

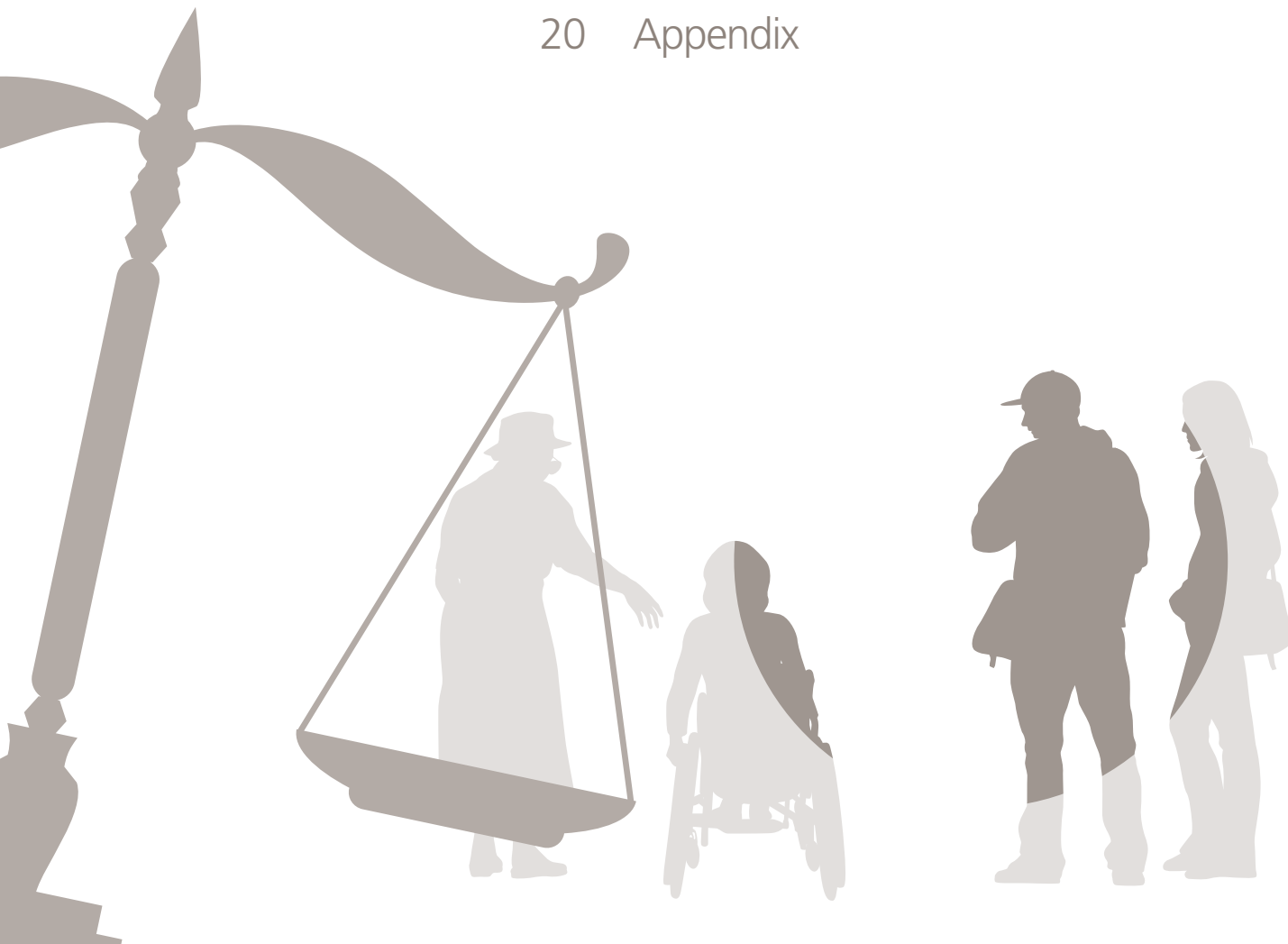
Out of scope, out of mind

Who really loses from legal aid reform



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Introduction



Photo by Ian Emness

Every year over a million people get help from civil legal aid. From April 2013 650,000 people a year who are currently helped through legal aid will no longer be able to access this assistance after the Legal Aid, Sentencing and Punishment of Offenders Bill becomes law. These will be people with common, everyday legal problems such as debt, issues with the benefits system, poor treatment by employers, or experiencing family breakdown and related problems. Their problems will be “out of scope.”

This report tells the story of many such individuals who, over the last 18 months, have sought and obtained help from their local Citizens Advice Bureau, but whose issues will not qualify for free specialist legal help in the future. In most of these cases, it has been CAB specialist caseworkers providing legal aid advice who have helped them resolve their problems.

Specialist advice has become a core part of the CAB service. Our frontline caseworkers and managers have told us that the impact of the proposed changes to legal aid on specialist services will be devastating. The overwhelming majority say that it will be impossible to provide a specialist service, whilst over half say that it may be impossible to continue providing any advice service at all. The appendix shows the scale of casework services that will be lost across England and Wales. And it's not just the Citizens Advice service that will be affected – law centres, independent advice agencies and some solicitors' firms will find it difficult to continue to operate.

But our real concern is how these types of problems will be resolved if specialist casework services are no longer available. The vulnerability of the clients in the cases outlined in this report is striking. Serious cases of unmanageable debt, refusal of benefits and unfair dismissal will simply get worse. And the worse these problems get, the greater the cost for public services and the economy.

