wanting to work more hours. Most of this 10 per cent are in part-time work because their hours of work had been cut, or they had only been able to find part-time work after being made redundant.

In-work poverty has now outstripped the number of households in poverty who are out of work, and underemployment is likely to be part of the explanation for this. Underemployment probably goes some way to explaining why 90 per cent of all new housing benefit claims in the last two years went to working households rather than those claiming out of work benefits.

So what is the solution? In addition to boosting growth in the jobs market, the Government's approach to getting people back to work focuses to a large extent on the individual – providing support to find work through its new Work Programme, and extending requirements to engage with the labour market with

the threat of benefit cuts for failure to fully engage.

The Work Programme, operated by providers paid primarily on the basis of sustained job outcomes, was introduced in June 2011. One year on, the first set of outcome figures are now available and show far lower levels of success than expected, even in the context of the current economic downturn.

It is in these circumstances then, that we consider the Government's new tougher sanctions regime. The 2012 Welfare Reform Act introduced the framework for a much tougher sanctions regime for almost all benefit claimants who are not seen to be keeping close enough to the labour market – or indeed moving off benefits fast enough. It will also require people in work to continue to find work that takes them out of the benefits system or that pays the equivalent of the national minimum wage at 35 hours per week, because many households receive significant amounts of state support when in work. This is despite the fact that universal credit should stop incentives for workers to choose specific hours of work and not progress further.

For jobseeker's allowance (JSA) claimants, the tougher regime started at the end of October. For the first time, claimants face the possibility of losing all £71 per week JSA for up to three years if they are deemed to fail to comply with directions to find work three times. Although the Secretary of State has often said that he expects such sanctions to be only used a

handful of times a year, these high level sanctions are for giving up a job voluntarily and failure to apply for, or to take up a job available.

For the first time, claimants unfit for work because of sickness or disability could lose all their basic benefits if they miss a work-focused interview. Although most of these employment and support allowance claimants are not required to look for work or apply for jobs, they will have to consider what steps might help them prepare for return to work, or keep them in touch with the labour market. Until December 2012 any failure to attend an interview could only result in a 20 per cent cut in their main benefit payment.

The regime is based on huge assumptions; firstly, unemployment and under-employment is partly the result of people being unwilling to work or work more, and secondly that the threat of a cut in financial support – or the cut itself – will provide the necessary spur to find work or indeed more work.

Evidence to support the effectiveness of sanctions in moving claimants closer to the labour market is far from conclusive. A recent review of the evidence by the Joseph Rowntree Foundation (JRF) found that current research was limited. While there were cost savings to be made from people exiting the benefit system, amongst this group there was an increased likelihood of low wages and high job churning.<sup>1</sup>

The report also highlighted that research into New Deal claimants found that those who had been sanctioned and experienced hardship were much less likely to be in employment than

those who had not been sanctioned and those who had been sanctioned but had not experienced hardship.

It is easier to find evidence to link sanctions with disadvantage and vulnerability than to improved job outcomes. The JRF review also found that some of the most disadvantaged claimants were more likely to be sanctioned than others, including:

- younger people
- those with lower levels of qualifications
- those with practical barriers to employment (e.g. no transport, lack of telephone or email and childcare)
- those with health problems.

CAB evidence also supports these findings. The CAB service has seen a huge rise in enquiries about JSA sanctions over the last couple of years, even in the context of all JSA enquiries falling. Sanctions are often poorly administered. For example, CAB clients often report being given no advance notice of the sanction threat and no explanation of its cause. This must clearly limit the effectiveness of a sanction, as there can be no merit in sanctioning an individual's benefit claim if they have not understood the rules that they have broken or were not capable of meeting the requirements.

Bureaux find that the most common reason for a sanction was a claimant's failure to apply for specified jobs – a failure that attracts the highest level of sanction. On further investigation, it is clear that many claimants had not understood that it was a 'direction' rather than a suggestion. Often they had good reasons for not applying for the job – for example, deciding that they did not have the relevant experience or qualifications for the job. If they

had understood that failure to apply would have resulted in a sanction, they would have been more likely to apply or to contact Jobcentre Plus and explain the situation.

