

FEARS FOR FUTURE OF LEGAL AID

LEGAL AID in Harlow could be harder to find as a result of changes being proposed to the funding of legal aid work, Harlow's legal advice partnership has warned.

Harlow Community Legal Services Partnership (CLSP) has responded with concern to proposals in reports published by Lord Carter and by the Department of Constitutional Affairs and the Legal Services Commission.

These proposals would establish a new fee structure for legal aid suppliers, and a minimum level of legal aid income below which suppliers would not be able to offer legal aid at all.

Cllr Lorna Spenceley, Chairman of Harlow Community Legal Services Partnership, said: "We would be extremely concerned if, as a result of these proposals, legal aid in Harlow was less accessible, with residents having to travel further to fewer providers.

"It's already been estimated that over 90 per cent of not-for-profit advice suppliers would experience significant decreases in their publicly-funded income if these

CLSP warns that some services could be lost

proposals were agreed. For Harlow, the proposals could mean a number of organisations being forced to give up legally aided work altogether."

Sue Jones, manager of Harlow Welfare Rights & Advice, said: "Research has demonstrated that the creation of a large number of new offences has resulted in a steep rise in the legal aid budget. Attempting to control expenditure without addressing one of the main causes of increasing costs is the wrong approach."

An announcement on the government's intentions is expected before Christmas.



Praise for Harlow from LSC chair

TINA FAHM (above), chair of the Eastern Region Legal Services Committee, has congratulated Harlow on developing and maintaining a successful and robust Community Legal Services Partnership. It was one of the first such partnerships to be set up in 1999, and it has notched up several notable achievements.

The CLSP has brought together advice and information providers, including solicitors and statutory and voluntary agencies. As partners, they have published strategic plans to identify and fill gaps in local provision, developed a referral directory and devised and implemented the Open Door project (see page 2), having won funding from the LSC.

Cllr Lorna Spenceley, CLSP chair and vice-chair of Harlow Council, said Harlow believed in partnership working and had demonstrated its ability to work in partnerships through several initiatives.

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Agencies urged to take up the baton as advice project concludes

IT was a time for celebration and reflection when Harlow Community Legal Services Partnership (CLSP) invited Tina Fahm, the chair of the Eastern Region Legal Services Committee (LSC), to Harlow to see how an innovative advice and information project had tackled its ambitious aims.

The event was chaired by Cllr Lorna Spenceley, who is chair of the CLSP and also vice-chair of Harlow Council. The five strands of the CLSP's Open Door project were showcased together for the first time at Harlow Study Centre on November 3, when an audience of about 50 representatives of local agencies and services learned how the project had implemented its aims. The project has now ended, and an external evaluation is under way, so that the project's legacy and lessons learned can inform and assist similar work elsewhere.

The project was funded by a £164,000 grant awarded to the Harlow CLSP by the LSC five years ago under its Partnership Innovation Budget.

Principal partners were Harlow Council, Harlow College, Welfare Rights & Advice and the Safer Harlow Partnership, which each provided help, mainly in kind but with some cash. Harlow Welfare Rights & Advice managed day-to-day administration of the project, working with a steering group which comprised several partner agencies and people with expertise in particular fields.

The brief was to bring information on legal rights and responsibilities to sections of the



■ (left to right) Bill Rammell MP, Sue Jones, manager of HWRA, Tina Fahm and councillor Lorna Spenceley at the Study Centre event.

community perceived as hard to reach, and guidance on how and where to access the most appropriate advice and information. Electronic means of delivering the project's aims have been given particular emphasis.

The initial three strands later expanded to five.

Cllr Spenceley welcomed Ms Fahm to Harlow and urged the audience to consider the possibilities for retaining and developing much of what had been achieved.

Ms Fahm said Harlow CLSP had identified a gap in people's knowledge of where to find help and had set out to fill it. LSC research had shown one million people a year took no action when their rights were threatened, because they did not know where to go. Others could learn from Harlow's work in this area.

FIVE STRANDS

Three projects were developed initially, but two were added.

■ Theatre *active's* **Your Choice, Your Future** came first. This was

issue-based inter-active theatre productions in Harlow's six secondary schools. Open Door funded the work for three years, and now Safer Harlow Partnership funding is enabling it to continue. It supports the Citizenship syllabus, where pupils are encouraged to consider their rights and responsibilities in the community. Open Door also funded performances to non-school youth groups, following requests by several organisations.

