

# evidence

## INSIDE

### HUMAN RIGHTS

James Sandbach assesses the Government's commitment to human rights **2**

### MENTAL HEALTH

Lesley Cullen responds to the Social Exclusion Unit report **4**

### BEREAVEMENT

Sarah Deacon on the case for review of bereavement benefits **6**

### TENANTS DEPOSITS

Liz Phelps on the final frontier of reform **8**

### TELECOMS

Susan Marks on the need for Ofcom to regulate telecom sales **10**

## The Agony and the Ecstasy – the Spending Round 2004

On 12 July the Chancellor set out plans for Government expenditure from 2006 to 2008. Efficiency savings across Government will release resources from the back office to the frontline, and new spending will go to vital front line services. This should be good for all those who rely on public services for their income and well being. And in many Departments small real terms growth, coupled with refocusing of priorities, generates resources for continuation and expansion of important programmes that benefit people on low incomes including:

- £140m of extra funding for pensioners to insulate their homes so as to meet the pledge to eradicate pensioner fuel poverty by 2010 and all fuel poverty by 2016.
- A new £150m fund for infrastructure in new housing and a 50% increase in social housing builds by 2008.
- The Neighbourhood Renewal Fund extended with a budget of £525m each year until 2008.
- 3 year budgets to allow local authorities to plan ahead, giving a more stable framework for planning local public services.

And for people struggling to repay debt there was an exceptionally important package announced. A reduction in the social fund debt repayment rate, a new Financial Inclusion Task Force, which will be supported by a fund, and a new policy focus on finding more affordable lending sources for low income households, including by reforming the social fund. And action to secure an expansion of money advice services.

The news that there will also be substantial job cuts in areas of Government, such as the Department for Work and Pensions (DWP) and the Inland Revenue is worrying. DWP job cuts of 40,000 posts, includes the closure of 10 out of 29 Pension Centres set up less than two years ago. As many as 1.3 million pensioners are still not receiving the money to which they are entitled. Why cut capacity on phone lines when the Pension Service needs to promote take-up? Evidence from Citizens Advice Bureaux across the country is that many people are receiving a very poor deal from the Pension Service. Like the couple in the South West who were underpaid their benefits by £80 a week for several months before the local Pension Centre sorted matters out. A widow in the North West waited three months for her benefits to be sorted out after her husband died and was underpaid a total of £400 during this time. And a woman in the East of England was taken to court for non-payment of council tax because she had waited more than three months to receive Pension Credit. If this is what it can be like now what reassurance is there that large scale job cuts will not affect front line services such as the provision of benefits and tax credits?

So the challenge for Government must be that it can indeed improve services to the public and push resources to the frontline whilst also reducing staffing numbers. A challenge it has yet to address.

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# A year of rights?

James Sandbach reviews the Government's commitment to human rights.

**When the Human Rights Act came into law in 1998, it signalled a step change in the legislative process towards basing social legislation on the protection of civil rights. Social Policy Officer James Sandbach looks over this year's legislative session and asks how far the rights agenda has extended into the current legislative programme**

"The most fundamental revolution in our political system since 1688" was the way which Jack Straw described the introduction of the Human Rights Act. Well politicians are prone to rhetoric, but making the broad rights set out in European Convention directly accessible and applicable in English law was undoubtedly a major milestone in framing today's citizenship rights.

The rights agenda is distinctive in its approach to social policy; the starting point of human rights law is that all human beings are autonomous individuals, and that our diverse attributes as human beings such as ethnicity, sexuality, physical and mental capacities should be treated equally by legal norms and processes rooted in common values. In this framework the function of legislation is to protect the autonomy of our human attributes, and the sphere

in which the individual can enjoy those attributes. In this year's legislative session there have been many important pieces of legislation, which may prove to be milestones in the rights agenda.

## Civil Partnerships

For the first time in history, the law will provide – through the Civil Partnerships Bill - for gay and lesbian couples to have the right to have their relationship recognised in law by entering into a civil partnership which will extend the same as rights as married couples to civil partners. Under the Bill civil partners will gain joint treatment for income related benefits; joint state pension benefits; an ability to gain parental responsibility for each other's children; recognition for immigration purposes; and exemption from testifying against each other in court. Considering that only few decades ago gay relationships were criminal, this is a huge leap forward for human rights.

