

# Citizens Advice

## Social policy impact report

2010/11



For more on our work in 2010/11 see our other annual corporate publications at [www.citizensadvice.org.uk/publications](http://www.citizensadvice.org.uk/publications)



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# About us

## What we do

The Citizens Advice service helps people to resolve their problems. As the UK's largest advice provider we are equipped to deal with any issue, from anyone, spanning debt and employment to consumer and housing plus everything in between.

In the last year alone, the Citizens Advice service helped 2.1 million people with 7.1 million problems. But we're not just here for times of crisis – we also use clients' stories anonymously to campaign for policy changes that benefit the population as a whole.

## How we're structured behind the scenes

Citizens Advice Bureaux deliver advice services from over 3,500 community locations in England and Wales, run by 382 individual charities, giving us more outlets than even the top two supermarket chains. Citizens Advice itself is also a registered charity, as well as being the membership organisation for bureaux. Together we make up the Citizens Advice service. Of the 28,500 people who work for the service, 21,500 of them are volunteers and 7,000 are paid staff.

Through the training, information systems and operational support it provides, Citizens Advice equips bureaux to deliver the highest quality advice to their local residents. In turn, client evidence submitted by bureaux alerts Citizens Advice to widespread problems that require action at a national level.

## How the public knows us

The Citizens Advice service offers information and advice through face-to-face, phone and email services, and online via [Adviceguide.org.uk](http://Adviceguide.org.uk). As well as from their high street premises, Citizens Advice Bureaux make face-to-face advice available from other locations including community centres, doctors' surgeries, courts and prisons.

# Introduction

Since its inception in 1939, the Citizens Advice service has not only helped people resolve individual problems, but has also campaigned to ensure that these problems are tackled by addressing the root causes. We talk to Government and regulators, and work directly with other provider organisations to make life better for our clients. We estimate that we helped around 6.8 million people through our policy work in 2010/11.

We would not achieve the influence that we do without evidence from bureaux, nor without their participation in campaigning activities. Nearly 90 per cent of bureaux took an active part in campaigning at some level through the year.

**6.8 million**  
people helped through  
our policy work in  
2010/11

This report describes both the policy achievements of Citizens Advice, and key campaigning successes by bureaux, including:

- Persuading the government to drop its proposed 10 per cent cut to housing benefit for people who have been receiving jobseeker's allowance for over a year.
- A mystery shopping exercise conducted by bureaux on the accuracy of advice given by the HMRC tax credits helpline about the disability element of working tax credit, which led to a commitment from HMRC to improve information and training for its helpline staff.
- A change which allows 14,000 people with money in private or occupational pension schemes to apply for debt relief orders.
- Campaigning by Barnsley, Ynys Mon, West Berkshire and East Herts bureaux – all successful in keeping their local magistrates' and county courts open.

The Government endorsed our policy record in October 2010 by announcing that it would like to transfer the resources, functions and powers of the consumer body, Consumer Focus, to the Citizens Advice service. This plan is currently out for consultation and – if it goes ahead – is likely to have a significant impact on our work in the future.

Since the last impact report, the Government has announced substantial spending cuts, including £18 billion to be taken from the welfare benefits budget. This presents a challenge to us to work constructively with Government to manage the impact of public spending cuts so that the most vulnerable people in our society are protected from further hardship as a result of reductions in services, cuts to benefits, rising prices and increases in unemployment.

# Benefits and tax credits

## Disability element of working tax credit

### What was the problem?

Bureaux reported an increase in the number of clients seeking help with the disability element of working tax credit. This was caused by specific exercises by HMRC, intended simply to check the accuracy of high cost awards. However, many awards were actually removed in error, because HMRC had failed to take account of all relevant qualifying criteria. This meant that many claimants working part-time because of disability or a health condition were faced with thousands of pounds of debt and financial difficulties resulting from a sudden drop in their income.

### What did we do?

We raised this with officials at HMRC, providing detailed case studies and urging them to re-examine cases affected by this exercise. They set up an internal review to assess the quality of processes and decision making around the disability element and invited us to sit on its steering group. To complement the review we organised a mystery shopping exercise, to assess the quality of information and advice provided by the HMRC tax credit helpline on the disability element. We found that accurate information about entitlement to the disability element of working tax credit was only given in around one third of calls to the helpline.

The findings were shared with HMRC and contributed to its own internal report. They were presented to managers across HMRC in September 2011.

### What did bureaux do?

Twenty-eight bureaux volunteers took part in the mystery shopping exercise, making 173 calls recording a range of details including the questions asked to assess entitlement, whether the adviser checked their guidance and how helpful they were.

### What was the result?

HMRC acknowledged the problem and conducted an internal review using its own findings to make urgent recommendations for changed processes. It produced and trained its compliance staff on the disability element and – following the mystery shopping findings – is about to roll out training for all of the 3,500 helpline advisers. HMRC is further looking at the need to amend the helpline scripts to ensure that the prompts direct advisers to consider the full range of qualifying criteria when advising about entitlement to the disability element.

### What still needs to be done?

Whilst we are confident that changes made will result in greater accuracy of advice and decision making in the future, we estimate that several thousand people had their working tax credit entitlement removed in error during 2010. These claimants will include some of the most vulnerable of HMRC customers whose disability or health problems mean they can only work part-time. Now HMRC are aware that there were significant weaknesses in their processes and errors were made, it cannot be right not to repay this money to its customers.