A key message from this report is that early intervention and casework funded by legal aid works. In the absence of free legal advice, the risk is that these individuals will not only be out of scope, but out of mind.

A handwritten signature in black ink, appearing to read 'Gillian Guy'.

Gillian Guy
Chief Executive, Citizens Advice

Welfare benefit problems

From April 2013 legal aid advice on all welfare benefit matters will be abolished. This includes advice on how to challenge unfair or wrong decisions or inaccurate assessments of personal circumstances made by the Department of Work and Pension (DWP) or HM Revenues and Customs Tax Credit Office.

Reviewing or appealing benefit decisions involves being able to understand and applying statute and case law, following procedural rules set by the Social Entitlement Tribunal and understanding what evidence is necessary to convince the Tribunal to overturn a decision. Specialist benefits advisers have this knowledge and expertise, whilst it would be impossible for most benefit claimants to manage the process on their own.

“The CAB commented that the law relating to benefit entitlement and EEA nationals is complex and it is unlikely that Josef would have been able to successfully appeal the decision without specialist advice through legal aid.”

Interpreting caselaw to challenge incorrect decisions

Sharon went to her local CAB when she was told that her income support claim was to be stopped on the grounds that she was living with her ex-husband, Darren. The DWP said that Darren should now be supporting her financially. Sharon told the CAB legal aid caseworker that she was not living with Darren, but he did use her address for financial purposes as often he did not have a permanent address for long periods of time. He also stayed with her on occasion to help care for her, as she had severe and chronic mental health problems. Challenging the DWP's decision required the caseworker to look at the lengthy and complex caselaw about the living together test. In their submission to the tribunal on the client's behalf, the CAB caseworker contested the DWP's interpretation of the caselaw and provided expert evidence to show that Sharon's relationship with Darren was close friendship. At the appeal hearing, the tribunal judge commented on the substantial body of evidence provided by the CAB benefits caseworker and used it to conclude that Darren's relationship with Sharon was 'more akin to an adult child who goes to care for a frail elderly relative who is living in his or her own home'. The judge decided that Sharon was not living with Darren and therefore her income support and other benefit claims should be reinstated. If Sharon had not received specialist advice and casework funded by legal aid, she could not have convinced the judge that the DWP's decision was wrong in law.

Challenging recovery of benefit overpayments

Mike, a 38 year old disabled man, wanted advice from the CAB about a letter he had received from the DWP about an overpayment of income-related jobseekers allowance totalling £1,841. The overpayment had arisen because the DWP alleged that Mike had not told them that he had stopped receiving disability living allowance which entitled him to extra money in his income support claim. Mike told the CAB legal aid caseworker that he had stopped claiming disability living allowance as he felt better. Around the same time, his employment and support allowance claim stopped as he failed the medical. When he subsequently applied for jobseekers allowance, he told the Jobcentre at an interview that he had stopped claiming disability living allowance. The Jobcentre subsequently told Mike that his income-based jobseekers allowance included extra money for his disability. Although this was incorrect, Mike did not question it as he was still disabled. When the benefits adviser at the CAB investigated the case, he found that the Jobcentre's computer records were not updated when Mike had cancelled his disability living allowance claim. As social security law states that benefit claimants are not required to pay back overpayments which have been caused by the DWP, the caseworker appealed the decision on Mike's behalf. This was successful.



Challenging incorrect DWP decisions

Josef, aged 62, had come to the UK from Poland in 1992 to study and work part time. Between 1992 and 2004 he returned to Poland several times, but returned to the UK in 2004. He had worked in the UK until September 2008 when he had to stop due to heart problems. Although he had received a forecast about the level of state retirement pension he would receive when he reached the age of 65, his claim for the means-tested benefit, pension credit was refused on the basis that he did not have a right to reside in the UK for benefit purposes. He therefore came to the CAB for advice. The CAB benefits caseworker looked into his case and discovered that Josef was living with his daughter Maya, who was also Polish and was working. The caseworker submitted an appeal on the basis that Josef did have a right to reside in the UK with benefit entitlement as he was dependent on a family member who was an European Economic Area (EEA) national and economically active. This was successful. The CAB commented that the law relating to benefit entitlement and EEA nationals is complex and it is unlikely that Josef would have been able to successfully appeal the decision without specialist advice through legal aid.

Challenging decisions about disability benefits

Kelly, a 23 year old woman living alone, came to her local CAB when her disability living allowance claim was reviewed. Before the review, Kelly received £47.80 per week for her care needs and £18.95 per week for her mobility needs. After the review, the amount she received for her care needs was reduced to £18.95 per week for five years. She could ill-afford to lose this money and her health condition had not improved. Kelly was referred to the CAB specialist caseworker as there were complex issues to consider. The first interview to ascertain Kelly's disability and how it affected her lasted for an hour and 15 minutes. It was clear from this interview that Kelly had serious mental health problems, experiencing long periods of anxiety, paranoia and agoraphobia. She relied on her sister looking after her to maintain a daily routine. The CAB set out Kelly's care needs in detail in a three page letter to the DWP's appeals officer, explaining why she satisfied the conditions for the higher rate of disability living allowance. The DWP responded by reinstating the amount of benefit Kelly was originally entitled to and this would be backdated. As a result, Kelly received a back payment of £900. It is unlikely that Kelly would have been successful without specialist advice funded by legal aid.

