

## On the move

Sue Edwards considers whether mobile phones could form a new method of payment for people without bank accounts

Cheques are on their way out. Last year, the number of cheques used dropped by 9 per cent to 1.6 billion, the fastest rate of decline recorded since cheque use started falling in 1991.<sup>1</sup> This may in part be attributed to major retailers ceasing to accept cheques and because consumers and retailers find that debit cards or direct debits are easier, more convenient and cheaper payment methods.

It is therefore not surprising that the Payments Council, who is setting the strategy for UK payments systems, believes that a plan to manage the withdrawal of cheques by 2018 is needed. This plan requires:

- alternative payment methods in place which cover all the circumstances in which cheques are used; and
- good evidence that these alternatives meet the needs of cheque users and are understandable and accessible.

Citizens Advice generally agrees with this approach. However one of the alternative methods of payment could be mobile phones. Whilst many people without bank accounts may have a pay-as-you-go mobile phone, there are problems that the Payments Council will need to resolve for mobile phone payments to be safe for all consumers.

Firstly, scams targeted at mobile phone users are prevalent. Secondly, there is the

strong possibility of confusing consumers. Many people view their mobile as a means of communication rather than a potential payment method. This is clearly seen in CAB evidence of people who subscribe to mobile ringtone or download services:

A man visited a Gloucestershire CAB after receiving a £840 bill from his mobile phone company. His account showed a charge of £642 for 'Text Info Services'. The adviser found out that the client had probably downloaded a ring tone to his phone and that some companies include in the small print authority for them to send clients unlimited texts at a cost of between 12p and £1.50 per text.

Finally, theft of mobile phones is commonplace. If mobiles are used as a method of payment, information about someone's funds on a stolen phone could be available for ID fraud.

To resolve these problems, the Payments Council must work with the mobile phone industry and its regulator, OFCOM, to ensure that adequate consumer protection measures are built in. Otherwise mobile phone payments could become another way of scamming vulnerable consumers.

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<sup>1</sup>Figures from the Association of Payment Clearing Services



### INSIDE...

#### BENEFITS

Liz Phelps argues for no change in backdating rules. **2**

#### DEBT

Peter Tutton questions the current emphasis of policy initiatives to tackle debt. **4**

#### BENEFITS AND TAX

Vicky Pearlman asks whether HMRC should collect tiny tax debts from low income pensioners. **6**

#### EMPLOYMENT

Richard Dunstan looks at recent research on CAB clients

experiencing a problem at work. **8**

#### LEGAL AND CONSUMER

Susan Marks and James Sandbach call for better consumer protection in the will writing market. **10**

## Backdating cuts – a simplification too far

Liz Phelps explains why the DWP's proposals to cut benefits backdating must not go ahead

**T**ucked away in the usually uncontroversial annual benefits uprating statement was the announcement that from October 2008, backdating of housing benefit (HB), council tax benefit (CTB) and pension credit (PC) will be cut from a maximum of 12 months to three. The low profile of this announcement suggests that DWP sees this as no more than a tidying up exercise and is unaware of the importance of the backdating provisions in delivering the Government's wider objectives on homelessness prevention and pensioner poverty.

This news has been met with a mixture of astonishment and disbelief across the advice sector. Quite apart from the complete lack of any prior consultation, it was even more unexpected as similar proposals on HB were made in 2000 only to be, unusually, withdrawn by ministers following significant opposition and a highly critical report from the Social Security Advisory Committee.

### Housing benefit backdating

A major part of CAB work involves helping clients with housing debt, taking all possible steps to help them sustain their

tenancies and avoid eviction and homelessness. Indeed this is a key aim of the National Homelessness Advice Service which the CAB service is funded by DCLG to deliver, and in 2006/7 bureaux dealt with over 80,000 enquiries on rent arrears. What is very clear from this work is that, despite improvements in HB administration, HB problems continue to be a major feature in rent arrears cases, and the facility to get a claim backdated by up to one year is therefore a very valuable tool. Moreover, because of the requirement to prove good cause, this provision is targeted only on the most vulnerable claimants who most need personal support to help them cope.