# Benefits and tax credits

## ESA – improving the Work Capability Assessment

### What was the problem?

Employment and support allowance was introduced in October 2008 as a new sickness benefit. It replaced incapacity benefit for new claimants, with existing IB claimants due to be re-assessed from April 2011. The Government's intention is to increase the number of people moving from benefits into sustainable employment, and to give more disabled people the support to do so, but many of our clients are found fit for work when they have significant and debilitating conditions.

In 2010/11 we gave advice on 202,449 problems about ESA, a 37 per cent increase on the previous year and an indication of the level of concern that the assessment process for ESA is causing for clients who visit our bureaux. In the same year, there was a 56 per cent increase in ESA/IB appeals received by the Tribunals Service.

### What did we do?

We followed up our first report on ESA with a second, *Not working*, which focussed on the work capability assessment, and was endorsed by 18 other organisations. We organised workshops of advisers, to gather evidence of their experiences with clients. We submitted evidence to three different enquiries on ESA, and gave oral evidence to the Work and Pensions select committee.

We regularly attended meetings with officials and specifically contributed to discussions about the changes in descriptors due from April 2011. We met with Professor Harrington several times, and invited him to attend the 2011 social policy conference to speak directly to advisers. We also met regularly with Chris Grayling, Minister for Employment, to express our concerns and give him our evidence. We worked with Citizens Advice Scotland to monitor client experiences in the pilot areas of Aberdeen and Burnley, where the first IB claimants were re-assessed for ESA, and we asked bureaux to take part in a survey to assess the accuracy of WCA reports by Atos.

### What did bureaux do?

Bureaux advisers attended workshops in London and Leeds, and conducted longitudinal surveys of clients, identifying them before their WCAs. Clients were asked to request to see their WCA reports, and to compare them with their own recollections of what they said at the assessment. We received 40 quality cases and will write up the findings shortly.



Models © Image Source Ltd

## What was the result?

Approximately two and a half million people on incapacity benefits are due to be re-tested using the WCA to decide their entitlement to ESA. Our contributions on the new descriptors in the WCA encouraged the then Secretary of State, Yvette Cooper, to intervene directly, and resulted in the changes being less extreme than originally proposed.

Chris Grayling, the Minister for Employment in the new coalition Government, appointed Professor Malcolm Harrington to conduct the first independent review of ESA. He was bound by statute to conduct a review, but he says that our 2010 report, *Not working*, influenced his decision.

Professor Harrington's first review recommended several of the changes we had suggested in our evidence and at meetings, and the Minister accepted nearly all of them. Claimants are now encouraged to send in medical evidence, and DWP decision makers are encouraged to use more discretion in coming to their decisions, based on all the evidence, not just the Atos report from the WCA. More use is to be made of reconsiderations before appeals. Changes were implemented in April 2011, and we have seen more reconsiderations, resulting in better decisions for our clients.

## What still needs to be done?

We welcome the improvements made, but there are still several problems. We believe that more needs to be done to get the decisions right for people as early as possible in the process.

We have made further recommendations for Professor Harrington's second annual review, and following our evidence to the select committee, two of these have been included in their recommendations. We have also researched equivalent sickness benefits in other countries, and submitted a paper to Professor Harrington, proposing a further level of assessment, which would identify other barriers to work as well as a person's functional capability.

## Bureaux successes

**Great Ormond Street Hospital CAB** part of Camden CAB, successfully persuaded Jobcentre Plus to change the information for their phonenumber staff to reflect the points of law that allow parents of children in the hospital to claim income support. The bureau is still working to improve the ease of claiming for parents in this situation.

**Harrow CAB** took action to tackle housing benefit gate-keeping. A new policy by the HB office – without consultation with the bureau – required claimants to have an appointment either face-to-face or by phone before a claim form was issued. Claimants could then be denied the claim form and advised they were not entitled without a formal written decision. At a meeting the bureau challenged the policy, advising that claims could be blocked and appeals denied. Within days the policy was changed so that claim forms could be issued and initial assessments carried out informally without the need for an appointment.

**Blackpool CAB** found that its local Jobcentre Plus had been disallowing seasonal workers from claiming JSA during the winter months, even though the workers had received their P45 and were not guaranteed to be taken on to do the same job next holiday season. The bureau gathered together evidence on the issue and campaigned for change, meeting with judges at the Jobcentre Plus tribunal users group. Further investigation showed that Jobcentre Plus was misapplying a regulation, and that seasonal workers are entitled to JSA during the off-season, when they are not technically employed. As a result, Jobcentre Plus decision-making on this issue has been changed in the region and JSA will now be awarded correctly for seasonal workers, and can be backdated. This will affect thousands of seasonal workers in Blackpool who will now be able to claim JSA if they are unemployed during the off-season.

# Benefits and tax credits

## 10 per cent cut to HB for JSA claimants

### What was the problem?

In the budget of June 2010, the Government proposed introducing a measure that would cut housing benefit (HB) by 10 per cent for claimants who had been claiming jobseeker's allowance (JSA) for longer than 12 months. The measure was said to be an incentive for JSA claimants to try harder to find work. The JSA system already has sanctions built into it, however, and it was completely inappropriate to reduce housing benefit for claimants who did not find work in spite of fulfilling all their obligations to try. It would be particularly unfair for people at a disadvantage in the labour market due to disability or the need to find a job to fit round childcare. The penalty is therefore unequal and unfair, as the amount is higher for families with greater costs, regardless of the efforts made to find suitable work.

For example: a lone parent is allowed by the conditions of JSA to limit her job search to school hours only, but, given the demand for these jobs, may – after a year – still be out of work. On a rent of £150 per week, she would lose £15, which she would have to find from her JSA income, leaving her with £40 to live on (excluding the children's benefits).