Debt problems

From April 2013 legal aid advice on debt matters will be abolished. Debt advice not only covers making offers to creditors, it also includes advice on insolvency remedies, disputing a debt, helping clients use their rights under consumer credit legislation to challenge unfairness or seek time to pay, respond to court claims for payment of debt and challenge the enforcement actions of creditors, courts and bailiffs. This all requires knowledge of consumer credit law, enforcement statute and caselaw, court powers and processes, insolvency legislation and rules and debtor protections.

In particular, it will be more difficult for people on low incomes to obtain a low-cost insolvency remedy, the debt relief order (DRO). DROs were introduced in April 2009 to provide a low-cost alternative to bankruptcy for people on low incomes and with no assets. To keep administration costs of the new scheme to a minimum, experienced debt advisers, including many funded by legal aid, help eligible people apply.

Without legal aid the following advice and remedies may not be available.

Advising on a wide range of debts and legal issues

Manjit and **Kamala** came to the CAB for debt advice after their business failed and they became unemployed. They had both business and personal debts, as their business had not been making any profit for some time. They had tax debts, business rate arrears, rent arrears on their home and had also taken out a loan secured by a bill of sale on their car. They had two county court judgments against them, one of which was being enforced by bailiffs, who had already visited them, thus increasing the debt with fees and charges. Dealing with the failure of their business and negotiating with their creditors was causing Manjit and

Kamala considerable stress and worry. The CAB assisted them to draw up a financial statement to demonstrate that they could only afford token payments to their creditors. The CAB negotiated a small monthly payment towards the business rate debt and £3.40 per week towards their rent arrears, thereby stopping any possession claims or other problems with their tenancy. The CAB helped them apply to the county court to vary the terms of the county court judgments to repay the debts in small affordable amounts. Without help from a caseworker funded by legal aid, Manjit and Kamala would not have been able to negotiate affordable payments to their creditors, prioritise which creditors need to be dealt with first or ask the court to vary the terms of the court order.

Advising on, and applying for, statutory debt relief

Tony, a 53 year old tenant with long-term health problems, had debts of more than £3,500 to a range of creditors, including catalogues, utilities, credit cards and short-term loans. Once the monthly payments to each of his creditors had been made, he only had 22 pence per month disposable income. The CAB debt caseworker sorted Tony's debts into priority and non-priority debts before carrying out 28 separate actions to help resolve the issue, including interviews with Tony, numerous telephone calls and eight separate letters. After looking at all the options, it was decided that a debt relief order would be the best way of dealing with Tony's debt problems. As the CAB legal aid caseworker was an approved intermediary for the debt relief order scheme, he helped Tony apply. The debt relief order gave Tony peace of mind and gave him a fresh start.

Jenny, a 37 year old lone parent, had debts of nearly £90,000 which had arisen because she had been forced to take out credit agreements by her violent ex-husband, Pete. Jenny had originally sought advice about her debt problems from a solicitor, who advised that bankruptcy was her best option, but would charge £400 for drawing up the necessary paperwork. Jenny certainly couldn't afford to pay this, and a friend suggested she went to the CAB for help. The CAB's specialist debt and welfare benefits adviser (funded by legal aid) established that bankruptcy was the best option for Jenny and helped her to complete the bankruptcy petition. Jenny took it to the local county court with the necessary fee and was made bankrupt. This freed Jenny from the worry of dealing with all her debts.

Challenging collection and enforcement actions

Mohammed came to his local CAB after he received a demand from a solicitor for more than £50,000 in respect of a shortfall on a secured loan which had arisen after the main mortgage lender had repossessed and sold the property 17 years earlier. He could not afford to pay this as he was on benefits. After the sale, Mohammed had heard nothing from the secured lender and had made no payments or written acknowledgments, assuming the debt had been written off. The CAB identified that as more than 12 years had elapsed since Mohammed had last acknowledged the debt, the debt was potentially time-barred under the Limitations Act 1980. When the CAB caseworker looked into the agreement more carefully, they identified that there was a particular issue with the Limitations Act and the practices of this secured lender. As Mohammed was eligible for legal aid, the CAB referred him to a solicitor. On further investigation, the legal aid solicitors also found that the loan agreement was unenforceable under the Consumer Credit Act as the original loan had been given for two different purposes – £6,000 to pay off another loan and £14,000 being paid into the client's bank account and this was not shown properly on the agreement. When this argument was put to the lenders' solicitor, they agreed not to pursue Mohammed and to pay all his costs. Mohammed told the CAB that he felt that a weight had been lifted from his shoulders.

Maggie owed two years' council tax. The council had passed both accounts to private bailiffs, who had entered Maggie's home to seize her goods. The bailiff levied on the same goods for both

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debts, adding two sets of charges to the debts. Maggie could not pay the bailiffs and so went to the CAB for help. A specialist debt adviser identified that the double charging was illegal and drafted a complaint to the bailiff firm. The bailiffs subsequently removed the charges from one of the accounts.

Dealing with creditors

Jess was a single parent with one child living with her and two other children in care. Since her children were taken into care Jess had developed depression, alcohol dependency, associated liver problems and was self-harming. Due to her mental health problems she had been struggling to manage her finances and had accrued a number of debts including a bank overdraft and gas and electricity arrears. Jess sought advice from her local CAB and was referred to a legal aid funded caseworker who gave her advice on her debts and explained the options available to her. Being able to access advice at an early stage allowed Jess to avoid court proceedings and disconnection. It also allowed her to take control of her finances and helped alleviate her depression.



