

## Appendix 1

### Social Policy Summary, October – December 2006

#### Social Security Appeal Tribunals

##### Case Study 1

We want to highlight the plight of **EEC nationals** coming to work in this country, who are then unable to carry on working when or if they are incapacitated. We have been getting more and more of these cases where people are left with no income if they fall ill or are unable to work.

##### Case Study 2

A familiar problem, which has been experienced by our appeals team is the **failure of the DWP to act on the decisions** that have been made on the client's behalf at tribunal.

In one case where the appeals worker achieved a debt write off of an overpayment of Income Support amounting to £14,337 and the reinstatement of Income Support for the client of £7,168 annually. In this case the appeal was won on 24 October 2006 and in spite of regular phone calls the Income Support due to the client was not paid until the 14 December 2006.

In another case the worker attended the tribunal hearing on the 26 September 2006. On the 2.01.07 the claimant's daughter phoned to say he still had not received a payment of benefit.....

##### Case Study 3

In April 2006 a 34 year old man came to see us as his **Incapacity Benefit** had been stopped. He had been "found fit to work" despite suffering from epilepsy, alcoholism and mental health problems.

We appealed the decision on his behalf and helped him claim Income Support, Housing Benefit and Council Tax Benefit pending the appeal.

We obtained medical evidence from a specialist in neurology, his GP and a Community Psychiatric Nurse. They all supported the opinion that he was unfit for work.

It took eight months for his case to be heard at an appeal tribunal. An Advice Worker accompanied the client to the appeal as he had difficulty explaining the effects of his condition.

The tribunal agreed that he was unfit for work and overturned the original decision.

He is now due substantial arrears of benefit.

We are finding a marked increase in the number of people on Incapacity benefit, being found "fit for work", particularly when their illness is mental health based. This is despite the fact that Bradford is not a pilot area for the Pathways To Work Scheme and the new rules are not due to come in until 2008.

We have represented at 4 IB Appeal tribunals this quarter, all of which were successfully overturned, and already have one waiting to be seen in the new year.

We have raised this as an issue with ACSG members and we are all currently collecting evidence of the hardship being caused to people with genuine mental health difficulties.

##### Case Study 4

There has been a big increase in the number of people being found **fit for work** following examination by Medical Services. I have nine appeals lodged and am almost at saturation point. It will not be possible to represent them all though medical

evidence and submissions will be prepared for them. Four of these have been long-term sick with significant mental health issues, which do not appear to have been fully addressed.

### **Case Study 5**

Tribunal Service **suspended listing of appeal hearings in Keighley**. All hearings now listed in Leeds.

This is impacting upon client's ability to attend the hearing. Accessibility issues. From an organisational point of view more time spent representing clients in Leeds, because of travel and waiting etc, means less time in office to see new clients.

### **Housing**

#### **Case Study 1**

**Disabled clients** are having difficulty in accessing **housing provision** suitable to their needs.

The client is a Polish woman who is on dialysis and has heart failure. She receives Disability Living Allowance high rate care and mobility, possibly under the special rules. She lives in a first floor flat but is no longer able to use the stairs. She requested an assessment by the Disabled Persons Housing Team as she wanted to be re-housed in a ground floor flat. They wrote to say that she did not need any aids and adaptations and did not meet the criteria for help from the Disabled Persons Team. They advised that the Homehunter scheme was adequate to meet her needs.

#### **Case Study 2**

Clients at Shipley have difficulty in presenting as **homeless**. Appointments in Shipley are limited and they are asked to travel to Keighley or Bradford to present as homeless.

The client was homeless and sought advice at Shipley CAB. The telephone numbers we held for the Homeless Team had been changed. When we did find the correct numbers it was difficult to get hold of anyone.

They told us that, in Shipley, appointments are available on one day only when clients can present as homeless. On other days clients must travel to Bradford or Keighley. We rang both the Keighley and Bradford Homelessness Teams. They gave conflicting information, such as "Client can't come to Bradford, must go for an appointment in Shipley". We made an appointment for the client at Keighley. They decided he was not homeless as he was not in priority need. There was no hostel accommodation in Keighley. They said that if he came back at 10.00 am the next day they would see if they could find a hostel for him. The client slept rough that night and visited staff at Shipley the next day who told him the Homelessness Team was in Keighley & that he should go back there. He did not do this but returned instead to Shipley CAB.

### **Jobcentre plus**

#### **Case Study 1**

Client bereaved in March 2006. Receiving bereavement benefit only. Diagnosed with cancer. DLA claimed, ordinary rules. At surgery it was discovered to have spread and DS1500 sent to the Centre. DLA claim converted to Special Rules. Award of DLA made at highest rates, which will passport to Income Support via the premiums. On **4/12/06** IB/IS applied for via Jobcentreplus. Also claims made for HB/CTB. All evidence sent to JC+ except Med3, which had already been sent to Leeds Rd. IB claim delayed awaiting sick note. Client took duplicates to JC+. At 09/01/07, claim still delayed for Med3. JC+confirmed they had registered receiving it but no trace at

Leeds Rd. Rang IB and pointed out client exempt from PCA, therefore does not need sick note. Assured claim would be given to decision maker that day. On 16/09/07 still no IS. Phoned and was told they were still waiting for IB! 6 weeks and client still has not received any benefit, even though terminally ill.