A CAB in the South West reported a client who had been pursuing backdated housing benefit for a two month period when he failed to complete his HB application because he was sectioned and hospitalised. The CAB had been helping the client with his claim but he had repeatedly lost contact and had to start again. As a result the whole process took well over three months. When the client was well, he was fully capable of managing his own affairs. However, more severe periods seemed to occur without

warning and he often lost contact with family at these times.

A CAB client in her sixties living in the South East was struggling to cope since her husband had died suddenly over a year earlier. This led to mental health problems which resulted in her failing to complete HB review forms or to claim pension credit, despite efforts by her local authority landlord to help. She was therefore living on approximately £47 per week retirement pension and was eventually evicted for rent arrears. At this point she was referred to the CAB by the local authority. The bureau adviser realised that she was entitled to a considerable amount of backdated HB, and persuaded the landlord to agree to let her return to the property if the arrears were cleared before they re-let it. The bureau helped her successfully claim seven months backdated HB/CTB and PC, which completely cleared her rent arrears and court costs. She was then granted a new tenancy with a clear rent record.

Aligning backdating rules with other benefits might appear administratively neat. However there are important reasons why HB is different from other means

tested benefits and therefore requires different and more flexible backdating provisions. Firstly, because benefit is often paid direct or rebated to the landlord, usually four weeks in arrears, there is often a delay before the claimant is even aware that their benefit has ceased and that action is needed to re-claim.

Secondly, unlike other means tested benefits, HB and CTB are paid to meet particular defined liabilities. If the benefit is not received, the debt remains. With HB payments at May 2007 averaging £70.16 per week, claimants, by definition on a low income, are unlikely to be able to pay off the resulting rent arrears without backdated benefit.

It is therefore very difficult to understand the rationale for this change. It is unlikely that it makes sense financially if a vulnerable person ends up losing their home as a result. Any saving to the HB budget is likely to be far outweighed by the cost to the landlord of court action, a void period and management time in re-letting the property. Added to that would be the cost to the local authority of rehousing if the person was found to be unintentionally homeless and in priority need. Certainly it is not a change which supports DCLG's homelessness prevention agenda, and as such is hardly a good example of joined up government.

Nor can we see how this contributes to benefits simplification as the most complex part of the process – the "good cause" provision – remains. Proving good cause can be very challenging for a vulnerable claimant, who is unlikely to manage to provide the appropriate evidence without the support of an advice worker. Undoubtedly weighing up this evidence also places administrative burdens on HB departments. An alternative, simpler, approach which does not appear to have been considered, would be to align HB and CTB rules with PC, thereby leaving the period at 12 months but removing the need for good cause.

### Pension credit

The rationale for cutting PC backdating is equally difficult to comprehend, given the Government's overarching policy to tackle pensioner poverty and promote the wellbeing of older people (PSA 17). The CAB service has been working closely with DWP on this and it is clear from bureau work that pension credit and the access to 12 months backdating without the need for good cause, are key elements.

A CAB in the Midlands reported the case of a man in his 60s whose hours of work had been reduced a year earlier leaving him with earnings of less than £90 per week along with a small

occupational pension of £370 per month. He was paying full council tax and finding it increasingly difficult to manage financially. He was much relieved when the bureau advised him that he was entitled to guarantee pension credit which could be backdated up to 12 months.

The Minister's statement indicated that one reason for the proposed change was that older people are reluctant to provide the amount of personal information necessary to support a 12 month backdating claim. This is not something which bureaux have reported experiencing – indeed our evidence is that claimants are very pleased to have the opportunity for such backdating and the additional income that will provide. In any event, the current system allows the choice of period to rest with the claimant, which is surely the most appropriate arrangement.

Undoubtedly these backdating cuts will impact particularly on some of the most vulnerable people. Citizens Advice has written to DWP Minister James Plaskitt MP urging him to withdraw these proposals and the CAB service will be lobbying hard over coming months to ensure they do not go ahead.

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## Be poor, be responsible, behave?

Peter Tutton questions the current emphasis of policy initiatives to tackle over-indebtedness

**R**ecent policy debate on consumer credit debt has been dominated by a strong focus on questions of behaviour. A decade of rapidly expanding unsecured lending and spectacular growth in debt enquiries to the CAB service has led to concern as to what constitutes responsible lending by firms. At the same time we have seen increasing concern about the way that indebted consumers have been using credit bundled up in the concept of responsible borrowing.