### What did we do?

Together with many charities and lobbying organisations, we took every opportunity to raise awareness of this issue, and to show that the proposal was illogical, unreasonable and unfair. We highlighted the issue in our submission to the DWP review of HB changes, and responses to inquiries by the Work and Pensions Select Committee, and by the Social Security Advisory Committee on housing benefit reforms, and in external seminars and conferences. We attended regular meetings with the DWP HB team, and with the opposition. Together with Crisis and

Shelter, we wrote to and met with Lord Freud, Minister for Welfare Reform, to discuss the cuts, and expressed our particular concerns about this measure.

At the same time, the requirements for lone parents to look for work were changed, resulting in more parents having to claim JSA. To highlight the potential impact of this measure, we attended meetings with the DWP lone parent employment team, and – together with other stakeholders – we wrote to and met with Maria Miller, MP, the Minister responsible for children.

We used television interviews to highlight how this measure risked undermining positive proposals to support people into work.

### What did bureaux do?

Many bureaux wrote to their MPs about the issue. To inform our work on this and other measures to cut HB rates, 113 bureaux also surveyed their clients about the extent and impacts of shortfalls between rent paid and housing benefit received.

### What was the result?

The morning of publication of the Welfare Reform Bill, Iain Duncan Smith announced on the BBC Radio 4 *Today* programme that this measure would not appear in the Bill. At the official launch event at Toynbee Hall, the Prime Minister confirmed that he had listened and responded to the united voice against the proposal.

### Long-term protection for tenants

The work outlined above on HB reforms also led to the Government allowing nine months' additional protection for existing claimants affected by the reforms, for as long as their circumstances remain unchanged.

# Benefits and tax credits

## Other achievements

### Tax credit renewals

Each year hundreds of thousands of families face payment gaps and debts as a result of failing to complete their annual renewal forms. The renewal period falls between April and July every year, and for the second year, we helped HMRC to publicise the need for claimants to renew their claims. Bureaux completed a survey to provide HMRC with more information on why CAB clients failed to meet last year's renewal deadline. We produced posters, put out press releases – and tweeted! This year HMRC has faced fewer problems with claimants missing the renewals deadline.

### DWP minimum standards for Work Programme providers

This year, the DWP contracted out employment services under the new Work Programme. It introduced payment by results, and tendered on the basis of a so-called 'black box' approach, which allows providers the freedom to manage cases however they believe works best to achieve the aim of sustained employment for individuals.

We surveyed clients about their experiences of the back-to-work provision available through Jobcentre Plus, and published the findings in a short report, *Fair Welfare*. We were particularly concerned to ensure that the new Work Programme contained at least some minimum standards to protect clients from poor delivery of services. We met with DWP Director responsible for the Work Programme, Adam Sharples, and promoted the report at a Welfare to Work conference in January 2011. This enabled further meetings with officials to help influence the plans for the Work Programme. We were pleased that Welfare to Work providers were required to include information in their bids, on their minimum standards for customer service, and they will be assessed on compliance with these standards.

### Welfare reform

Between the June Budget and October's Comprehensive Spending Review, the Government announced a total of £18 billion cuts to the welfare budget, which will have major implications for many of our clients. We produced a comprehensive briefing for MPs, bureaux and the wider public to help explain the detail of the cuts, and to show who will be most affected by them. The briefing has been used by MPs, local authorities, and journalists. The press coverage we have secured has, for example, helped challenge public perception that tax credit cuts will only affect higher income recipients. Our analysis has also been used to explain the combined effect of several of the changes.

The 2011 Welfare Reform Bill introduces the most fundamental changes to the British welfare system since William Beveridge's reforms in the 1940s. It was preceded in July 2010 by a discussion paper, *21st Century Welfare*, and began its passage through Parliament in February 2011. We responded to the discussion paper, and in December 2010, we formed a coalition of key charities and other organisations in the welfare field to compare views and share the workload of influencing the Bill. The welfare reform consortium has met regularly since the introduction of the Bill, and we have written joint briefings, which have been distributed to MPs through the Committee stage. We also shared views in advance of the Bill committee oral evidence sessions.

The combined voice of so many influential organisations has led to stronger representation to government, and contributed to the removal of the measure to cut HB by 10 per cent for people on JSA for more than 12 months. The coordinated work of the consortium has been welcomed by MPs – and now peers, as the Bill enters the House of Lords.

# Consumer

## Protection of Freedoms Bill

### What was the problem?

During the last days of the previous Government, Parliament passed legislation to tighten up regulation of firms enforcing parking on private land. In August 2010, the new Government announced that it would include in the Protection of Freedoms Bill a ban on the use of clamping and towing as a means of enforcement for breaches of parking rules on private land. It would also not implement those parts of the legislation passed by the previous Government to improve regulation of towers and clampers. In October 2010, it was announced that the Security Industry Authority, which regulates clamping and towing, was in the list of quangos to be abolished.

### What did we do?

Whilst Citizens Advice welcomed the Government's announcement to ban clamping and towing for breaches of parking rules on private land, we were concerned that there would be no means for consumers to challenge disproportionately high charges, poor signage or have a means of resolving their dispute with the parking company.

We agreed to work in partnership with Consumer Focus and the Trading Standards Institute on this issue, as they had similar concerns to us about the Bill. When the Bill was published, we met with the Bill team at the Home Office to discuss our concerns. We wrote a joint briefing for MPs for the second reading of the Bill. We wrote amendments for Tom Watson MP to put down at the Committee stage on establishing a redress scheme, proportionality of charges and better signage. In May 2011, the campaign partners and the British Parking Association (BPA), which represents many parking companies, wrote to the Home Office and Department

for Transport ministers responsible for the Bill to ask them for a firm commitment to work with consumer organisations, the parking industry and the DVLA to develop an independent ADR facility to resolve disputes about parking on private land.