## Domestic Violence

The right to legal protection from physical violence – expressed in the European Convention as the 'right to bodily integrity', has been given a major boost by the Domestic Violence Bill. Just because violent acts are committed by those in close proximity to the victim, does not make such acts less of a

violation. The Bill helps the victims of domestic violence by making non-molestation and restraining orders more accessible and enforceable in both the civil and criminal courts, and provides for a Victims' Commissioner to champion victims rights. The Bill will also create a statutory victims' code of practice backed up by an independent ombudsman and a National Victims' Advisory Panel.

## Gender Recognition

The Gender Recognition Bill was published a year after the UK was found to have been in breach of its obligation under the European Convention on Human Rights by the European Court in Strasbourg. In two separate judgements, the Court had found that UK law neither respected a person's privacy, nor their right to marry. This legislation provides legal recognition to allow Britain's estimated 5,000 transsexuals to update their birth records and marry into their acquired gender.

## Children's Rights

It is only comparatively recently that policy makers have begun to think of children as rights-holders; the Children's Bill published in the wake of the Victoria Climbié inquiry, proposes reforms to children's services including an independent children's commissioner for England, to

champion the interests of children in Whitehall and the posts of director of children's services will also be created, accountable to local authority education and children's social services.

### **Mental Incapacity**

The longstanding campaign by lawyers and NGO's for substantial law reform to respect the rights and autonomy of people with impaired mental capacity has finally come to fruition in this session. The new Mental Capacity Bill, defines the legal circumstances for surrogate decision-making on behalf of those with reduced mental capacity; an estimated two million people would be covered by the definitions contained within the Bill. The Bill will govern decision-making on behalf of other adults, both where they lose mental capacity at some point in their lives, for example as a result of dementia or brain injury, and where the incapacitating condition has been present since birth. It covers a wide range of decisions, on personal welfare as well as financial matters and substitute decision-making by attorneys, a court or court-appointed "deputies", and clarifies the position where no such formal process has been adopted.

### **Disability Rights**

This session has also seen the first significant attempt to widen the scope of the Disability Discrimination Act (DDA). The

Government's Disability Rights Task Force identified numerous gaps and problems with the current legislation, once described by leading human rights lawyer Anthony Lester as containing 'more holes than a colander'. The new Disability Discrimination Bill extends DDA provisions to group insurance, private clubs, transport operators, landlords and small employers, and refines tests for discrimination and imposes a proactive duty on the public sector to promote disability equality.

### **Is Government getting it right?**

Finally the long awaited decisions on the future of equalities and human rights have now been set out in a White Paper on the creation of a single Commission for Equality and Human Rights – the White Paper envisages a major role for the advice sector in the Commission's work. All in all this has been a good year for rights and Citizens Advice has been active in encouraging this legislative agenda and seeking improvements to the individual bills such as greater focus on consumer rights in the Mental Capacity Bill, the inclusion of mental health in the Disability Bill and access to legal aid in the Domestic Violence and Civil Partnership Bill. However, there is one area where the Government's human rights record presents real cause for concern over the past year; the measures that limit asylum seekers rights to

advice, appeals and social benefits substantially compromise the rights of other nationals seeking to stay in the UK. The Lord Chief Justice has eloquently expressed concerns about how arbitrary power is being used to undermine the legal process and human rights in the context of asylum.

More broadly, Government policy now needs to link the agenda of rights with the agenda of access. What are the implications of this new legislation for the Community Legal Service? If the European Fundamental Charter of Rights of Freedoms is incorporated into law by constitutional treaty, what are the implications of article 47, which sets out a general right to legal aid? Can the exclusion of the tribunal jurisdiction from the scope of the Community Legal Service continue to be justified in the light of Strasbourg jurisprudence? Currently, the Legal Services Commission appear unconvinced that new rights agenda will have any impact on its responsibilities to provide access to justice and the controversy over 'advice deserts' looks here to stay. Perhaps the Government's latest 'Fundamental' review of legal aid will at last start making the connection between rights, advice and justice.

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# A missed opportunity?

Lesley Cullen considers whether the Social Exclusion Unit's report on mental health and Social Exclusion will make a difference.

