

Social Policy Cases reported to CLASP for period July - September 2007

Indefinite leave to remain

Case study 1

Client Y came to the UK as a spouse nearly two years ago. They came to our office and wanted information about Indefinite Stay. It came to our attention that they had lapsed the period for which they should have applied for stay in the UK.

Also they were not aware of the new laws and procedure, such as Life in the UK Test.

We had to apply for Further Leave to Remain (M) and all necessary documents were provided with some delay, as client was unaware of the requirements. Finally when we had possession of all required documents we submitted our application along with the new fees.

This is very common now, that people are unaware of the procedure for Indefinite Stay in the UK. So we have to apply for Further leave to Remain instead of the Indefinite Stay application. Changing laws in Immigration is confusing people and making it more and more difficult for clients to meet certain criteria's and submit documents to support the applications.

Case study 2

A great deal of anxiety is caused to spouses from abroad when they apply for Indefinite Leave to Remain or further leave to remain. The Home Office wishes for what it regards as objective evidence that the couple are living together. In practice, this means that it wants bills and other documents with the name of the foreign spouse and the U.K. based sponsor on them.

We had to lodge an appeal in connection with one person whose application had been refused because of a shortage of documents. As was usual with such cases, the couple lived in the sponsor's parents' house. There were few documents in the name of the applicant. The Home Office tried to persuade itself that the couple had not been living together, even though they have a child.

Such cases are now fairly strongly contested. The Home Office representative asks a number of questions about living arrangements; occupants of the property etc. In the end we needed to call the appellant, his wife, and the applicant's father. However, the appeal was allowed. It is indicative of the anxiety this has caused that even now the foreign husband is alarmed about matters. The case is completely over and has been resolved in his favour. However, the Home Office does take a while to issue status documents. There has been some sort of glitch in the section in Leeds responsible for issuing status documents to a number of our clients. The document should materialise shortly.

Last quarter's case study highlighted the issue of a woman who was facing removal from the UK and if the Home Office had succeeded she would have died within 10-14 days of returning to her country of origin from kidney failure.

The case went to court the Judge found in her favour. However, the Home Office appealed the decision, but I am pleased to say that recently that appeal has been dismissed and she should shortly be receiving her papers allowing her to stay permanently in the UK. If this woman had not been represented it is unlikely she would have been successful.

Habitual residence Test

A client wanted to know what benefits he could claim as he had become unemployed recently. He has been living here since 1996, but had always worked and not claimed any benefits at all in the past.

I advised him to claim Job Seekers Allowance and gave him the telephone number to ring. A few days later he came to me with an HRT2 form so I asked him if he had been abroad recently. He told me that he went to Pakistan for about 8 weeks and returned to the UK over 2 years ago. I rang HRT section and explained the situation, but they insisted it was a requirement to complete the form. I feel that it is totally unnecessary to complete an HRT2 form in such cases especially when a person would be accepted as habitually resident in UK after 3 to six months stay on return from abroad. It is a waste of time and resources.

Utilities

The bureau was recently involved in the national social policy campaign to collect data on calls made to utility companies and the length of time a client had to wait on the telephone before receiving assistance.

Client came to the bureau because she was having difficulty contacting her electricity company regarding her arrears. The client's first language is not English and she seemed unable to communicate with them successfully on the telephone. She stated she had difficulty getting through and then the language barrier made it impossible to negotiate. The client has outstanding arrears of £6,398.00 and does not understand how they arose.

We tried to get through to the electricity company and had difficulties, as experienced by the client. Once we got through, we established that the arrears had arisen because there was no name to the client's account and that the electricity company had no details of when the account was opened and when the client had moved into the property; therefore the arrears included usage by the previous owner.

The company had been trying to get an up to date reading, but due to language barriers, they had not obtained this. We assisted the client by asking for the reading and offering the opportunity for the client to return to the bureau so that we could forward the information onwards.

Incapacity benefit

Case study 1

Client is a Slovakian woman, living and working in England, lone parent of 2 children. Client has breast cancer, gets SSP, WTC and CTC for 28 weeks. SSP ends, client applies for IB/IS via JC+, notifies WTC. Income drops to CTC and CB only. 2 months later client contacts to say she still hasn't had any IB/IS and is managing (or not!) on CTC only. On phoning DWP we are told her claim has "gone to Scotland" and will take "weeks and weeks". No interim payments are allowed in these cases (i.e.. habitual residence/right of abode) It is only through dogged perseverance and several telephone calls to Wick that the adviser is able to secure payment of benefit, even though client fulfils all criteria to qualify. Without an adviser and with her limited English, she would still be waiting.