This concern has perhaps been heightened by the current credit crunch where mainstream lenders are tightening their lending criteria in a way that makes it difficult for higher risk borrowers to access credit cheaply. This could make credit less attractive at the margins and reduce some of the consequences of over-indebtedness such as the terrible stress and anxiety reported by many CAB debt clients. However, it could also affect the way in which many CAB clients have been using credit to make ends meet.

In 2003 the Citizens Advice evidence report *In too deep* reported that CAB debt clients

tended to be poorer than the general population, with an average income less than half of the average for UK households. Nearly a quarter of these clients felt their debt problem resulted in part from living long term on a low income. Bureaux often encounter people who are struggling to budget for their needs and may have been forced to use credit just to make ends meet. The cases below illustrate what this can mean in practice. But they also highlight how lower income borrowers have been able to access relatively low cost credit from mainstream lenders to do this:

A CAB in West Yorkshire saw a 32 year old woman who had an overdraft which was increased repeatedly, then a personal unsecured loan, then a credit card. Her sole income was her partner's incapacity benefit plus child benefit and child tax credit in respect of her four children. The woman had used the money to help make ends meet through the very difficult period of her partner's illness. The debts reached their maximum limits of £4,400 on the overdraft, £5,500 on the credit card in addition to the loan of £1,000 and at the time of seeking advice, her partner was still ill.

A CAB in Hampshire saw a 45 year old woman with two young children and whose husband had left her the year before. She was working for 17.5 hours per week and earning £600 per month gross. But her mortgage alone came to £634 per month. She relied on her claim for tax credit to cover all other living expenses but also used two credit cards to make up any other shortfall. However her tax credit claim stopped suddenly due to an administrative error and was falling heavily into debt at the time she visited the CAB.

A CAB in Somerset saw a 23 year old man on a low wage. His wife was expecting a baby in the near future and was not working. She received disability living allowance because of her epilepsy. They lived in a private rented flat and received housing benefit and council tax benefit, although there were shortfalls of £200 per month on the rent and £26 per month on the council tax. He was also unable to claim working tax credit as he was under 25. As a result he ran up a credit card debt of nearly £1,500 and was very worried about getting further into debt.

In this respect a sample of nearly 4,000 people who visited the CAB service with credit card

debts suggests that persistent low income may be a common experience among these borrowers. We estimate that nearly 70 per cent of these borrowers had incomes below £1,000 per month and just over a quarter had incomes below £400 per month. Almost a quarter of these clients were disabled or had a long-term health problem. A disproportionate number were lone parents, many of whom were on a low income.

So while the period of easy credit might have helped fill CAB waiting rooms with debt clients, there was very probably an upside in that this credit could have helped people to manage the consequences of persistent income poverty, albeit at the cost of an expensive and painful final reckoning. It is hard to gauge how significant the contribution of credit might have been, but another recent survey of CAB debt clients found an average debt from credit cards and overdrafts (the most flexible forms of 'dipping credit' for income maintenance) to be around £5,150. If even a third of this was actual credit rather than interest and charges, it makes an 'income' of £1,700 - roughly equivalent to ten weeks income for a lone parent with two children on the poverty line.

From this perspective the way that some CAB debt clients have used mainstream credit could be seen as a fairly rational response to the challenge of living long term on low income. In contrast, key elements of the Government's financial inclusion and capability agendas rest on the assumptions that the poor tend to take out high cost credit because they have limited money management skills. As a result policy aimed at tackling over-indebtedness has a heavy emphasis on changing the way that low income debtors behave, in particular through financial education. While CAB evidence shows that this can be effective, it is far from being the whole of the story.

The whole story must include reference to the question of persistent low income itself that makes credit seem a good bet even if it is unaffordable in the long term. Here the emerging picture seems far from encouraging. Recently published research points out that a 'period of slow but steady progress in reducing poverty has now come to an end, arguably about three to four years ago' and that the number of people living in income poverty actually rose between 2004/05 and 2005/06, the first increase since 1996/97.<sup>1</sup> The point here is that the

problem of debt cannot be easily separated from wider structural welfare issues. With progress in reducing poverty apparently stalled, a tighter credit market is likely to further unmask the hardship many CAB clients face as a result of persistent low income.