■ Second off the blocks was **BAMM** (Benefits Advice in Multi-Media), a user-friendly programme which enables people to find out what benefits and tax credits they may be entitled to. Bamm was accessible via Harlow Online Learning Initiative initially, and later was also provided to several local agencies to help their work with people.

■ **Your Way Forward** was the title of an inter-active CD-rom which comprised three mini-dramas. Typical problems relating to housing and

ADVISER LINDA RETIRES AFTER 28 YEARS

COLLEAGUES and clients have bid a sad farewell to Linda Price, who has retired after 28 years as a benefits adviser, and the longest-serving member of staff.

She was appointed to the advice and information team several months before Harlow's purpose-built Advice Centre opened, and was part of the team which planned how the service could best serve Harlow's residents.

"Linda will be a hard act to follow. Her colleagues and clients



■ (left to right) HWRA trustee Pat Ruder, Linda Price, and manager Sue Jones.

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homelessness, and contributory issues such as debt and relationship difficulties are played out, and audiences are encouraged to make choices, backed by text screens of advice and information.

The add-on initiatives were possible because of savings elsewhere, mainly on administration costs.

■ An e-referral system has been developed as a quick, easy and up-to-date electronic system to enable local legal advice providers to search for, refer to, and signpost to other agencies. Now that development has been funded, the service is free to participating agencies who have only to update their entries.

■ **Where to Find . . .** is a guide to service and organisations. The booklet, also available online, was devised by Harlow Partnership Against Poverty to provide contacts for practical help, particularly for those on benefits, pensions and low incomes. Through Open Door, the guide has been expanded and updated. Excellent feedback demonstrates that people want community information.

● *To obtain a summary of the evaluation report, please contact Sue Jones at Harlow Advice Centre. Tel: 446622 or call in. The report will be available from January 2007.*

have trusted and respected her for her encyclopaedic knowledge of the complex benefits system, and her ability to apply the rules and regulations effectively," said manager Sue Jones.

For many years, Linda combined specialist benefit advice with provision of the comprehensive community information service, for which the Advice Centre was well-known until the late 1990s, when cuts made it impossible to continue it.

She advised on all types of benefits, especially disability, and represented clients at tribunals.

Linda took a special interest in community care issues, on which she offered advice and support. She also supervised the welfare rights adviser at the Young People's Information Centre.

"Linda never lost her enthusiasm for helping people, or for sharing her knowledge with colleagues, and her thoroughness and attention to detail paid huge dividends for her clients," said Sue.

Linda looks back on a fulfilling career

"I started working just 12 hours a week. We had half today's staff, and there was also a consumer service which included the Price-watchers, offering weekly "best buys".

At first we were a drop-in service. From the mid-1980s life became more complicated. We needed more skilled advisers to cope with demand, especially with the start of easier credit and unemployment causing debt problems and a benefit system with more rules. Home repossessions, once rare, became a more common problem. I began to specialise in benefit queries, but always enjoyed the community information role as well.

The adviser's job is challenging as regulations change at an alarming rate especially over the past few years. There is constant need to keep up to date with training and reading.

I found the introduction of Tax Credits probably the most difficult benefit to challenge and I shall not miss them!

Over the years I have enjoyed meeting many Harlow residents. I have helped three generations of some families, making me realise just how long I worked at the Advice Centre.

The service has had many difficult times during these years when funding was in doubt and we had to campaign for support. I have no doubt that this will be a continuing challenge in the future and I will always support this unique Harlow service as I know that it is appreciated and needed by so many residents."

AGE DISCRIMINATION A

IT IS now unlawful to discriminate against someone in the workplace on the grounds of age – whether they are young or old.

From October 1, 2006, the Employment Equality (age) regulations have made it unlawful to:

- treat anyone less favourably than others because of their age, unless this can be objectively justified,
- apply a criterion, provision or practice which disadvantages people of a particular age unless it can objectively justify,
- subject someone to harassment. Harassment is unwanted conduct which violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them.
- victimise someone (see section below headed *harassment and victimisation*). The legislation is restricted to employment.

Discrimination on the grounds of age in some areas of life outside employment has not been made unlawful. For example, people can be discriminated against on grounds of age when they apply for various types of insurance.

Employment advisers and the trade unions have already commented on areas where some may wish the legislation had gone further.

Our advisers will be studying emerging case law carefully in the months ahead, as it is through challenges to the law that its effectiveness or weaknesses can be evaluated.

Four categories of unlawful discrimination on the grounds of age have been identified. They are: *direct*, *indirect*, *harassment* and *victimisation*.