Housing problems

From April 2012, the only housing cases which will qualify for legal aid will be those where a person's home is at "immediate risk," (such as possession proceedings) or where housing disrepair poses a serious threat to health. This means that legal aid will no longer be available to tackle a wide range of landlord and tenant issues where tenants are at a disadvantage, such as the unlawful tactics that landlords and their agents sometimes use to make tenants vacate properties.

It will also not be possible to get legal aid to challenge problems with housing benefit or support for mortgage interest which can undermine housing security, and sometimes eventually lead to loss of home. Early intervention to deal with housing debts before court will also be out of scope.

Early intervention and housing debt

Mary, a 52 year old woman with mental health problems, had originally sought advice from the CAB about credit debts. The bureau's debt specialist whose job was funded by legal aid, had previously negotiated small token payments with all Mary's creditors. Mary had managed to pay her mortgage with help from her daughter Leanne, a lone parent with two children, who also lived with her, until the DWP reduced the amount of support for mortgage interest paid with her income support in October 2010. The interest rate on Mary's mortgage was 6.49 per cent, but the new DWP rate was only 3.63 per cent. Mary came back to the CAB for help when her mortgage arrears started to increase again. Mary and Leanne faced homelessness if nothing was done, but Mary could not afford the normal monthly payment, let alone anything towards the arrears. The debt specialist adviser was able to negotiate an interest only mortgage and £2 per month towards arrears enabling Mary, Leanne and her children to stay in their present home. Without advice funded by legal aid, it is possible that Mary and Leanne would have been homeless.

Zeinab, an agency worker whose income fluctuated from week to week according to the number of hours she worked, had got into debt because she found it difficult to manage. She often had to make ends meet by using payday loans. Because the payday lenders deducted money directly from her bank account, she built up arrears on other commitments, including rent, council tax and fuel. Zeinab was in danger of losing her house for rent arrears, faced a committal hearing for non-payment of council tax, disconnection of her fuel supply and court action from non-priority

creditors. She had been persuaded to prioritise payments to her credit debts over her rent and council tax arrears even though she was at risk of losing her home or being imprisoned. Her creditors had threatened to send the bailiffs round even though they had no power to do so. Her housing officer had also intimidated her into agreeing to pay off her rent arrears in large instalments she could not afford. Following advice from her local CAB's debt advice project which was funded by legal aid, Zeinab was able to enter satisfactory and affordable arrangements with all her creditors, avoid going to court about her rent arrears and had enough money to live on.

Landlord harassment and behaviour

Wendy was a widow with one child aged 14. She had lived in the same privately rented house for 17 years. A year before coming to the CAB, she had a major operation and since then had struggled to cope with looking after her house and garden. As a result, her landlord had complained about the state of the house and had started clearing the garden. He had also given Wendy a new tenancy agreement. Wendy had signed it already because it offered her a 12 month tenancy, giving her the security which she felt she needed. There were, however aspects of the new agreement that Wendy felt unhappy about:

- The landlord could enter her home at any 'reasonable time', without notice or Wendy's permission.
- The agreement described Wendy's home as 'a suite of rooms' rather than a house, because the landlord wanted to take one of the bedrooms for his own use.

- There was no mention of the landlord's responsibility for repairs, and the house needed to be completely rewired.
- Although the agreement was for 12 months, the final clause stated that the landlord could give Wendy notice to leave at any time after the first six months.

Wendy was worried that after living in the rented house for a long period of time, the changes that her landlord was making to the tenancy agreement could restrict her use of the property, reduce his responsibility for repairs and leave her vulnerable to eviction. As Wendy was eligible for legal aid, the CAB was able to refer her to a legal aid housing solicitor for advice about the changes in her tenancy agreement.

"The bureau's specialist adviser contacted Norman's housing officer to retract the surrender of his tenancy and assisted him in making an application for pension credit to maximize his income."

Resolving tenancy problems

Norman was a local authority tenant who had lost his job, and as a result had accrued rent arrears. Vulnerable and unable to pay his rent, he felt he had no option but to surrender his tenancy. He then realized that this had been a rash decision which could make him homeless and so came to the CAB for advice. The bureau's specialist adviser contacted Norman's housing officer to retract the surrender of his tenancy and assisted him in making an application for pension credit to maximize his income. The adviser also managed to successfully negotiate repayments off his rent arrears which Norman could afford. As a result of the advice Norman received, he was able to stay in his home and pay off his rent arrears.

Terry came to his local CAB when his housing association landlord took no action to repair damage to his flat after it had been flooded. The CAB tried to expedite matters, but to little avail. Six months after the flood had occurred, the conditions in the flat were affecting Terry's health, and his son had to go to live with relatives as his room was uninhabitable. As Terry was eligible for legal aid, the CAB could refer him to a legal aid solicitor to take up the matter on his behalf.



Employment problems

From April 2013 legal aid advice on employment problems and rights will be abolished. This includes advice on unfair and un-notified sackings, failure to pay proper wages, advice in preparing for an employment tribunal, tackling workplace disputes, any other advice under employment law.

The Government intend that legal aid for discrimination cases should continue. This is welcome as discrimination can often be a factor in dismissal cases and workplace disputes, but is very hard to prove.

“Had legal aid advice not been available to help Steve with his employer, he would have been left in limbo, unable to work and with no income, potentially leading to homelessness.”