In these circumstances do we need to re-evaluate what it is possible to achieve through financial capability and inclusion type policies alone? Arguably, initiatives to tackle poverty, such as simplification of the benefit system, improving benefit administration and reform of the Social Fund are needed to complement financial capability. Indeed it is important to remember that the tax credits system has created debts for hundreds of thousands of families each year, with the greatest impact being felt by those on the lowest incomes. Otherwise a policy which focuses solely or mainly on responsible borrowing issues could look very much like a prescription on the poor to behave.

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<sup>1</sup>Monitoring poverty and social exclusion 2007, Palmer G, MacInnes T and Kenway P; Joseph Rowntree Foundation and New Policy Institute (2007).

# Give and take

Vicky Pearlman highlights the apparent insensitivity of HMRC attempting to collect tiny amounts of tax mostly from older people on low incomes, while at the same time DWP launches a benefit take up campaign directly targeting older people

**H**er Majesty's Revenue and Customs (HMRC) has recently announced plans that will see low income pensioners having to repay a tax debt they didn't know anything about. A mistake by HMRC means that around 420,000 pensioners, who get a small occupational pension, have been under-taxed for some time. And HMRC now intend to reclaim that money.

Citizens Advice understands the need for these pensioners to pay tax in the future. However we believe that the current plans to collect past liabilities back to April 2007 are both impracticable and completely at odds with the Government's wider agenda of tackling pensioner poverty.

Officials acknowledge that the majority of the 420,000 individuals affected will be low income pensioners. They will, even now, be accumulating a debt they know nothing about and which they will only be informed about in August 2008 at the earliest. Many of these older people are likely to be careful budgeters, who pride themselves on not being in debt. This debt is likely to cause them great worry and stress, and for

some, may be enough to tip them into poverty for 2008/9 and 2009/10.

The other great problem with a policy that applies tax retrospectively is the interaction with the means-tested benefit system. People may need to be assessed or re-assessed for income related benefits over a period of three years. Government could be faced with carrying out many thousands of benefits checks and great administrative complexity, all of which could be very costly, for very little monetary return. Not to mention the nonsense of DWP reimbursing to pensioners the tax debt levied by HMRC.

### Older people still missing out on cash

All the while, older people continue to miss out on huge amounts of financial help and struggle to make ends meet. Only half of eligible older people claim council tax benefit and as many as four in ten could be missing out on pension credit, totalling up to £2.5 billion a year. For example:

A Northumberland CAB's client struggled to get by on her basic state pension of £125, and a tiny occupational pension of £1.77

each week. She had cancer and was living alone in privately rented accommodation. She had been using her savings to pay her rent of £91.15 per week, and was concerned that her savings would only last another 11 months. She had no idea that she was entitled to additional benefits and was living in poverty. The bureau commented that, because the client received the single person discount on her council tax, the local council should have been prompted to carry out a full benefit check and determine that the client was entitled to housing benefit and council tax benefit.

A CAB in South-East Wales reported that their client and his wife had missed out on pension credit and council tax credit for two years because they thought they wouldn't be eligible. They told the adviser that they had had the forms, but were put off by the lack of information about entitlement, and felt it wasn't worth making a claim for something they might not be entitled to. The adviser found that they had, in fact, been entitled to pension credit worth approximately £120 a week for the past two years, as well as full council tax benefit.

A Surrey CAB's client refused to claim pension credit, even though she was struggling to get by on less than £100 a week since her partner died. She visited the bureau worried about her money, but was "absolutely adamant" that she would not 'grovel' for any benefit. She believed that the state pension should be adequate without have to be topped up by means-tested benefits. She said that she had worked, brought up her children and 'done everything right' and should be entitled to a pension she could live on. The client planned to find a job and work as long as she could to make ends meet.

### Ignorance isn't bliss

Twenty-three Citizens Advice Bureaux in England and Wales generated thousands of pounds in extra income for vulnerable older people, who might otherwise never have realised that additional help was available to them, let alone claimed it, with funding from the DWP's Partnership Fund, from 2005-07:

- Over twelve months, Middlesbrough CAB saw 724 clients, resulting in 519 new benefit claims, and an estimated £834,681 in new benefits awarded to older people.