In August 2011, the campaign members met again with the BPA to gain their agreement to work together on this issue.

### What was the result?

Our main achievement so far is to persuade the BPA to work with us on an independent dispute resolution scheme on parking disputes.

### What still needs to be done?

The amendments did not succeed at Committee stage, so we are now working with Henry Smith MP to put down an amendment on redress at Report stage, which we expect some time in the autumn.



## Bureaux successes

For over 12 months **Bury CAB** had been seeing clients who had experienced problems with mis-sold training courses. Many were left with debts of thousands of pounds for courses they never completed. On discovering that bureaux in the Greater Manchester area were noticing the same problem, Bury CAB sent a press release to the *Bury Times*, which printed it on the front page. A regional TV show, *Granada Reports*, also ran the story, interviewing clients and bureau managers and raising awareness of the issue around the region.

While monitoring problems with local letting agents, **Wandsworth CAB** found that a particular agent in Tooting was taking deposits and not providing clients with properties. The bureau collected evidence on the issue which was sent to Trading Standards. In January 2011, Trading Standards told the CAB that the police had arrested the agent and were hoping to get all refunds for the bureau's clients.

# Bury Times

Thursday, August 5, 2010

burytimes.co.uk

50p

**SHAKERS READY FOR KICK-OFF** » 70

FULL-PAGE TEAM PHOTO

**ARMY OF VOLUNTEERS HELP AT BLEAKHOLT** » 13

## Training scam costs jobseekers thousands

Distraught victims plead for CAB help

A WARNING has been issued after job seekers were each duped out of £5,000 by comment. Bury Citizens Advice Bureau officials have warned people to be on their guard after a dozen victims contacted them after being conned with scam training courses. They are urging people seeking employment to follow their top tips so they do not fall for training course tricksters. Social policy co-ordinator Gail Dewis explained: "People see adverts in the paper or get contact from someone after placing their CV online. They start a training course and are prom-

ised two years of work afterwards. If they finish the course in six months, it is free. But if they overstep the six-month mark, it costs £4,000 to £5,000. The company makes it impossible to finish in six months."

She added: "These courses are no doubt the tip of the iceberg. We are seeing more cases involving the promise of a job after a training course—a particularly despicable scam at a time when so many people are desperate for work. Many victims unwittingly signed loan agreements which gave the bogus firms

permission to take £5,000 or more. The company often vanishes into thin air when the cash comes out of the victim's bank account. Many of the firms highlighted by the CAB were IT companies. One was a plumbing company and another was a driving instructors training business. Latest figures show there were 4,765 people claiming jobseekers Allowance in Bury in June. That is 3.5 per cent of the borough's population. Mrs Dewis added: "If you're looking for work it's natural to think about



'Fusilier' Freddie

THE sounds of Amazing Grace, played by 11-year-old Freddie Beam, accompanied this year's Minden Day service. Fusiliers turned out in force to remember one of their regiment's greatest battles. The day also saw the families of six fallen soldiers collect the Elizabeth Cross to recognise their loss. FULL STORY: Page 6

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# Credit, debt and homeownership

## Cold calling and upfront fees charged by loan finding firms

### What was the problem?

For a number of years bureaux have reported that credit brokers have been advertising loan finding services targeted at people with poor credit histories. Since the credit crunch, these reports have become more numerous. Some of the companies have consumer credit licences, but others seem to be purely scams. The OFT had taken enforcement action against a number of licenced credit brokers and lead generation firms since 2009, but this had not stopped the practice.

### What did we do?

In late 2010, BIS called for evidence on a number of issues relating to consumer credit and personal insolvency. One of the issues covered in the consultation was whether consumer credit advertising regulations should be changed, including whether the Financial Services Authority's prohibition on cold-calling that applies to first charge mortgages should be extended to all credit agreements. We used our evidence on loan-finder companies to respond to this question.

We felt that this issue deserved further attention from policymakers, and so we carried out further research and wrote a joint evidence report with Citizens Advice Scotland, *Cashing in*. The report highlighted that many people are being ripped off by loan-finding firms which cold call consumers and then take an upfront fee. We called for the law to be changed to prohibit cold-calling for consumer credit business and to stop lenders, brokers, claims management and debt management firms from taking any payment in respect of arranging or setting up a loan until it had been properly concluded in accordance with consumer credit law. We decided to submit the report to the OFT as a super-complaint, to ensure that the issue

was taken seriously. On 3 March, when we published the report, there was a lot of press and media coverage, with stories in the *Times*, *Financial Times*, *Independent*, *Daily Mirror* and the *Daily Star*, and interviews on BBC TV *Breakfast*, Radio 4 *Today* programme, Radio 5 Live, Radio 2 and numerous BBC local radio stations.

Following the publication of the report, we provided the OFT with a dossier and analysis of our evidence on loan-finding and associated companies for the years 2008-11 to the OFT to support the super-complaint. Our analysis showed that a quarter of the clients affected were under the age of 25, and a fifth were vulnerable in some way. The average financial detriment experienced by these clients, many of whom were on very low incomes, was £217. We also gave the MoJ a dossier of evidence on the practices of claims management firms.

We met with BIS, the MoJ's Claims Management Regulator, Phonepayplus, the premium phone service regulator, and the National Fraud Authority to discuss other ways in which this problem could be tackled.