Unfair dismissal

Daniela was employed as a hospitality manager from early 2010. She lived on the premises and food was provided. In late 2010 the owner gave all employees a P45 and said that the business would be closing. He did not give any employee notice or holiday pay. Daniela sought advice from her local Citizens Advice Bureau which had a specialist employment law caseworker. The caseworker helped her appeal to an employment tribunal because her ex-employer was unwilling to negotiate. The tribunal awarded Daniela £440 for pay in lieu of notice, holiday pay and damages for breach of contract. Daniela was delighted with the help that the legal aid funded caseworker was able to provide.

Brian, 66, had been employed by a small manufacturing company since 1996 without any express written contractual terms. His employment has been transferred twice (under the same verbal terms and conditions), most recently in 2005. He was employed as a financial director and reported to the managing director of the firm. Brian was told that he was ‘going to have to be let go’ due to a reduction in sales revenues. As finance director, he could see no evidence that this was the case, and the firm did not comply with the proper redundancy process. Brian was left in a difficult financial situation without wages and struggling to pay his mortgage. Fortunately, Brian sought legal advice from the CAB who helped him to take his case to an employment tribunal, which found in his favour. The employer, who had ignored all proceedings to date, appealed the decision but the judge rejected the appeal and awarded Brian over £20,000 compensation. The CAB also helped

Brian to enforce his tribunal award in the high court as his employer would not pay the award. All this would not have been possible without the support of a legal aid funded caseworker.

Support in dealing with employers

Steve, a 59 year old man, was suffering from multiple health problems including arthritis of the knee and heart problems. The CAB helped him with various problems, including debt, employment and benefits, under their legal aid contract. Steve was originally a manual worker, working on power lines, but was no longer able to carry out this work because of health problems. He was on statutory sick pay and then claimed employment and support allowance, but when he attended the medical he was found fit to work. He appealed twice but lost both times, with his benefits stopped. He could not get jobseekers allowance because he had not been made redundant. His employer told him this wasn't possible, as his job was still open. Based on advice from the CAB employment caseworker, Steve discussed options with his employer who agreed to him working part-time on lighter duties. Had legal aid advice not been available to help Steve with his employer, he would have been left in limbo, unable to work and with no income, potentially leading to homelessness.

Discrimination protection is not always enough

Ben had worked in various roles, including as a chef, in a kitchen for a large local private sector business. He had hereditary spastic paraparesis, causing a weakness in his lower limbs. His employer dismissed him on the grounds that he was no longer capable of completing his role due to his disability. Whilst Ben's condition had worsened recently, this was because he had fallen at work after he had not been given any safety shoes – a health and safety requirement – leaving him on crutches until he could get leg splints from the NHS. After a few weeks off work, Ben went back to kitchen duties but found he needed assistance and adjustments to working practices as his mobility had worsened. The employer refused to assist in making the adjustments and instead told him he would be dismissed in four weeks unless he could find another job within the company himself. The CAB issued an unfair dismissal claim together with a disability discrimination claim. Following negotiations, the case was settled at £9,500 with an exclusion clause for Ben's ongoing personal injury claim within the settlement. Under the proposed new rules, only the discrimination element of Ben's claim would be covered by legal aid.

Problems come in twos and threes and don't go away

Social welfare law means the law relating to benefits, debt, housing and employment rights. These are issues which will no longer be covered by the legal aid system under the Government's reforms. Often, clients seen by Citizens Advice Bureaux will not just have one problem – say with their job or benefits claim – but may have a number of connected social welfare problems.

Currently, Citizens Advice Bureaux advise on all these areas under “integrated social welfare law” contracts with the legal aid funding body (LSC) enabling them to give holistic advice on a full range of problems to a specialist level. Where the CAB is unable to offer the full range of specialist advice, they are usually able to refer people to other agencies or lawyers who can. The legal aid advice services complement the generalist advice that all bureaux provide.