**The recently published Social Exclusion Unit (SEU) report on *Mental Health and Social Exclusion* is a welcome step towards addressing the cycle of deprivation and exclusion associated with mental ill health.**

Citizens Advice's own report on mental health and social exclusion '*Out of the Picture*' drew on evidence from over 350 bureaux and some of the 100 special mental health projects run by bureaux. It showed that discrimination in the benefit system, consumer affairs and the workplace, together with a lack of support, excludes people with mental health problems and undermines their ability to cope, often making their mental health problems worse. Citizens Advice therefore very much welcomes the SEU's programme to tackle stigma and discrimination that will be taken forward by National Institute for Mental Health in England. However, without further guaranteed funding it is difficult to believe the programme will have real impact. Also, changes being proposed to the draft Disability Discrimination Bill to remove the requirement that mental illness be 'clinically well recognised'

addresses only one barrier that people wanting to bring a case of discrimination on grounds of mental health face. This change is unlikely to make it easier because of the standing requirement that illness be long term. This fails to recognise the shorter duration and recurrent nature of many mental illnesses.

It is crucial that there is a proactive response to people's difficulties engaging with the benefit system and handling consumer affairs when they are not well. By not addressing these issues the SEU report is failing to tackle the need to create building blocks of positive experience when people are unwell that might help their recovery.

## Benefits

The benefit system should give financial support and underpin security when people with mental health problems are out of work. However, CAB evidence shows that many people fail in their claim for incapacity benefit because the benefit system often does not:

- recognise people's illness with forms that are geared to recognising physical symptoms and disabilities

- make allowances when people are unable to comply with procedures and time limits or take account of people's fluctuating medical conditions

In addition

- regular assessments mean that some people with long-term mental health problems seem to be in a constant trail of benefit revisions, appeals and applications that can result in significant breaks in income increasing the likelihood of debt.

- rules permitting people to work while on benefit do not allow for the more gradual transition that many people with mental health problems often need when trying to move back into work.

- support from tax credits and benefits do not operate in a way that encourages people to undertake extra work.

- those whose only income is incapacity benefit are not automatically entitled to free prescriptions and some are neglecting their medication because of the cost with a consequent risk to their health and possible hospital admission. Yet taking medicine is often a

means of stabilising a person's condition, so enabling them to live in the community and the Government's programme is to treat as many people with mental health problems in the community as possible. These various difficulties add to stress, frequently exacerbating people's condition and in the worst instances they have led to hospital admission.

Citizens Advice has called for a major review of the benefit system to assess how performance at every level affects experience and outcomes for people with mental health problems. If we are to help broaden people's sense of security and inclusion, we need to tackle institutional procedures and systems that perpetuate inequalities, either directly by not recognising people's illness or indirectly by practices that lead people into debt.

### Consumers

People with mental health problems often have a number of issues with which they need help. Many who come to CAB are in debt such as the lorry driver diagnosed with clinical depression and described by a bureau in Essex. Although the £9000 of debts he had were covered by payment

protection insurance, the policy did not provide cover for events caused by mental health problems.

People with mental health problems often face unacceptable barriers to obtaining and claiming on insurance.

- They face a higher premium or are excluded from cover because of their condition, or because they have had a mental health problem in the past.
- They are asked to provide supporting evidence from a psychiatrist who is treating them, something that the 90% of people who are being treated only by their GP cannot supply.

Citizens Advice believe the Association of British Insurers should review and re-issue their good practice guidance on compliance with the Disability Discrimination Act to ensure people with mental health problems are not unreasonably excluded from obtaining cover and making claims. People with mental health problems also often face difficulties in being effective consumers and getting a good deal, particularly with financial services. They can be vulnerable to high pressure sales techniques and easy credit.

The Government should be taking this opportunity to amend the Mental Capacity Bill improving consumer protection rights and remedies so that contracts can be challenged where they have been made during a period when a consumer with mental health problems is ill and could not reasonably be expected to have entered into contractual relationships on the same basis as somebody with full mental capacity.

The majority of people with mental health problems rely on benefit income making them some of the poorest people in the UK. Many are struggling with debt that extends well beyond the priority debts of housing and utilities. Research shows that debt can cause crises for people's health and in turn illness reduces people's capacity to handle their finances and contributes to debt. The SEU proposals for more advice and support and helping people into work are welcome but exclusion needs to be tackled on all fronts, including benefit and consumer issues, if the many difficulties facing people when they are unwell are to be surmounted.