### What was the result?

On 1 June, the OFT issued its response to our super-complaint. It estimated that in the last 12 months around 270,000 UK consumers paid an upfront fee to a credit broker on the expectation that they would then be introduced to a lender who could provide a sub-prime unsecured loan. It announced that it would be asking BIS to consider whether new legislation is needed to address problems in the sub-prime unsecured credit brokerage market, including a possible ban on upfront fees. It published draft regulatory guidance on credit brokerage and updated debt

management guidance for consultation. It also promised to continue to take targeted enforcement action, including the revocation of consumer credit licences where appropriate.

Although the OFT did not agree with us that a ban on cold-calling was appropriate, it did agree to work with us on a discussion about cold-calling, warm-calling and lead generation with the Information Commissioner's Office (ICO), the Direct Marketing Association (DMA), the MoJ, the Department for Culture, Media and Sport, Ofcom and relevant consumer bodies.

The MoJ's Claims Management Regulator has consulted on tightening up their rules on cold-calling.

### **What still needs to be done?**

BIS is yet to respond to the OFT's recommendation that consumer credit legislation needs to be changed to deal with the problems we identified with up-front fees in our super-complaint.

We still believe that a ban on cold-calling is necessary. In particular, we believe that further protection is needed to ensure that people's contact details are adequately protected by data protection legislation. We will continue to work with the DMA, OFT, ICO and Ofcom to take this matter further.

## **Bureaux successes**

**Rossendale CAB** made some real progress in its campaign against unreasonable practices and demands by bailiffs collecting council tax. Having had limited success in liaison meetings with the council, Rossendale made a complaint to the Local Government Ombudsman with the help of a client who was experiencing unacceptable bailiff practices. The Ombudsman found charges made by bailiffs were 'unreasonable', that clients had been 'double charged' and that the bailiffs' notes were 'insufficient'. Rossendale Council was instructed to improve monitoring of its bailiffs' performance and to ensure they follow correct procedures in accordance with the law.



Model © Justin Pperger/Citizens Advice

# Credit, debt and homeownership

## Debt relief orders and pensions

### What was the problem?

In April 2009, the debt relief order (DRO) was introduced – a new low-cost alternative to bankruptcy for people who have less than £15,000 total debt, less than £50 per month available income for their creditors and less than £300 in assets. At the last minute, the Insolvency Service set a new rule which classified money in an occupational or private pension scheme as an asset. Consequently, many people who would otherwise be eligible, would not be able to apply for a debt relief order, even though they could not access the funds in their pension scheme to pay off their debts.

### What did we do?

Citizens Advice raised the issue with the Insolvency Service at meetings about the debt relief order scheme. The Insolvency Service said that it would review the scheme after it had been running for two years. We did not feel that it was acceptable to wait such a long time for the law to change.

In November 2009, Citizens Advice, AdviceUK, the Institute of Money Advisers and the Consumer Credit Counselling Service – many of whose advisers are involved in running the debt relief order scheme – wrote to the then Minister responsible for insolvency, Ian Lucas MP, to highlight our concerns about the impact of this unfair rule.

The Minister subsequently met with us in January 2010 and agreed to reconsider. He did, however, ask us for further statistics on the scale of the problem. We devised a short survey to gather this information. We wrote to the Minister and the Insolvency Service with full details of the results. In late March 2010, the Insolvency Service published a consultation on whether they should change the pension rule for debt relief orders, and if so, how. Citizens Advice

responded to the consultation arguing that debt relief order legislation should be brought into line with bankruptcy law, which disregarded money in pension funds. We also produced a model response for bureaux to use.

### What did bureaux do?

Twenty bureaux used the model response to submit their views on the proposed changes and provide local statistics and case studies to the Insolvency Service. Several bureaux lobbied their MPs on this issue.

### What was the result?

On 9 November 2010, the new Insolvency Minister, Edward Davey MP, announced that from April 2011, all people with money in HMRC-approved pension schemes would be able to get a debt relief order if they satisfied all the other criteria. The Insolvency Service estimates that up to 14,000 more people will be able to apply for a debt relief order as a result.



# Credit, debt and homeownership

## Other achievements

### Work with UK Cards

In March 2010, the previous Government announced that the credit card industry had agreed a voluntary package of measures to improve lending and selling practices. It also wanted the credit card industry and consumer groups to work together to identify and support people in potential financial difficulties. We took an active part in the resulting working party – with representatives of all the major debt advice charities – to identify people in financial difficulties at an early stage.

In April 2011, Citizens Advice and UK Cards produced a joint leaflet for credit card holders on their new rights. The work of this group is ongoing – its latest project is to identify and help consumers who pay credit with credit.

### Bills of sale

We have long been concerned about the lack of protection for people taking out loans secured by bills of sale on goods. If the borrower defaults, the creditor can repossess the goods without a court order. Although bill of sale lending is relatively small scale, CAB evidence highlights that consumers can suffer severe detriment.

In response to concerns from Citizens Advice and others, the previous Government consulted on this issue, including repealing bills of sale legislation. We supported a ban, but felt it was necessary to amend consumer credit legislation, as well as repeal the bills of sale legislation. In February 2011, the new Government announced that it was encouraging lenders to work on a voluntary code of practice which would deal with some of these problems. We hope that the proposed transfer of consumer credit to the Financial Conduct Authority may help resolve the problems caused by bill of sale lending for once and for all.

### OFT takes enforcement action against MBNA

Citizens Advice has been working with the credit card company MBNA about acceptance of offers of repayment and its willingness to work with CAB advisers acting on behalf of its customers in financial difficulties. Some progress was made, but more was needed, and so we gave a dossier of evidence to the OFT.