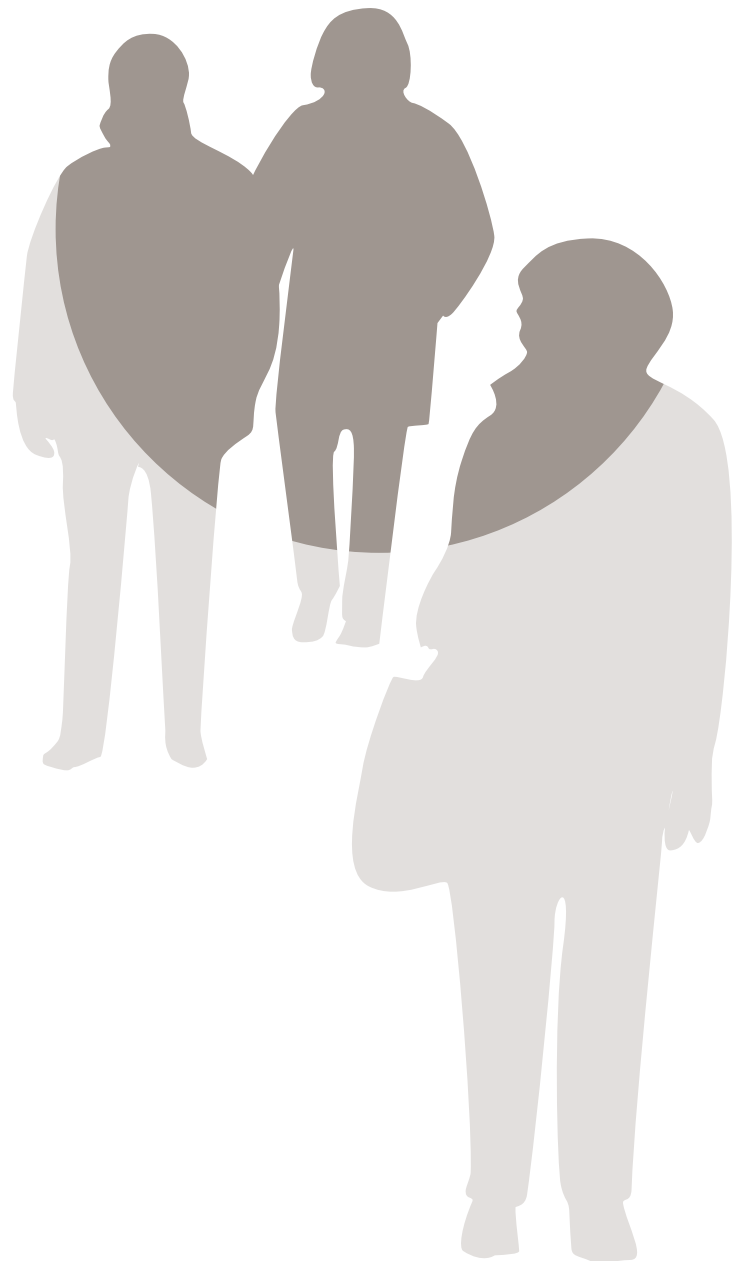
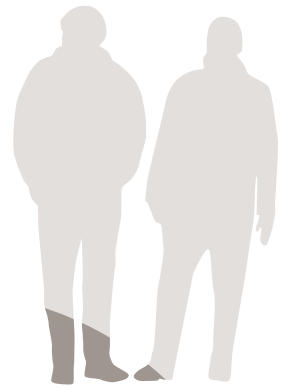
Debbie, a lone parent with one child, came to the CAB for assistance with debts, including rent arrears, council tax, gas and electricity arrears, personal loans and store cards. Debbie originally wanted to ask the CAB about whether she should petition for bankruptcy, but over the course of the interview the caseworker found that her private landlord had served her with a notice to leave her property and that this had not been correctly executed. A referral was made to a local solicitors firm for specialist housing advice. Debbie then mentioned that she had been forced to leave her previous employment as she could not afford to pay for childcare for her son. The adviser therefore conducted a full benefit entitlement check to help her to maximize her income.

Sion had recently separated from his partner and was involved in a custody battle for his 13-month old son who had cerebral palsy and needed regular treatment in hospital. Sion was concerned about the welfare of his son, who was currently living with his mother. However, he had council tax arrears and was worried that bailiffs visiting his home, particularly during a supervised visit, would threaten his chances of winning custody of his son. He sought help from his local CAB where a specialist debt adviser helped Sion negotiate with the council and the bailiffs. The bailiffs were put on hold and a realistic, sustainable repayment plan was negotiated. Sion also received legal aid advice on his custody case.

Jim, a Traveller, could not pay his electricity and water bills from his incapacity benefit. He lived on his own, could not read or write, suffered from depression, alcohol withdrawal symptoms and other health problems. His local CAB referred him

to their welfare benefits caseworker through the legal aid scheme. The caseworker helped him make affordable repayments on his utility debts and helped him obtain a backdated claim for council tax benefit. The caseworker also identified that Jim was entitled to disability living allowance to help with his care needs and helped him make a claim. The support Jim received through the legal help scheme helped him with his debt problems which were causing him considerable stress.

Stella, 53, was facing potential possession proceedings and had multiple debts including rent arrears and credit debts. She suffered from mental health problems and her teenage daughter was also becoming ill due to the stress facing her mother. She had been on benefits for some years and was struggling to continue to maintain minimum payments on credit debts, often prioritising these in response to pressure applied by the banks and collection agencies, whilst falling behind on rent. Stella had gone back to work and was studying to improve her situation but this meant losing benefits. Periodically she would become ill again and return to benefits but overpayments and gaps in benefit awards often left her short. A CAB specialist adviser helped her deal with the accrued rent arrears and threat of possession proceedings.



Family and immigration problems

Closely connected to social welfare law problems are other legal issues such as immigration status problems or family breakdown. Legal aid services on these issues too are to be abolished, unless detention, domestic violence or state childcare and protection is involved.

Citizens Advice Bureaux typically do not provide specialist legal advice services for immigration matters or family breakdown, but work closely in partnership with legal firms and specialist agencies who do, and regularly refer on clients.

“Since there was no domestic violence, Dawn would not qualify for any legal aid under the proposed new rules and would be unable to afford legal fees to pursue the case from her benefit income.”

Dawn was a single parent with six children; four of whom lived with her and the other two lived with her ex-partner. She came to the CAB for advice about how she could re-establish contact with her two eldest children whom she had not seen for ten years. Although she had parental responsibility and there was no court order preventing contact, the children’s father with whom they lived simply refused any contact at all by telephone, letter or in person. He moved the children to the other end of the country, making it difficult for her to take any steps towards contact and she did not even know their address or phone number. Dawn wanted to make contact with her children, but their father was impossible to locate and his actions suggested he was unlikely to agree to mediation. The bureau arranged for Dawn to see a family legal aid solicitor to push for access to her children. Since there was no domestic violence, Dawn would not qualify for any legal aid under the proposed new rules and would be unable to afford legal fees to pursue the case from her benefit income.