■ Article by Peter Lappin (above).

Direct discrimination

Direct discrimination is less favourable treatment because of someone's age. Examples of this could be:

- Denying someone promotion
- Denying a training opportunity
- Dismissing them
- Failing to employ them
- Giving them inferior terms and conditions

Indirect discrimination

Indirect discrimination is where a criterion, policy, provision or practice is applied equally to the workforce but has a disproportionate adverse effect on people of a particular age unless the practice can be justified. Indirect discrimination is unlawful whether it is intentional or not.

Examples of this *could* be:

- stipulating that job applicants must be recent graduates
- that workers must have held a driving licence for 10 years.
- stipulating that someone should have a certain number of years experience.

Harassment and victimisation

Harassment and victimisation guidelines are much the same as set out in other equality legislation.

Harassment includes behaviour that is in any way distressing or offensive. It can range from the very obvious bullying to the more subtle. It can be targeted at an individual because of their age or the age of those with whom they associate. On the other hand, it may be a more general culture in a workplace, which is intolerant of people of a certain age.

Employers may be held responsible for the actions of their employees if the harassment occurs in the course of employment.

Victimisation guidelines protect those who may be victimised because they have made, or intend to make, an allegation or have given, or intend to give, evidence in relation to a complaint of discrimination on the grounds of age.

Lawful discrimination

In certain circumstances it is lawful to treat people differently because of their age. Examples of *lawful discrimination* could be:

- Where there is an objective justification for treating someone differently. For example, it may be justifiable to deny someone extensive training when they are due to retire soon. Each case of objective justification must be looked at on its own merits. It will be for the employer to show that the action can be justified on grounds unrelated to age.
- Where a person is older than or within six months of the normal retirement age, or 65 if the employer does not have a normal retirement age, there is a specific exemption allowing employers not to recruit that person.

– *but some wish legislation had gone further*

AT WORK IS OUTLAWED

- Where the discrimination is covered by one of the exceptions or exemptions given in the regulations; for example, pay related to the national minimum wage.
- There is a genuine occupational requirement. For example, an actor playing the part of a younger or older character.

Retirement

The regulations set a default retirement age of 65, which will be reviewed in 2011. This means that employers can require employees to retire at 65 or set a retirement age above 65.

Retirements below the age of 65 will need to satisfy the test of objective justification.

Employers do not have to set a fixed retirement age and employees have the right to request to continue working beyond their retirement date. If such a request is made, then the employer must consider it. The request must be made at least three months before the intended retirement date. However, there is no duty to allow an employee to continue working after the default retirement age.

Before the introduction of the regulations employees who were over 65 could not claim unfair dismissal. Now they can. Retirement becomes what is known as a potentially fair reason for dismissal. Employers will have to follow certain procedures in order to make retirement dismissals fair.

A fair retirement will be one that:

- Takes effect on or after the default retirement age or the employer's normal retirement age; and
- Where the employer has given the employee written notice of the date of their intended retirement. This should be done less than 12 months but more than six months before the intended retirement date. This notice should include the date the employee is to be retired as well as informing him of his right to request to continue working.
- Where the employee has asked to continue, the employer must meet the employee to discuss this, and inform the employee of his decision as soon as reasonably practicable.

If an employer fails to follow this procedure, the dismissal may be unfair. In addition, an employer's failure to carry out the statutory retirement procedure is unlawful in itself and may result in an employee claiming compensation of an amount not exceeding eight weeks pay.

The statutory disciplinary and dismissal procedures do not apply to retirement dismissals.

Enforcing individual rights

If employees consider they have been discriminated against on the grounds of their age, they must first raise a grievance using their employer's grievance procedure which they are required to have. Employees have a legal right to be accompanied by a trade union rep or a work colleague at any grievance hearing. Any grievance should be responded to within 28 days.

If after exhausting the grievance procedure an employee is still aggrieved, or in cases where an employee feels too frightened to use internal grievance procedures, an employee may be able to bring a complaint to an employment tribunal. At this stage it is possible to send a questionnaire to the employer to obtain information in relation to discriminatory practices.

Complaints to an employment tribunal must normally be brought within three months of the act you are complaining of. This can be extended in certain circumstances.

Employees who feel they have been discriminated against and consider they may have a claim should seek advice from their trade union or Harlow Welfare Rights & Advice.

OFFER OF FREE TRAINING

Harlow Welfare Rights & Advice has been asked to provide training on age discrimination by *adviceuk*, the national umbrella body for independent advice agencies, which has obtained funding from the Department of Trade and Industry.