On 14 December 2010, the OFT took enforcement action against MBNA, imposing requirements that it should accept reduced offers of repayment, improve the clarity of letters to customers and work with customers' appointed representatives. Since the OFT took this action, advisers report better outcomes when dealing with MBNA.

### The Lending Code and CASHflow

Our 2008 report, *With a little help from my friends*, led to advisers and creditors working on a system to ensure that people who negotiate with their creditors themselves are given the support they need to do so – this is known as CASHflow. The 2011 Lending Code now includes a commitment that subscribers will accept offers made by people using the CASHflow system.

### Barclaycard

We persuaded Barclaycard to re-word its letters accepting offers, in line with the CFS best practice checklist. As a result, the number of evidence forms we receive about Barclaycard has halved.

### Welcome Finance

For some time, bureaux have been reporting that Welcome Finance continues to contact their clients, even where the bureau has told the company that they are now acting on the client's behalf. We worked with Welcome Finance's head office on a protocol for dealing with problematic cases so that they can be resolved quickly and easily.

# Essential services

## Right of set-off

### What was the problem?

Banks have a common law right to offset a customer's funds in one account against money they owe to the bank. Since benefits have been paid into bank accounts, bureaux have been seeing more clients whose debt problems have been exacerbated by banks' use of the right of set-off to pay a credit card debt.

### What did we do?

We first raised concerns in our 2006 report, *Banking benefits*, and again in our response to the 2007 review of the Banking Code. We followed up with the Banking Code Standards Board, which monitored compliance with the Code. In March 2009, it issued a warning to a number of banks about their right of set-off practices.

In 2009, there was a further opportunity for us to influence on the issue when the Government implemented the EU Payment Services Directive, which required all retail banks to be regulated. We raised concerns in responses to the FSA and BBA's consultations on implementation of the change. We wrote an article for *Evidence journal*, where we expressed the view that the right of set-off should be banned, as we could not see how it could be made to work fairly. We also lobbied Parliament to amend the Financial Services Bill to ban right of set-off.

In early 2010, the FSA asked us and other debt advice groups for evidence about right of set-off. We provided them with a dossier of evidence and our statistics on right of set-off, which showed that we were dealing with an increasing number of enquiries on this issue. Meanwhile, the Lending Standards Board, which monitors compliance with the Lending Code (replacing the Banking Code from the date in which regulation of retail banking came into effect), issued guidance to subscribers on how to use the right of set-off fairly.

In July 2010, the FSA published a consultation paper on amending the Banking Conduct of Business Sourcebook (BCOBS) to include rules on use of the right of set off. Our statistics were quoted in the consultation to show that this was a growing problem. The proposed rules, however, required less of the banks than the Lending Code guidance. Citizens Advice and Citizens Advice Scotland wrote a joint response to the consultation, suggesting that the FSA require banks not to use right of set-off where agreed payment arrangements are in place to repay the debt in question and the consumer has less than £1,000 in their account. We also suggested that the firms should be required to refund money taken via right of set-off if the consumer can prove they are in hardship as a result. We raised our concerns in an interview for BBC TV *Breakfast* news in September 2010. We also recommended to the 2010 Lending Code review that the Code's commitments on right of set-off were strengthened further.

### What was the result?

In February 2011, the FSA announced the outcome of its consultation. Its new rules require banks to work out a subsistence amount based on what it knows about the customer's circumstances before applying the right of set-off to remaining funds. The FSA also agreed with us that banks should refund money taken in cases of hardship. This change will help up to 60,000 people per year.

### What still needs to be done?

The amount of evidence we receive on right of set off has reduced since the new FSA rules came into force. We remain to be convinced, however, that the banks have sufficient information to work out subsistence amounts for each consumer, as required by the FSA's new rules. We will be monitoring our evidence on this issue to see whether further action is required.

# Housing

## Improving energy efficiency in the private rented sector

### What was the problem?

We have long campaigned for improved standards of repair in the private rented sector. 680,000 private rented properties in England have the lowest energy efficiency ratings of F and G. These homes are costly to heat, so that tenants struggle to afford their fuel bills, and suffer from cold-related health problems. The Energy Bill created the opportunity to lobby for a minimum energy efficiency standard for the private rented sector, which would force landlords to make improvements to the worst homes. From the out-set, the Government was committed to giving tenants the right to request energy efficiency improvements from landlords.

### What did we do?

Together with Friends of the Earth, the Association for the Conservation of Energy and over 30 other organisations, we campaigned for the Government to introduce a minimum energy efficiency standard for the private rented sector from 2016 – the date by which the Government has a statutory duty to eradicate fuel poverty. 181 MPs signed an EDM in support of the campaign, and as the Bill has made its way through Parliament we have been in close dialogue with MPs, officials and Ministers.

We also argued strongly that if tenants have the right to request that their landlord improve the energy efficiency of their home, they must be protected against retaliatory eviction.

### What did bureaux do?

Bureaux provided invaluable evidence of clients living in cold homes and being threatened with eviction when they try to

enforce their rights. Bureaux in the constituencies of MPs on the Bill Committee wrote to their MPs asking for their support and many more bureaux encouraged their local MPs to sign the EDM.

### What was the result?

In May, Chris Huhne, Secretary of State for Energy and Climate Change announced “From 2016, any tenant or their representatives asking for their landlord’s consent to make reasonable energy efficiency improvements cannot be refused. From 2018, the rental of the very worst performing properties – those rated F and G – will be banned through a minimum energy efficiency standard.” The Energy Bill has now been amended to implement these measures.