Case study 2

Miss G presented to advice on 2/5/07 after resigning from work due to long-term sickness in Feb. 07. She was expecting wages at end of March but had not received them. 30/3/07 made claim for incapacity benefit, income support, housing benefit and council tax benefit. Claim closed due to lack of information. Advised on claim and crisis loan. Tried several times by phone, fax and letter to contact incapacity and income support. New telephone system for DWP made it impossible to get through to department responsible made several complaints about not having internal numbers which meant most of advice time taken up by waiting for return calls or waiting on phone to get through. 11/05/06 was assured by incapacity that claims would be processed. It was not. It took from the 2/05/07 to 7/06/07 to finally get it processed in which time Miss G was in real danger of losing her property. I received apology from incapacity.

Case study 3

A continuing social policy issue for my clients is having Incapacity Benefit stopped. In particular some clients are vulnerable as due to their illness they have fallen out the health system and no longer see their GPs or because they lack confidence fail to turn up for medicals. Client Z failed to attend a medical and Z's Incapacity had been stopped. Z's medical practice had thrown him off their list as Z had failed to attend appointments. Housing also wanted to evict Z as Z had failed to go and see them about arrears and hid when Housing Officers called round. Z had found it difficult to attend appointments and struggled with establishment figures. By failing to attend appointments Z was getting further into arrears and debt. Although Z's Incapacity was eventually restored, until a further medical, there doesn't appear to be any support for people who struggle to deal with authority or establishment and who disappear from the health system. Medical practices do not always seem to understand the implications of their actions and other agencies, like Housing believe that clients are avoiding them deliberately rather than understanding that a client's actions may be a symptom of mental health issues.

DWP call centre

Client claimed income support whilst husband gone abroad. Client has 5 young children. Husband was receiving JSA before he left the country to visit a sick relative. Client cannot speak English. The claim was completed over the phone.

Client contacted us, as she had received no money. When we contacted IS they informed us that the claim was not fully completed and therefore IS payment was not made. Helped with providing the missing information. However the claim was refused because it was out of time, despite the fact that the client was not informed about missing information until we contacted them. We have appealed against the decision.

This is yet another example of a telephone claims which resulted in no payment because of poor communication.

Invalid Care Allowance

Person living alone in receipt of Income Support due to ill health and Disability Living Allowance middle rate care component and low rate mobility component. Her son had been her carer and received Carers Allowance but had left home a while ago and no longer caring for her. The Carers Allowance Unit were informed of this but would not withdraw or even suspend payment unless the son would write in to confirm this point. We argued (and still are) that this was not possible as his mother had no contact with him nor knew his whereabouts. It was submitted the son was now incorrectly claiming Carers Allowance and at the very least payment should be suspended. The Severe Disability Premium of Income Support cannot be paid until formal notice is received from the Carers Allowance Unit that payment has ceased. Arguments are continuing.

Tax Credits Overpayments

Tax credits overpayments remain an issue for clients with the recovery of overpayments placing people into worse financial situations than they were in before making their claim for tax credits.

Income Support also recover overpayments of benefits from clients who they say have been overpaid benefits. This case study shows the value of checking these recovery details carefully. This case started in November 2006 when the client came to us with a letter from debt management asking for a repayment of £631.09 – an overpayment of Income Support. Debt Management declared that they would deduct £54.22 a fortnight from the client's benefits to recover the debt

The client disagreed and asked the adviser to appeal against this decision in November 2006.

In January 2007 the client received a letter refusing him Income Support as he was now in receipt of Incapacity Benefit.

The client then received another letter from Debt Management in February 2007 repeating the content of the first letter received in November 2006 and confirming that a deduction of £54.22 a fortnight would be made from the client's benefit.

The adviser telephoned debt management and explained that there was an appeal pending about this recovery of the overpayment. They agreed to hold recovery until the appeal was heard.

The client received a letter in April 2007 confirming that deductions from benefit would start at the end of April. The adviser telephoned again to remind debt management that an appeal had been lodged against their decision to recover benefits. They confirmed that they had received the appeal documents on the 28 March 2007.

Finally in July 2007 the client received a letter confirming that they had looked again at the client's case as a result of receiving the appeal lodged in November 2006. When they reviewed the case the amount due to be recovered was reduced to £206.68. The adviser and client have decided to appeal against this decision.

Council Benefits

We have had a number of clients who were overpaid HB/CTB because Council Benefits had not acted immediately when clients had notified them of a change of circumstances