We will be running two courses for advice and information agencies, one generalist and one specialist, in the new year. This training will be free, and organisations which feel their staff would benefit should contact Peter Lappin, employment advice supervisor, on 446155 as soon as possible or e-mail peter.lappin@hwra.org.uk

– debt Pensioners' bankruptcy payments were reduced on appeal

MR. A FELL for that seductive advertising that floats across television screens and some of the national press: the ads that suggest all your debts will melt away if you consolidate them into a single loan.

By the time he sought help, the disabled pensioner had built up £45,000 of unsecured credit debt. His "manageable" loan was anything but.

This was mainly because he had not understood that he needed to have paid off his entire consolidated loan within 12 months if he was not to incur administration charges on top of high interest.

As our adviser explained: "Many people are not informed of the implications when they enter arrangements with some debt consolidation companies. They are seldom a good idea."

An added complication was that Mrs A had accumulated £9,000 of debt.

Our adviser assessed the situation and suggested personal bankruptcy would be the best course of action. He helped the As with the petitions and represented them.

The outcome was that an Income Payments Order (IPO) was made. It was set initially at £480 a month for three years, after which the As would be free of debt.

Our adviser believed this was too high, as it would leave nothing after essential expenditure had been met.

He appealed on their behalf, and the amount of the IPO was reduced to £300 a month.

"I felt the original decision was too restrictive given that they are both disabled and would benefit from occasional therapeutic coach trips, or an annual holiday. These are all acceptable expenditure, and are set out in the Official Receiver's Technical Manual," our adviser explained.

– housing Homeless and ill man will now have a home

WHEN Harlow Council decided a homeless man was not entitled to accommodation, he approached Welfare Rights & Advice for help. Our adviser considered that insufficient weight had been given to reports from his doctor and consultant. The decision was based on a medical form completed by Mr C, and sent by the council to an external medical firm, which in turn did not see or speak to Mr C.

Mr C's story began two years ago when his first application to be considered as homeless was rejected. He then lived in his van for nine months. After that, he slept rough, with occasional respite on a friend's sofa.

His health broke down and Mr C finally saw his GP, who referred him to the hospital's Derwent Centre, where he became an in-patient in the mental health unit.

That was where our housing adviser saw him and advised him to make a homelessness application to the council.

When the application was refused, the adviser asked to see Mr C's file.

It was not clear why the council preferred the external medical assessment to the opinions of the doctors who knew Mr C and his medical history and condition.

The adviser argued that an assessment of a patient's mental health would be best done with the patient present to provide a correct evaluation.

Mr C's consultant psychiatrist supported the argument that, apart from verbal communication, there are signs that can be picked up when a patient is physically present.

The adviser also drew attention to Mr C's vulnerability and to other social aspects of his case not previously taken into account.

The original refusal has now been overturned and Mr C is awaiting accommodation.

Statutory maternity pay will extend to 39 weeks

FOR PEOPLE whose babies are due to be born, or are due to have a child placed for adoption, on or after 1/4/2007, and who qualify for Statutory Maternity Pay, Statutory Adoption Pay, or Maternity Allowance, the maximum period for which benefit can be paid is increased from 26 weeks to 39 weeks.

There are plans to increase this further, to 52 weeks, although the date for this has not been specified.

from the casebook . . .

– employment

Employer pays up

IT WAS pretty clear to Ms D that her employer was trying to get rid of her. He changed her job description to add new duties, without adequate consultation or more pay. Then he advertised for someone to do what appeared to be her job.

Ms D resigned, feeling she was being constructively dismissed, so she sought advice.

Our adviser wrote to the employer, pointing out that his actions appeared to have been unfair. The response was an offer of £1,000 plus an all-important reference.

Ms D accepted, and the case was concluded to her satisfaction without the need to apply to the Employment Tribunal. She soon found a new job.

ICB changes should help moves in and out of work

THE RULES which relate to people who have been on Incapacity Benefit and have returned to work or moved into training, but then need to go back on Incapacity Benefit (ICB), have changed.

Since October, the time that the protection which links these periods of incapacity for work has extended from 52 to 104 weeks. Additionally, claimants no longer have to give notice that they wish the linking protection rule to apply before they start work or training.

Now someone who goes from Incapacity Benefit into a job within one month of leaving benefit but then has to re-claim benefit, can return to the same level as before. This applies to Incapacity Benefit and other benefits which attract a disability premium.

These changes do not apply to people whose benefit stopped after they failed to satisfy the Personal Capability Assessment (PCA).