- Berwick CAB was able to help clients make 77 applications for pension credit, 176 for housing and council tax benefits, 127 for attendance allowance and 60 for carer's allowance. 189 benefit checks were carried out in the first year. The work raised around £425,000 for local vulnerable elderly people in the first year.
- Salisbury CAB carried out more than 250 visits to vulnerable elderly clients in their own homes, and raised over £400,000 in the first year previously unclaimed income. Results for the second year were set to exceed £600,000.
- A specialist caseworker at Newark CAB handled over 1,000 enquiries in 14 months, resulting in 300 successful applications for unclaimed benefits of around £470,000.
- Three bureaux in rural areas mentioned the high level of unmet need among elderly housebound people living in rural areas and the high demand for home visits, which one bureau calculated cost approximately £160 per client visit.

DWP Pensions Minister, Mike O'Brien, has just launched "pester power", a renewed focus on take up of older people's benefits. Anything that sees more pensioners getting more of

the cash they are entitled to is welcome. But there is an irony in it coming just as HMRC attempts to claw money back from older people, which will push many into poverty over the next few years.

### Anger and distress to older people, increased demand for advice service

The information and communications that will be needed to support the complex processes proposed by HMRC to recoup uncollected tax will undoubtedly cause great confusion, anger and distress amongst older people. This anxiety will almost certainly result in an increased demand for advice services and resources. We can see no justification for putting vulnerable older people through this, and believe that the monetary gain to the Government will be minimal.

There are precedents for wiping debt clean for people when HMRC make errors. Tax credit overpayments are an obvious example. We are lobbying hard for these precedents to be followed in this instance.

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## Lighting up the labour market

Recent research on CAB clients experiencing a problem at work throws a harsh light on some dark corners of the labour market, reports [Richard Dunstan](#)

**In October 2007, BERR and Citizens Advice embarked on a collaborative, two-phase research project to “improve [the Government’s] understanding of the types of adverse treatment that workers experience, how it impacts on their well-being, and what action workers take (or don’t take) to resolve their employment problems”. On 28 January 2008, BERR published an interim report of this research.**

Written by Citizens Advice, the report sets out the findings of Phase 1 of the research, based on a preliminary analysis of the data collected. This phase consisted of face-to-face interviews of 311 CAB clients, conducted in November and December 2007 by specialist employment advisers in 18 Citizens Advice Bureaux, using a survey questionnaire designed by BERR. Phase 2 of the research project, now underway, will involve telephone interviews of up to 226 clients who consented to being followed-up three months after their initial approach to the CAB, focus groups with bureau advisers, auditing and further analysis of all the data collected, and preparation of a final report for joint publication in June 2008.

The interim report shows that, in general, the 311 clients were relatively low paid, relatively low skilled, and employed in a small, non-unionised workplace. Almost one-third of the clients were employed in a workplace with fewer than ten workers. A small but significant minority (11-15 per cent) were *migrant* workers, with the most common nationalities being Polish (four per cent) and Portuguese (two per cent). The clients were employed in a wide variety of occupations, with the most common being:

- cleaners (ten per cent);
- drivers (six per cent);
- care assistants/managers (five per cent); and
- sales/retail assistants (five per cent).

This ‘profile’ of the clients and their employment situation is consistent with the evidence relating to the mistreatment and exploitation of vulnerable workers reported to Citizens Advice by bureaux, and which has formed the evidence base for our series of social policy reports on such matters in recent years.<sup>i</sup> A clear majority (59 per cent) of the 311 clients had already left or been dismissed from the job in question by the time of the

approach to the CAB – a fact with obvious implications for the client’s likely course of action. In the vast majority (95 per cent) of cases, the client was (or had been) employed on a *permanent* basis. Just over half had been working in the job for at least two years. Only two per cent of the clients were (or had been) ‘agency temping’.

The most commonly involved breaches of employment rights, as perceived by the bureau adviser, were: unfair dismissal; non-payment of owed wages, pay in lieu of notice, and owed holiday pay following dismissal or voluntary termination; a failure on the part of the employer to follow the statutory dispute resolution procedures; and breach of contract. Almost one-third of the 311 clients were perceived to have been subjected to unfair dismissal. Examples of such adverse treatment included:

A 57-year-old man had been dismissed from his job of 12 years as a bus driver, whilst off work sick due to a series of assaults and abuse by passengers. His employer had not followed the statutory disciplinary and dismissal procedures.