Crucially bureaux are also concerned that many of their clients seeking help to overturn a JSA sanction have poor basic skills, mental health issues or mild learning difficulties. The sanction appears to reflect their inability to comply, and even when they have been able to explain, poor administration and failure to take their needs into account results in them being pushed into hardship.

A 22 year old woman with mental health problems sought advice from a CAB in the East Midlands in September 2012 about a six month sanction on her JSA claim, which had been imposed because she had failed to attend Work Programme appointments. As a result, the client had no income and had been forced to move to live with her partner's parents. She reported that she had now fully re-engaged with the Work Programme, and had tried repeatedly to contact Jobcentre Plus to try and get her JSA re-instated, to no avail. She was now heavily in debt and this was exacerbating her mental health problems.

A 24 year old, illiterate man with mental health problems sought advice from a CAB in the South East of England in August 2012. His JSA claim had been sanctioned for nine months because of failures to undertake Work Programme placements. As a result, he had had no income for the past four months, and had accrued rent arrears of over £1,000. He had recently applied for, but been refused, a hardship payment, and his reason for approaching the CAB was to request a food parcel.

A man sought help from a CAB in Wales after receiving a JSA sanction that arose when he had been given an interview with his Work Programme provider that clashed with his signing on appointment at the Jobcentre Plus office. His Work Programme provider told him he did not need to sign on that day, but after failing to attend, he was sanctioned. He appealed, but when interviewed by Jobcentre Plus was asked whether he had continued to look for work – and therefore maintained eligibility – during the period of his sanction, he admitted that he had cut back on work searching because he did not have the money to pay for internet usage at home or to travel to the nearest library four miles away to use their computers. This admission led to a further sanction and his benefit was cut for eight weeks.

With very little evidence of there being significant numbers of jobs that people are refusing to take up – and with little research evidence to suggest that sanctions are effective at improving people's chances of leaving benefits and getting sustained work, the Government must carefully monitor the impact of toughening up its sanctions regime. It must provide adequate support to claimants struggling to find work, ensuring that tougher sanctions do not frustrate their attempts and push disadvantaged people further from the labour market. Otherwise further debt and hardship will result.

Perhaps more importantly, the Government must ensure that it provides adequate support to claimants struggling to find work and it must ensure that the tougher regime does not frustrate their attempts and push disadvantaged people further away from the labour market.

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## Evidence reports published in the last six months

- *Access to cash – don't bank on it* – CAB evidence survey of the access to cash for basic bank account customers (July 2012).
- *Disability and universal credit* – a briefing paper produced by Citizens Advice, The Children's Society and Disability Rights UK, for an evidence inquiry chaired by Baroness Grey-Thompson (July 2012).
- *Holes in the safety net – the impact of universal credit on disabled people and their families* (report by The Children's Society, Citizens Advice and Disability Rights UK in October 2012).
- *A credit to the nation? Making consumer credit regulation work for vulnerable consumers in the UK* (November 2012)
- *The claims pests – CAB evidence on PPI and claims management companies* (November 2012).
- Response to the London Assembly consultation on food poverty in London (November).
- Response to BIS on implementing the Consumer Rights Directive in the UK (November).
- Response to FSA guidance consultation on risks to customers from financial incentive schemes (October).
- Response to BIS on the supply of goods, services and digital content (October).
- Response to the BIS consultation on early implementation of a ban on above-cost payment surcharges (October).
- Response to the Sergeant Review of Simple Financial Products (October).
- Response to HM Treasury on setting the strategy for UK payments (October).
- Response to DfT on the personal independence payment and eligibility for a Blue Badge (October).
- Response to DWP proposal to cease the publication of annual statistics, Income-related benefits: Estimates of take-up (October).
- Response to the Ministry of Justice on Claims Management Regulation: Proposals for amendments to the Conduct of Authorised Persons Rules (October).

## Recent Parliamentary briefings and responses to consultation papers: October- November 2012

- Response to the Ofwat consultation on empowering water consumers through information (November).
- Response to the Law Commission on Unfair Terms in Consumer Contracts (November).

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