### **Case Study 2**

Client wishing to make a claim for Incapacity Benefit after being made redundant (client was off work sick at time of redundancy). When making telephone claim was told must claim Jobseekers Allowance as they had been made unemployed due to redundancy and it did not matter they had been off sick. Relevant forms completed over telephone, issued to client and arrangements made to 'sign on'. At this point the client sought our advice. Informed client wrong information and claim forms provided and intervened on her behalf. Jobcentre plus still adamant client must register as unemployed due to redundancy. Argued this was not possible as they were not available for work due to ill-health. Despite providing medical evidence Jobcentre still insisted client had to claim JSA. Contact then made with customer services as no progress being made. Initially they were of the opinion that client should claim JSA but after reviewing the facts of the case and our submission that client was ill and not available for work agreed they should in fact claim Incapacity Benefit. Agreed the problem arose from the telephone claim line as it appeared as client had mentioned redundancy they automatically, and incorrectly assumed the person was fit and looking for employment.

### **Employment**

We represented over 40 workers who had been dismissed by their employer in breach of the obligation to consult. They were simply told before Easter that they were being dismissed. An administrator was appointed and staff were dismissed in groups of 15 and within about 3 weeks the factory had closed down and they it had ceased trading.

When over 20 employees are proposed to be dismissed then there is an obligation on an employer to consult. This happens most commonly when there are trade unions in the workplace and a collective bargaining agreement. However in the absence of a trade union and employer should take steps to elect members who can represent the workers interest. In this case nothing of that kind happened.

From a social policy prospective what is interesting about this case is that it is an area of law that is not widely known. Historically it is mainly unions that take these cases because they are aware of the employers obligations and they are organised. The reason these workers came to us is because one of them had previously been advised about this type of claim because he and many others were made redundant a couple of years ago. The claims themselves can be quite complicated in that there were two possible respondents and the Tribunal stopped the case at one stage because we had to get the consent of the Administrator to continue. After some correspondence eventually the administrator did give his consent and the case was allowed to proceed.

The Employment Tribunal awarded the workers the maximum they could award which was 90 days pay. However because the company is in administration they have not the assets to pay. Therefore a claim will have to be made to the Redundancy Payment Office which is part of the Department of Trade and Industry. The limit they will pay is 8 weeks so the other 7 weeks will effectively be lost.

The Telegraph and Argus have covered this story and as a result many other workers who had not contacted the Law Centre before have come forward. We

believe that they are also likely to benefit. The outcome will be that the Government will pay tens of thousands of pounds to these workers and be a boost to the local economy. There is a considerable amount of work yet to be done to take these cases from the Tribunal making the award and we are currently awaiting the written Judgement of the Tribunal. It may take a month or two at least before we reach a conclusion of these cases.

Jobcentre plus has now been rolled out district wide with both clients and advice agencies reporting great problems with in particular accessing new service. Benefit agencies have been closed completely and others are closed to the public ( a recent area for concern was when, a client who attended one of the now closed offices only to be told that he needs to go round the corner and use the public telephone). The telephone call centres are very hard to get through to for clients as well as advisors; client are called at some point often several days later and the applications taken over the telephone, often taking up to two hours. A lot of clients are having to wait between 2-4 months before claims are being sorted out and payments given. Many of the advisor dedicated lines are being withdrawn, all the advice agencies are consulting and gathering information and more evidence on a day to day basis. Official complaints are being made on behalf of clients as well as requests for compensation for delays and errors in claims.

Many clients are having to complete new IB50's and attend medicals due to this many clients are not being awarded sufficient points to qualify therefore high increase in appeals for Incapacity Benefit.

Debt problems seem to be increasing with more clients looking at Bankruptcy route, we have made 2 applications for Bankruptcies this quarter, this option is used only as a last resort.

### **Immigration**

A client came to me with an Immigration enquiry. She told me that she came to the UK as the wife of a British Citizen settled in the UK. She was given two years leave to remain in the UK. She was required to apply for **Indefinite Leave to remain (ILR)** before the expiry of her probationary period, but she had not done so.

I advised her that she should apply for ILR as soon as possible and send the required documentary evidence to prove that she and her husband have been living together since her arrival in the UK. I did inform her that if she were refused ILR she will not be given the right of appeal as her application was out of time and she was overstaying here. The client applied for ILR, but her application was refused due to lack of documentary evidence and indeed no right of appeal was given.

Yet on another occasion another client applied for ILR in similar circumstances and she was also refused ILR, but was given the right of appeal. She exercised her right and won the appeal. I advised my client to see her local MP and request him/her to intervene and see if the Home Office decision could be reverted, but if it is not she might have to return to her country of origin and reapply for Entry Clearance to come to the UK.

### **Premium Rate Telephone calls**

Client Y received a telephone bill, which they believed to be incorrect because the amount was very high. When the company was contacted they explained that calls were made to premium rate charges from this number.

Client was very shocked and disagreed with the explanation. We advised that it could be possible for other family members using the telephone without permission. Client went home and investigated the matter further.

It came to light that a child had made the calls. Company was contacted and explained the situation. All they were concerned with was that their bill be paid. Client demanded that such calls should be barred from the line. At first the company was reluctant to do this.

Client said they would pay the bill and change companies if the calls were not barred, because it is difficult for them to stop the children from doing it again.

Finally the company agreed to the request. This kind of situation is sometimes common and goes undetected. However on this occasion the charges were very high and luckily client identified the matter.