Amna had come to the UK on a spousal visa from Pakistan to join her husband who was a British citizen. She experienced domestic violence not only at the hands of her husband, but also her in-laws. Amna’s husband had also spent a period of time in prison. Amna, who now had two children with her husband, was evicted from the family home after having an argument and made homeless along with her two children. She moved in with friends. Amna had been in the UK for three years and around a year before seeking advice from the CAB, she had applied for indefinite leave to remain, but was told by her husband that she had not been granted it because she did not meet the English language requirement. She had no documentation

and her husband would not allow her to access her papers. Therefore Amna had no status in the UK and therefore no recourse to public funds, so as a priority she needed resolve her immigration status in the UK. She could not get benefits for her children either, even though they were British citizens, as she was restricted by her visa and her husband was in receipt of the benefits instead. Although the CAB had a legal aid immigration contract, they could not help Amna as the Legal Services Commission had restricted the bureau to only 15 immigration cases per year, a quota which they had already met. They were trying to refer her to an appropriate immigration law provider. The bureau was concerned that immigration provision will be far more restricted in the future and may not be available for leave to remain cases.

Ibilola, a woman in her early 30s from Nigeria who had a son in the UK in 2007 had settled here in 1993 after political upheavals in her country. Ibilola, was 14 years old at the time and, like many others, including her family members, sought a place to stay safe. She met a man from her tribe who offered to help her. He said he would take her to the UK where she would be safe and have a better life. The man obtained a passport for her and Ibilola entered the UK under the pretence that she was the man's daughter. From 1993 to 2004 Ibilola was kept prisoner in the same house. She was raped, experienced sexual abuse and was denied medical assistance. In 2004 Ibilola managed to escape and was found begging for money by a woman who took her in to do domestic work. She came to the CAB six years later as she had a child and was struggling to pay the rent and meet basic living expenses. The CAB referred Ibilola to a specialist immigration lawyer, as she was eligible for legal aid. This resulted in her being granted indefinite leave to remain in the UK.

Short supply

There is already a shortage of supply in the civil legal aid system relative to growing demand. Delays are commonplace, and there are many cases where those seeking advice cannot access the specialist help they need within a reasonable time frame or geography.

With more cases going out of scope, this will get worse, with no provision at all for many problems. We will see more advice deserts.

Lamai, a 33 year old Thai national, had to leave her UK citizen husband because of domestic violence. Her terms of entry to the UK were dependent on her living with her husband. He had told her that if she did not return home, she would be forced to leave the UK and be unable to apply for settled status as a spouse. Lamai therefore needed to apply to change her immigration status as victim of domestic violence. She visited a CAB in Cornwall who needed to pass her case on to a specialist immigration lawyer. However, the nearest source of specialist advice for which legal aid is available was 100 miles away, and there was a six week waiting period. The CAB commented that it was unclear whether this case would be covered at all in the future.

Chris owned a house with his ex-partner, Karen. They had separated 12 months earlier but Chris was still living in the house which had been placed on the market since the separation. He received a letter from Karen's solicitor accusing him of not trying hard enough to sell the house and informing him that she would stop paying 50 per cent of the mortgage. The letter also said that Chris should be paying rent for his use of Karen's share of the house, and that his liability for rent would be met by paying 100 per cent of the mortgage payments. The letter requested a reply within 14 days. Chris was eligible for legal aid and had contacted all the names on the local CAB list of family law solicitors. However, one had recently given up all legal aid work, some only took on legal aid work involving children, and the others couldn't offer him an appointment for two months.

Matt, a gay man living with his partner, had a severe depressive illness and was HIV positive. He had been dismissed from his employment and wanted to take a case to the employment tribunal for unfair dismissal and discrimination. However, his union was unable to help him and there was no specialist legal support in his local area. Matt came to the CAB for some advice on how to represent himself at the tribunal.

Maxine came to her local CAB after her housing association refused to move her to a new flat to get away from an anti-social neighbour. Although Maxine had complained to the housing association many times about this, they would not nominate her for a move, and the local authority would not agree to a move without a nomination. In desperation, Maxine had moved out of her flat and was living in a room in her mother's flat with her three young children, one of whom had serious physical and mental health problems. Maxine needed a housing solicitor to take up her case, but it was impossible to find one funded by legal aid. The CAB commented that cuts to legal aid funding had meant that many local solicitors' firms had stopped doing legal aid work.

Sasha and Tina came to their local bureau for employment advice for themselves and four other colleagues. They worked in a restaurant in a local shopping centre and were experiencing a large number of problems with the manager of the restaurant, including sexual harassment, bullying underpayment of wages and no sick pay. The CAB identified that Sasha, Tina and their colleagues needed specialist employment advice, but there was no local legal aid employment specialist. The CAB adviser did manage to get Sasha, Tina and their colleagues appointments with a solicitor in a town nearly 20 miles away. They were suffering stress, and it was only through their mutual support for each other that they had managed to get this far.

Conclusion

This report has looked at the range of real peoples' cases and problems helped by Citizens Advice Bureaux working within or alongside legal aid services that will be "out of scope" under the proposed changes contained in the Legal Aid, Sentencing and Punishment of Offenders Bill.

When Government consulted on the proposed changes to the scope of civil legal aid, 95 percent of respondents did not agree with the proposals. Reasons given by around 5,000 consultees for questioning the scale of proposed scope changes included the complexity of social welfare law problems, the vulnerability of clients, the costs of other services and the lack of other alternative sources of advice or means of redress.