<sup>i</sup> See, for example: *Rooting out the rogues* (December 2007), *Hard labour* (November 2005), *Still wish you were here* (December 2004), and *Somewhere to turn* (October 2004).

A pregnant woman with an 18-month-old child had been selected for redundancy whilst on holiday, shortly after advising her employer of her pregnancy.

A woman working part-time as a cleaner in a major supermarket, through an employment agency, had been denied her full entitlement to paid holiday.

A 41-year-old Slovakian man working as a chef in a restaurant had been summarily dismissed by text message, and had not received pay in lieu of notice, his last two weeks' wages, and owed holiday pay.

Perceived breaches of the National Minimum Wage and other rights covered by the existing statutory enforcement bodies were relatively rare and on a par with, for example, breaches of the rights to paid holiday and sick pay. And, significantly, in five cases the 'problem' that had led the client to seek advice from the CAB was non-payment of a COT3 settlement or Employment Tribunal award, an issue on which Citizens Advice has repeatedly expressed its concern. For example:

A woman who sought advice from a CAB in Suffolk had previously won an Employment Tribunal award for non-payment of final wages, pay in lieu of notice and owed holiday pay after leaving her job as cleaner in a small factory due to persistent bullying. However, her former employer had not paid any of the award. The client, who had not

worked since leaving this job, described how this had caused her "financial problems, stress and upset", and that she could "no longer trust employers."

A 37-year-old woman who sought advice from a CAB in Oxfordshire had previously, with the assistance of both the CAB and Acas, settled her Employment Tribunal claim for pregnancy-related unfair dismissal from her job as a sheet metal worker for a small engineering company. However, her former employer had not fully paid the COT3 settlement. The client described the impact on her as "horrendous", with "problems at home [and] financial difficulties".

A clear majority (56 per cent) of clients had taken some action to try and resolve the problem before approaching the CAB. A significant minority (19 per cent) of these 171 clients had raised a formal grievance with the employer, and a small minority (eight per cent) had submitted an ET1 to an Employment Tribunal. In most cases this action had made no difference, but in a significant minority it had made the situation worse. This included actual or threatened dismissal in three cases, and the initiation of disciplinary action in another three cases, but in general it involved a further deterioration in the relationship between the worker and their employer.

In terms of future action to be taken by the client and/or the

CAB, the most commonly proposed actions were: put in a grievance or appeal in writing to the employer; contact/speak to a manager at work; *consider* submitting a claim to an Employment Tribunal; and put in a complaint to an Employment Tribunal. Only in very few cases was the client or adviser going to call the Acas Helpline, the HMRC National Minimum Wage Helpline, or the Employment Agency Standards Inspectorate Helpline. Phase 2 of the research project, and in particular the follow-up interviews of the 226 clients who consented to being followed-up, will provide further information on the action taken following the client's approach to the CAB, and the results of such action.

Welcoming the interim report, BERR Employment Relations Minister Pat McFadden MP said it shows there are still "dark corners" of the labour market where vulnerable workers are exploited by rogue or unscrupulous employers.

The interim report can be downloaded from the BERR website at:  
[www.berr.gov.uk/employment/research-evaluation/errs/page43839.html](http://www.berr.gov.uk/employment/research-evaluation/errs/page43839.html)

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## Where there's a will...

Susan Marks and James Sandbach look at improvements needed for better consumer protection in the will writing market

### The problem with wills

Most of us do not like to think about wills. The National Consumer Council recently reported that 27.5 million adults in England and Wales do not have a will<sup>1</sup>. Either we take the approach that this is a job we can put off to another day or we may not think we need one.

But the making of a will is relevant to the vast majority of consumers. Owner-occupiers make up 70 percent of households in the UK, including many who have exercised their right to buy a home they previously rented. And this property will need to change hands when the owner dies. Many UK families may also need to take account of complicating factors such as divorce and subsequent re-marriage. Without a good will there is no guarantee that those you need or choose to provide for can inherit your assets.

When we do decide to make a will, we expect to be able to trust the will writer, to pay a fair price for the advice and service, to understand the content of the will; and that when we die our will can be located and acted upon.

