

Legal aid changes hit disabled people hardest

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Removing welfare benefits advice from legal aid will leave tens of thousands of disabled people with nowhere to turn for help in appealing wrong decisions, at the same time as the welfare system is radically reformed.

Vital support

Mr Singh worked as an electrician for 40 years before being diagnosed with Huntingdon's disease. As his condition deteriorated he was forced to give up work and apply for Disability Living Allowance just to make ends meet for his wife and teenage son. Mr Singh was only awarded the lowest rate of support, despite the huge burden of care on his loved ones. His local advice agency helped him successfully appeal the decision, ensuring financial stability for his family at this extremely distressing time.

At least 78,000 disabled people will be denied specialist legal help for complex welfare benefit problems, when the changes to legal aid go through, according to Government's figures¹. Ill and disabled people make up a disproportionate 58% of those affected by removing welfare benefits from legal aid.

This briefing is endorsed by:



About cerebral palsy.
For disabled people achieving equality.



Multiple Sclerosis Society



nras

National Rheumatoid Arthritis Society

DBC Disability Benefits Consortium

Disability Law Service



This specialist advice helps people negotiate complex areas of law, including appealing against government decisions.

Even a basic appeal against a Disability Living Allowance decision might require a disabled person to obtain medical evidence and relate it to complex criteria. Specialist help in advance of a tribunal – currently funded by legal aid - increases the chance of a successful appeal by 11%ⁱⁱ. Charities providing this help in advance can also arrange free representation at the tribunal. In 2009/10 people appealing Employment and Support Allowance decisions were twice as likely to succeed with representationⁱⁱⁱ.

Preventing costly appeals

Janet had her sickness benefit stopped after she was found 'fit for work', despite her severe mental health problems. She approached a CAB for help. After speaking to her and obtaining a report from her psychiatrist, it was obvious that she was not able to work. The bureau presented this evidence to the Department of Work and Pensions, who re-considered the decision and re-awarded Janet the vital benefit she needed to live on. Taking this approach avoided the need for a formal appeal, and the stress and cost to the state this would have involved.

The CAB adviser was funded through legal aid, which will no longer be available for advice on welfare benefit problems like this.

Radical changes to the welfare system will see increased need for help.

The introduction of Universal Credit will affect 19 million individuals and an estimated eight million households^{iv}. No change of this magnitude will work first time for everyone: the introduction of tax credits resulted in incorrect payments for hundreds of thousands of people and advice agencies were crucial in supporting clients and reporting back to government on the issues faced^v. The introduction of Employment and Support Allowance (ESA) increased demand for sickness benefits advice at Citizens Advice by 40%.^{vi}

But much of the existing advice provision is in danger.

Alongside the threat to specialist legal aid provision, advice services funded by local authorities are being cut in much of the country, forcing many charity advice providers to close.

This advice is cheap upfront and saves money in the long run.

It only costs £167 per case - often for life-changing advice - and the total cost of all welfare advice is only £22m per year. Citizens Advice have estimated that benefits advice **saves £8.80 for every £1 spent**, because it prevents bigger and more costly problems further down the line.^{vii} Advice agencies can feed back to government on problems in the system, smoothing the rollout of Universal Credit and ultimately reducing demand for advice, cutting administration costs and improving services.

Some myths about legal aid:

Myth 1: Legal aid encourages unnecessary appeals and litigation.

In fact it does the opposite - legal aid advisors will only recommend clients go for appeal if they judge there is a realistic chance of winning. They act as independent gatekeepers, keeping tribunal costs down.

Myth 2: The tribunal system is easily navigable without help.

The benefits system is incredibly complex and hard to navigate – DWP issued 8,690 pages of advice to its decision makers in 2009^{viii}, and appeal procedures have been known to last for years. The President of the Social Entitlement Chamber, which runs welfare benefits appeals, said the changes would have an ‘adverse impact on the efficiency of the tribunal system.’^{ix}

Myth 3: Welfare benefits advice is about ‘less serious’ matters of ‘financial entitlement’

For many ill and disabled people, benefits are their only source of income. This is particularly true for those newly disabled or diagnosed with a long-term condition: disability benefits can be vital to help people to cope with considerable and distressing changes to their lifestyle, helping people to remain independent for as long as possible, decreasing pressure on health and social care services.

Myth 4: Legal aid lawyers are all highly paid

Legal help on welfare benefits is largely delivered by local charities like Citizens Advice Bureaux, Law Centres and local advice agencies. Lawyers that do this work often earn less than primary school teachers, since each case only pays a fixed fee of £167, which will reduce to £150 in October this year.

Justice for All is the campaign for free legal advice. For more information visit www.justice-for-all.org.uk or contact campaign@justice-for-all.org.uk

ⁱ Ministry of Justice (June 2011), *Reform of Legal aid in England and Wales, Equality Impact Assessment*, pg 130

ⁱⁱ Adler, Michael (2008). *The Potential and Limits of Self-Representation at Tribunals: Full Research Report ESRC End of Award Report*, RES-000-23-0853. Swindon: ESRC

ⁱⁱⁱ Derived from written answer to Andy Slaughter MP by Jonathan Djanogly MP, 13th January, [%successful represented cases (59%) / %successful unrepresented cases (28%)]

^{iv} *Universal Credit: welfare that works*, DWP Command Paper Cm 7957, November 2010

^v Public Accounts Committee (2004) *Inland Revenue: tax credits*, fourteenth report of session 2003-4.

^{vi} Citizens Advice, *Not Working: CAB evidence on the ESA work capability assessment*, March 2010

^{vii} Citizen's Advice, *Towards a Business Case for Legal Aid*, 2010

^{viii} Martin (2009), *Benefit Simplification: how, and why, it must be done*, Centre for Policy Studies, pg 5

^{ix} Response by HH Judge Robert Martin, President of the Social Entitlement Chamber, to Proposals for the Reform of Legal Aid in England and Wales, Feb 2011