Claimants who go back to benefit from work or training and take advantage of the linking rules will immediately re-qualify for the linking rules if they go back to work or training again, without having to spend six months on benefit.

Permitted work

Also from October, the weekly earnings limit for permitted work – which some people on ICB may be able to do – increased from £81 to £86 per week, to reflect the increase in the National Minimum Wage.

– benefits

TRIBUNAL DRAMA AVERTED

IT TOOK all Mrs B's courage to decide she would appeal against the decision to refuse her Attendance Allowance (AA).

Her degenerative condition affected her ability to walk steadily, she feared her memory was deteriorating and that she would not remember what she needed to say when she faced an appeals tribunal panel.

Mrs B, 69, had been referred to Welfare Rights & Advice by the Pensions Service, which believed her claim should not have been refused. Our adviser agreed. With the adviser's help, Mrs B entered her appeal. Our adviser also submitted a statement in advance of the tribunal hearing.

As the date approached, Mrs B became more and more anxious, so it was a huge relief

when on the morning of the hearing, our adviser was told that the tribunal had decided to award the client AA.

If she was happy with that decision she did not have to attend the hearing!

Mrs B was delighted with the outcome, which means she is £88.40 a week better off. This is made up of £41.65 AA and £46.75 severe disability premium.

There was also back payment of £2650 to take into account the time between Mrs B's application and the tribunal decision.

■ Advisers frequently find clients are so nervous of appearing at a tribunal that they are tempted to pull out even when it is clear their benefits application should be successful on appeal.

It's good to know we've helped

A RECENT client has written to manager Sue Jones to thank the adviser who sorted out his employment problem.

// ...the matter has now been resolved in my favour, and I wish to formally put on record my thanks to – – – – for his excellent advice. His recommendations and guidance were invaluable in resolving the dispute. – – – – showed great diligence and patience in dealing with an obdurate employer. I cannot express my gratitude enough for the effort shown by all the staff... //

Tina and Cath join the advice team

TWO new advisers have been appointed. Both will provide debt and benefits advice. They are Tina Willis and Cath Younger, who bring a wealth of knowledge and experience to the service.



■ Cath Younger.



■ Tina Willis.

Tina worked for Waltham Forest DIAL, a disability charity, for many years, initially as a welfare rights adviser and later as manager. She has also worked as an adviser for the London Borough of Waltham Forest and previously worked for the Department of Social Security for several years, where she processed benefits claims.

Cath is no stranger to the Advice Centre, as she worked for Harlow Citizens Advice Bureau from 2001 until 2004 as a volunteer and paid member staff.

She attended training on benefits and debt and was responsible for session supervision.

Cath previously worked as a volunteer adviser at Berwick-upon-Tweed CAB, where she was responsible for her own money advice caseload. Before that, she was employed by the Employment Service (now DWP) for more than 20 years.



■ *The service was delighted to accept an invitation from ASDA in the Water Gardens to join in a community event. Here, office supervisor Sandy Chapman chats with ASDA customer Don Bolton who paused to collect leaflets and find out what Welfare Rights & Advice offers Harlow residents. Several local organisations were able to promote their work in the store.*

Here to help

Harlow Welfare Rights & Advice is open each weekday from 10am to 4pm. Specialist advice is available on debt, benefits, employment and housing.

Assisted information is provided on a wide range of other subjects.

Out-of-hours appointments can be made if necessary, and home visits are available for housebound people.

The number for out-of-hours messages for people in full-time work is 446777, and for inquiries during opening hours, it is 446622. The e-mail address is admin@hwra.org.uk

Website: www.hwra.org.uk
Address: Advice Centre,
2 East Gate, The High, Harlow,
Essex CM20 1ND.

CAB WINS CUP AND FUNDS

FRIENDS OF Harlow Citizens Advice Bureau's annual quiz night was held at the ARC in Old Harlow on October 19. Proceeds from the event will go towards running the Bureau.

Representatives came from various organisations around the town and included Solicitors, Referees Association and other agencies. The Bureau team won the cup which had been held by Whiskers Solicitors for the past year.

MP's twice monthly surgery

BILL RAMMELL MP is available discuss any concerns or problems that constituents might have on the first Friday of each month, between 5 and 7pm, and on the third Saturday, between 10am and 12noon.

The December surgeries are on Friday, December 1, and on Saturday, December 16 (telephone advice centre to confirm date). No appointment is necessary. Please ensure that you bring copies of all relevant letters and papers in relation to your case.