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# Time to reform bereavement benefits?

Sarah Deacon reviews evidence from CABx on bereavement benefits

**Citizens Advice has a considerable amount of evidence detailing problems with bereavement benefits. These contributory benefits, paid to a widow or widower to help him or her cope with the death of a spouse, are not well known, and have unclear rules of eligibility that may not benefit those who most need them. We feel that it is time for a review of the way they operate.**

There are three types of bereavement benefit – a one off lump sum of £2000, the bereavement payment (BP), and the widowed parent's allowance (WPA) and the bereavement allowance (BA). The latter two are paid weekly, the bereavement allowance for 52 weeks following the death of a spouse, and eligibility is based on the national insurance contributions (NICs) of the deceased. Widowed parent's allowance is £79.60 per week with additional amounts for children. The bereavement allowance is age related ranging from £23.88 to £79.60.

## Rules of eligibility

Bureaux report that eligibility rules for bereavement benefits are overly complicated – one adviser describing the scheme as a 'bureaucratic nightmare'. People on low incomes, in irregular employment and with a history of

illness are unlikely to be entitled to them, as they are less likely to have met the requirements regarding NICs.

- A bureau assisted a client whose wife had died of cystic fibrosis at the age of 29. The client was not entitled to a bereavement payment because his wife had not paid sufficient NICs. The client felt this was unfair - his wife had tried to work in the past but could not due to her illness.

- A 20-year-old widow sought advice from a bureau in Hampshire. She was not entitled to any bereavement benefits as her husband had not been working long enough to meet the requirements for national insurance contributions.

Due to their nature as contributory benefits people who find it most difficult to build up records of NICs will be much less likely to qualify, even though their families may be more in need of this assistance.

## Claiming procedure and poor advice

Bereavement payments must be claimed within 12 months of the death of the claimant's husband or wife, and widowed parents allowance and bereavement allowance within three months. The short claiming periods of the

latter two benefits have caused problems for the clients of some bureaux. Some have not been informed of their entitlement at the time of their spouse's death, and some have difficulty dealing with the bureaucracy so soon after being bereaved.

- A widow who visited a bureau in Hampshire had cared for her husband for 12 years before his death in 2002. The client had been unaware of the availability of any kind bereavement benefit - when she made an application she was told it was too late for the single payment, and that she would lose much of the allowance.

The publicity given to these benefits is inadequate – too many clients do not hear about them until it is too late. Even when they are aware of them, they are going through a very difficult period, and many may be simply unable to claim at this time.

CAB clients are also at risk of losing out on their entitlements, or being led to believe they are eligible when they are not, due to inaccurate advice and information being given by DWP staff. It often seems staff are unaware of the rules surrounding eligibility for these payments.

- A client of a bureau in West Sussex applied to the DWP for a bereavement payment. She was

informed that she was not entitled and when she queried this, the office suggested she 'take the matter up with Tony Blair'. She was, in fact, entitled to the payment.

- An 82-year-old man, recently widowed, was given claim forms for bereavement benefits by the coroner's office. When he visited his local bureau, he was informed that he could not claim as he was in receipt of a pension – he was very upset, as he had believed he would be entitled.

Citizens Advice also has a considerable volume of evidence regarding cohabiting couples who have lived as if they were married for many years – they are not eligible to receive any kind of bereavement benefits. We feel people need to be made aware that as cohabiters they are not entitled to these and other contributory benefits.

### **Misleading documentation**

Advisers have also stated that a number of DWP publications are misleading regarding the entitlement to bereavement allowance. The booklets 'Widowed?' and 'What to do after a death', and the claim form itself, lead some clients into thinking they are eligible when they are not.

- One bureau assisted a recently bereaved widow who was 64 years old and was therefore

ineligible for bereavement allowance. The adviser felt the claim pack was misleading, as the condition that claimants must be below pension age is not mentioned until the bottom of the page. The client had not noticed this and had believed she was eligible.

Many claimants visit bureaux when their bereavement allowance stops after 52 weeks. Although claimants are informed at the outset of the claim that the entitlement will end after a year, many do not take in this information at this difficult time, and are therefore ill prepared to deal with this loss of income.