The Government has set up a working group, including representatives from Citizens Advice, to reconsider the issue of retaliatory eviction.

### What still needs to be done?

We welcome the Government’s response so far, but the legislation will be too slow and still contains some very significant weaknesses – for example, some landlords will legally be able to let out F and G rated properties if they can prove they have already made some energy efficiency improvements. This will increase the complexity and cost of enforcing the new law, and will leave both tenants and landlords confused about their rights and responsibilities.

We are now lobbying Government to introduce the legislation in 2016, ensure properties must be improved to at least a minimum standard, include lettings agents and the marketing of sub-standard properties in the legislation, and protect tenants from retaliatory eviction.

# Legal

## Justice for all – legal aid

### What was the problem?

In May 2010, the coalition Government published an agreement on its policy agenda to reduce public spending. Amongst the commitments in the agreement was a goal to reduce spending on legal aid.

### What did we do?

Before the election, we had started work on a business case for civil legal aid. Using the Legal Services Commission's outcomes data, we calculated the savings to the public purse of investment in civil legal aid in terms of problems solved. We presented our findings to the Legal Services Research Council's conference in June 2010. We used the findings to submit ideas to the Government's Comprehensive Spending Review on how to fund legal aid more sustainably in the future.

During the summer of 2010, a number of organisations, including ourselves, AdviceUK, Advice Services Alliance, Unite, the Association of Young Legal Aid Lawyers, Law Centres Federation and the Legal Aid Practitioners Association, came together to establish a broad based campaign, Justice for All, to highlight the need for civil legal aid. The campaign held a fringe meeting at the Liberal Democrats conference to publicise the campaign. We publicised the Justice for All campaign far and wide, encouraging as many people and organisations to join it. To date, the campaign has over 3,500 members, including many bureaux and individual CAB advisers. Citizens Advice has played a key role in the campaign since its inception. In January, Justice for All held a group lobby of MPs for members of the campaign to tell their MP about the impact of cuts to legal aid.

In late November 2010, the Government published a Green Paper on legal aid. This

proposed to radically reduce spending on civil legal aid by removing all benefits and employment cases (other than discrimination), most debt and education cases, most family cases and some housing cases from scope, changing the means-test and reducing all fixed fees for legal aid by ten per cent. We submitted a comprehensive response. We also developed a model response for bureaux to use to respond to key questions in the consultation. This was also used as the basis for a model response for Justice for All members.

On 14 February 2011, the day when the consultation closed, the Justice for All campaign asked its members to send an electronic Valentine's card to the Lord Chancellor, Ken Clarke MP, to tell him that they loved legal aid. At lunchtime on Valentine's Day, members of the campaign, including 'Lady Justice' took Valentine's cards and chocolates to give out to MoJ staff to highlight the campaign. We later learnt that the 4,000 or so electronic Valentine's cards crashed the MoJ's email server that day.

Originally, the MoJ had intended to analyse the responses and publish their response before Easter 2011. The sheer scale of the number of responses – 5,000, of which 1,000 were made using the Justice for All model response – meant that this timetable could not be met. In the meantime, we carried on with our lobbying work, meeting Ministers, lobbying MPs and briefing on adjournment debates in the House of Commons. At the end of April, the Justice for All campaign published a report, *Saving justice*, which highlighted key themes from members' responses to the consultation.

At the beginning of June, the Justice for All



campaign organised an action day for justice for its members to highlight the impact of the proposed changes to legal aid. Many members took part and gained lots of publicity for the campaign.

The Legal Aid, Sentencing and Punishment of Offenders Bill was eventually published at the end of June 2011. Citizens Advice Chief Executive, Gillian Guy, gave evidence on legal aid to the Public Bill Committee and we briefed MPs on the second reading of the Bill and the first Committee stage session before recess.

### **What did bureaux do?**

Bureaux have been extremely proactive in contacting their MPs to explain the impact legal aid cuts would have on their area – in many cases producing detailed briefings. Several also fed into the MoJ Green Paper consultation.

Bureaux were also active in the Justice for All day of action:

### **Bedworth, Rugby and Nuneaton CAB**

took justice heroines out to the local shopping centre to raise awareness and gather signatures to a local petition. One of the local MPs was persuaded to come to hear people's concerns. The bureaux has also produced a short video with people who have benefited from the CAB's legal aid service talking about how it helped them.

**South Hams CAB** gathered local partners together to discuss their concerns in depth. They arranged for local MP Sarah Wollaston, the Mayor and Councillors to come and listen. One of the bureau's legal aid caseworkers also wrote an article about the importance of legal aid, which was published in the *New Statesman* magazine.

### **Tunbridge Wells**

**CAB** also took to the streets, giving out leaflets and gathering signatures to a local petition, which was on the council's petition website.

**Wiltshire CAB** staged a media stunt with heroes for justice, including Lady Justice and Captain Debtbuster (aka bureau staff), posing for photos for the local press as well as being interviewed on local radio.

### **What was the result?**

The sheer number of responses to the consultation meant that the MoJ had to put back the response to the consultation by two months. Concessions on education and family cases were made, and some of the proposals to change the legal aid means-test did not go ahead.

During the second reading of the Bill, Ken Clark MP announced in the House of Commons that the Government had found an extra £20 million to fund the advice sector this year.

### **What still needs to be done?**

We will continue to influence the Bill as it completes its Commons stages and goes to the Lords. We are putting down amendments to ensure that early advice on housing debt cases remain in scope, and to ensure that people with complex benefits and employment appeal cases can continue to be given advice under the legal aid system. We are currently working out a costing for these proposals to show that they are reasonable.