But the underlying concern is the fate of Sion, Daniela, Josef, Sharon, Mike, Ibilola and many other individuals not mentioned in this report. These cases may not involve "life and liberty" but their issues are extremely serious, and costly for society. As a result of the early interventions provided through legal aid, Mike was relieved to find that the request to repay nearly £2,000 in benefits was a mistake, Jess avoided having to go to court, Mary, Leanne and her children were able to stay in their home, Steve was able to keep his job, and Sion kept a stable home, helping him with his custody case.

Official data shows that 80 percent of social welfare cases achieve positive outcomes for clients, which can involve savings for other services. So for example, Kelly had her care needs met through benefits rather than other services, Mohammed avoided bankruptcy and all the insolvency costs involved, and Steve was able to stay on working rather than claiming benefits and risking homelessness.

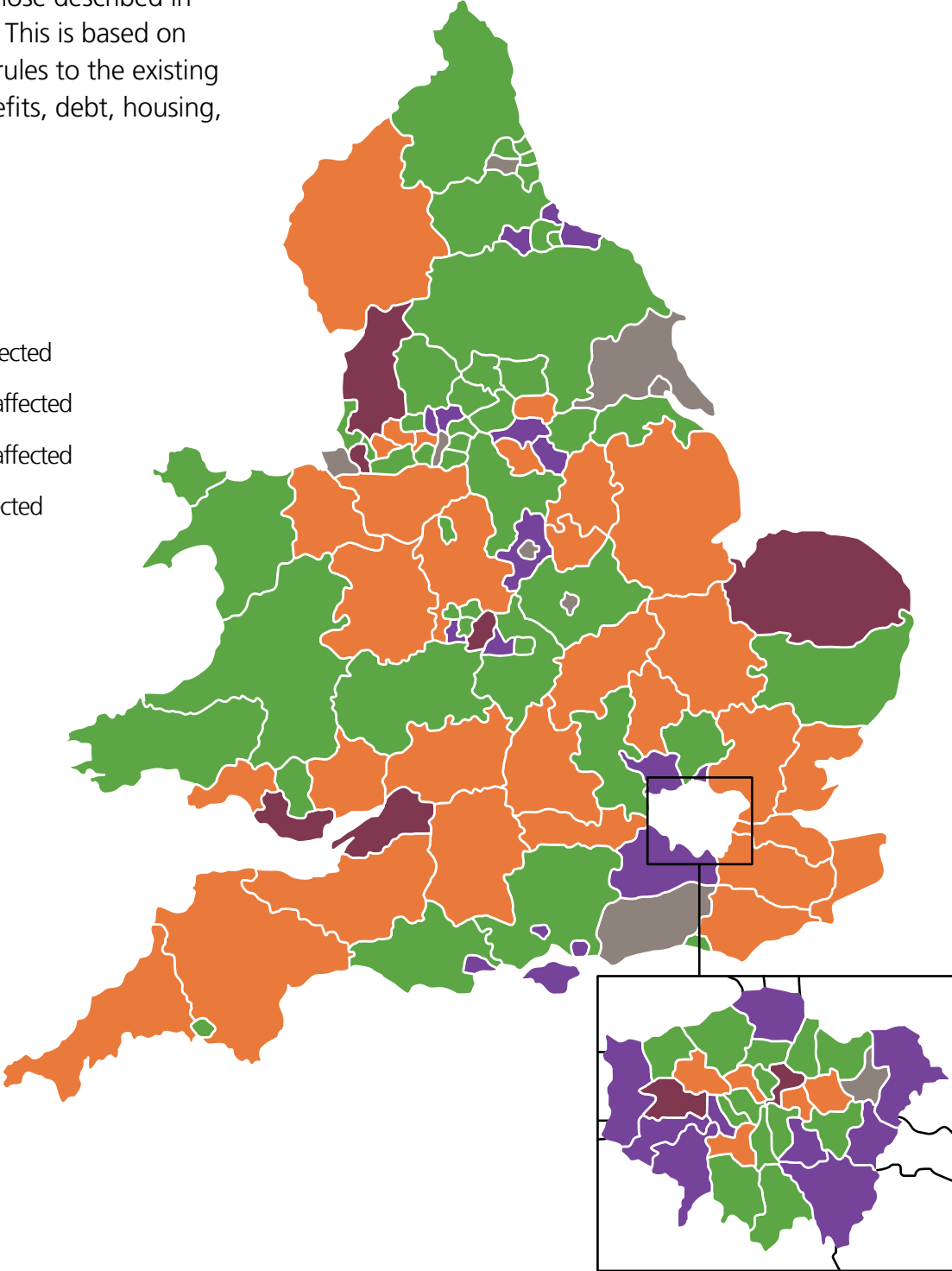
However, it is also clear that they would not have achieved these positive outcomes on their own. If they could be empowered to help themselves without specialist advice, casework and support from legal aid, then every CAB would rejoice, but that is not the reality. It will be a massive failure in the justice system if they are abandoned.

Appendix – How many are affected by changes in the scope of civil legal aid and where?

The changes in the Legal Aid, Sentencing and Punishment of Offenders Bill will take the following volumes of social welfare legal aid cases, such as those described in this report, out of scope. This is based on applying the new scope rules to the existing scheme (for welfare benefits, debt, housing, employment casework).

MAP KEY

- No data
- Up to 1,000 people affected
- 1,000 – 2,000 people affected
- 2,000 – 4,000 people affected
- Over 4,000 people affected





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