Citizens Advice Bureaux are reporting cases where will writing

has failed to provide peace of mind. As a result, many people are not taking the proper legal steps to manage what happens to their assets after death. Worse, instead of good customer service, there has been scope for scams where bogus will-writers cash in on people's desires to make sure their financial affairs are settled according to their wishes after they die.

Our evidence raises a range of problems in relation to wills.

### A lack of price transparency

Some so-called will writers advertise wills for around £24 in local papers. However, once the consumer has invited the will writer through the front door, the true cost begins to add up to hundreds of pounds and people are often required to pay up there and then.

CAB clients in Lincolnshire, who were receiving benefits, responded to an advertisement offering wills for £23.50. The representative came to their home and charged them £705, which included storage. The clients feel they were taken for a ride and, as they still have the original will, they seem to have paid for a service they have not been given.

Elderly CAB clients from Nottinghamshire responded to an offer of will writing for £20 plus VAT. As they lived in a rural area with no transport, they opted for a home visit. Their joint assets are under £200,000 and the bill for the range of services they were sold came to £1,052.80. The salesman stayed a long time and left no documents and the couple only discovered what they had bought when the paperwork came in the post.

Problems around transparency should be improved when the new Consumer Protection from Unfair Trading Regulations come into force in April. Under these regulations it will be considered unfair not to provide the information that consumers need to make a decision whether to purchase. However, as there is no specific redress under these regulations, consumers may still be left out of pocket.

### Protection from pressure selling

Will-writing services are often sold in people's homes. Because of this, there is the opportunity for pressure-selling. New legislation to extend cancellation rights to all doorstep sales which should come into force later this year will help. But in order to

<sup>1</sup>NCC, *Finding the will*, 2007

know whether to cancel, and to be able to do so in the required time slot, consumers need to know exactly what they have bought. This may not be apparent until some time later when the will itself is delivered for signature.

A Devon CAB saw clients who felt conned having paid £429 for wills to replace those made 20 years earlier. They were persuaded to set up a trust they later found they did not need, and to make new wills which were promised in 28 days. The wills did not materialise and their requests for a refund were ignored. The clients told the bureau they could not face going to court.

A CAB in Warwickshire saw a client who had received a cold call offering to help with making a will and been persuaded to accept a visit. The adviser found she had agreed to a £176 registration fee plus 46 payments of £49 to be collected by direct debit for the company to act as executors, totalling £2,430. The client had not understood the purchase and tried to cancel.

### **A need for regulation**

It is important that consumers should be able to trust the organisation which helps them draw up their will. However,

there is no statutory system for the regulation of will-writing at the moment. Self-regulation can help, particularly if the firm is a member of a code approved under the OFT code approval scheme.

As explored in a recent parliamentary debate, there is a case for independent regulation. The Legal Services Act 2007 could be used as a vehicle for this. The Legal Services Board would need to devise the precise scheme of regulation for will-writing activity that is not undertaken by the legal professions. This would need to be proportionate to keep small, specialist will-writing firms in the market whilst enabling mass providers to develop will-writing services.

### **A central database of wills**

There is no comprehensive system for the registration of wills that have been made<sup>2</sup>. This can make it difficult for relatives of a deceased person to find out if there is a will in existence:

A North London CAB commented on the need for a national register for wills. Their client sought advice because her mother had died and she was not sure how to trace any will she might have made. The client was worried that if there was a will it might never be found.

Citizens Advice proposes that wills could be electronically registered for a small and defined fee. This could operate in a similar way as the Land Registry does when buying a home. Adopting an electronic system would enable individuals to keep the original, or turn it over to a third party, such as a solicitor, bank or relative. A register of wills could be linked to the registration of deaths, so that when a death is registered, as it must be, the existence of a will would be immediately apparent.

### **Conclusion**

Citizens Advice believes that a combination of regulatory and consumer information initiatives are needed to tackle these problems. We need to demystify the legal language surrounding inheritance, through consumer information and public legal education campaigns, and encourage take up of will making through properly regulated services. In the longer term the Ministry of Justice may need to review the law of inheritance to simplify and reform the probate system so that families can have confidence that intergenerational assets will be protected.

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<sup>2</sup> the Principal Registry of the Family Division of the High Court will store a will for £15 if requested by those who are aware of this service

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