We are also working on a report on family legal aid and changes to family law. This will be published in autumn 2011.

# Legal

## Court closures

### What was the problem?

In June 2010, the MoJ announced that over 140 magistrates and county courts in England and Wales would be closed. It produced 15 consultations, each with proposals for a different area of the country.

### What did we do?

We produced guidance for bureaux on responding to the consultation and developing a local campaign against court closures.

We wrote to the Parliamentary Under Secretary of State for Justice, Jonathan Djanogly MP, to express our views on the proposed court closures. We also submitted ideas to the Comprehensive Spending Review about how local access to justice could be preserved without spending too much money.

### What did bureaux do?

Around 50 bureaux participated in this campaign, submitting responses to the consultation and working with other stakeholders to campaign to keep their local court open.

Intrepid **Citizens Advice Shropshire** Service Director, Liz Warren, a local councillor and a representative from the Shropshire Law Society went to London for a face-to-face meeting with the Minister. The Shropshire delegation were determined to highlight the transport difficulties facing court users under the proposals. Making the most of a face-to-face opportunity, the group took county maps and bus timetables with them to illustrate their argument that closing Shrewsbury county court and transferring business to Telford would leave many people facing near-impossible travel journeys to attend 10am hearings. Mr Djanogly also received the campaigners' nine-point plan

which included the alternative suggestion that Shrewsbury magistrates' court could be adapted for county court business.

**Barnsley CAB** played a leading role in coordinating a coherent local campaign against the closure of Barnsley County Court and the transfer of its business to Sheffield County Court. Partners included the county court users group, Law Society members, the local authority and local MPs. As a result the coordinating group has identified that the local magistrates court building had enough space to accommodate all business from the vacated county court, at no greater cost than that involved in transferring to Sheffield.

**Lymington CAB** surveyed clients on proposals to close the county court in Lyndhurst which was only built five years earlier. They found that 85 per cent of clients would find it difficult to travel to Southampton or Winchester which were the alternative venues.

**West Berkshire CAB** worked with its local MP, the police, the magistrates and the local authority to campaign to keep the local county and magistrates' courts open.

### What was the result?

In December 2010, the MoJ announced its response to the consultations. Barnsley, Ynys Mon, West Berkshire, East Herts, Skipton, Bury and Harlow were all successful in keeping their local courts open.

### What still needs to be done?

The closure programme will be phased over two years so there is still time to ensure that the alternative proposals are robust.

# Legal

## Other achievements

### Civil recovery update

This year, we followed up our 2009 report, *Unreasonable demands*, with a second report, *Uncivil recovery*, in which we highlighted the aggressive practices used by some civil recovery companies to claim moneys from our clients. We raised awareness of the issue through parliamentary and media work, including a debate in Parliament led by Simon Hughes, MP, and features on BBC News24, *The One Show* and *Watchdog*.

We gained support from a Barrister's chambers, which provided an opinion on the law around civil recovery, in response to an opinion written by an eminent QC for one of the civil recovery agencies. We concluded that the only way to test the law on this issue was to see a test case through the courts. When the same firm issued a county court claim in May 2011, we prepared pro bono legal support for the client, and we now await the outcome.

We have achieved our aim of airing this subject in public, and causing debate, with opinions remaining split on the issue. We will continue to monitor this and related issues – including parking on private land and downloading of computer files.

### Other bureaux successes

**South Holland (Spalding) CAB** had at least eight clients, all migrant workers, reporting problems with one employment agency in the area, which had been failing to give migrant workers their full statutory employment rights. The bureau wrote to the agency on behalf of clients, resulting in some improvement, but the agency still failed to address some issues. The bureau then contacted both ACAS and the GLA. A meeting was held at Spalding bureau with a representative of the GLA. As a result the GLA is now conducting a full investigation of the agency.

After many years' absence, **Bishops Waltham CAB** is celebrating the return of NHS dentistry to three local villages through a mobile surgery. The bureau's campaign and media pressure were instrumental in bringing this new service.



# List of acronyms

**ACAS**

Advisory, Conciliation and Arbitration Service

**ADR**

Alternative dispute resolution

**BBA**

British Bankers' Association

**BIS**

Department for Business Innovation & Skills

**BPA**

British Parking Association

**CFS**

Common financial statement

**DMA**

Direct Marketing Association

**DRO**

Debt relief order

**DWP**

Department for Work and Pensions

**EDM**

Early Day Motion

**ESA**

Employment and support allowance

**FSA**

Financial Services Authority

**GLA**

Gangmasters Licencing Authority

**HB**

Housing benefit

**HMRC**

Her Majesty's Revenue & Customs

**IB**

Incapacity benefit

**ICO**

Information Commissioner's Office

**JSA**

Jobseeker's allowance

**MoJ**

Ministry of Justice

**Ofcom**

The regulator for communication services

**OFT**

Office of Fair Trading

**WCA**

Work capability assessment

## **Our aims**

- To provide the advice people need for the problems they face.
- To improve the policies and practices that affect people's lives.

## **Our principles**

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination.

Have you found this publication useful? Please share your thoughts at [corporate.communications@citizensadvice.org.uk](mailto:corporate.communications@citizensadvice.org.uk)

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Citizens Advice is an operating name of The National Association of Citizens Advice Bureaux.  
Registered charity number 279057.

Published August 2011

Cover photo: © Alex Sturrock/Citizens Advice. Posed by model.

Design: [wearemash.com](http://wearemash.com)