- One client had been receiving bereavement benefits paid directly into her bank account. It was several months before she realised the benefit had stopped. When she contacted the DWP, they informed her that the payments ceased after 52 weeks. The client had assumed payment would continue until she reached retirement age, and felt that she should have been informed before the payments stopped.

Bureau advisers have commented that claimants, whose capacity to absorb information is limited just after a death, should receive some form of notification prior to the last payment being made. Clients may be struggling to adapt to new financial situations, and would benefit from some prior notice.

Many people would benefit from being invited to an interview, or referred to independent advice to assess if they are eligible for other forms of support.

### **What needs to be changed?**

Our evidence demonstrates that the design and delivery of these benefits, and other support available to people who are recently bereaved, simply does not take into account the fact that claimants are going through an incredibly difficult time when they apply for bereavement benefits. Potential claimants need clear, accurate advice about their entitlements, whether they receive this in written form or directly from DWP staff. The claim period needs to be extended so clients do not have to deal with a claim until they feel ready, and clients need to be aware when their entitlements will end. We also feel that the eligibility criteria need to be examined, to determine how bereavement benefits might better promote social justice. It is time that some attention was paid to this neglected area of welfare policy. A review should look at the whole range of welfare support available to people experiencing bereavement and look to find ways of joining up services and offering better information and protection for people experiencing this change in their lives.

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# Tenancy deposit reform – more to do

Liz Phelps on the next steps to make tenancy deposit reform a reality.

**O**n 19 May, the Housing Minister Keith Hill announced that the Government would after all introduce amendments to the Housing Bill currently in parliament, on tenancy deposit protection.

We warmly welcomed the announcement which follows over a decade of Citizens Advice campaigning on the need for regulation over the holding and returning of tenancy deposits. But there remains a final frontier to cross for this reform to work - getting the dispute resolution right.

These deposits are big business. Averaging over £500 per tenancy, it is estimated that some £800 million in deposit money is held by landlords and agents, yet there is no regulation over how the money should be held, how quickly it should be returned, nor any requirement for landlords to justify withholding money at the end of the tenancy. As a result, CABx regularly report cases where tenants have had deposits unreasonably withheld, in many cases without any explanation being given. Recent cases include a client from Surrey who had £1,100 retained by her landlord because she had not reported a small leak under the kitchen sink as it had not caused any damage, and a London client whose agents were withholding £3,000 without giving any reason at all.

The volume of CAB evidence reflects Government figures which

show that 20% of tenants have suffered from landlords withholding their deposits unreasonably.

Details of the proposed reform remain sketchy but it appears that there will be a default scheme (most probably custodial) which will hold all deposit money charged, unless the landlord or agent is a member of a government approved alternative scheme provided by a trade or professional body.

## Dispute Resolution

However on closer examination there appears to be a major gap in the Government's proposals, in that there is no mention of a linked dispute resolution procedure as part of the default custodial package. Where there is disagreement between landlord and tenants over how much of the deposit should be returned, the parties will still have to rely on the slow and costly county court procedure. Whilst we strongly believe that measures to protect deposits will themselves significantly reduce the incidence of disputes, it is nevertheless crucial that any default custodial scheme is linked seamlessly into a speedy dispute resolution mechanism so that deposit money is not left tied up for any period of

time after the ending of the tenancy. Disputes must be resolved within days and the money speedily released so that tenants are able to pay for their next deposit and landlords are able to finance repair of any damage before re-letting. The current county court procedure, where delays of months are commonplace, does not deliver this.

### **Court Fees**

There is also the issue of court fees. CABx regularly report evidence of the barriers which court fees create for people seeking access to justice. The average tenancy deposit of £510 would give rise to an application fee of £80. For many tenants the fee will be higher. Tenants may well find themselves pressurised by less scrupulous landlords into accepting unreasonable deductions from their deposits if the alternative is to find such a large up front sum and then wait several months before obtaining a resolution.

So why is the Government seeking to develop deposit protection without making parallel arrangements for dealing with disputes, especially since it is this latter aspect which will be most attractive to landlords and agents?

It appears that the reasons are pragmatic rather than policy related; reference is made to the need to keep drafting to a few clauses, and to the fact that dispute resolution reform should wait for the outcome of the Law Commission's work on housing disputes reform. But that work has only just started; after allowing for consultation, drafting a Bill and the parliamentary process, we are at least three years away from any legislation being in place, and probably much longer.

From a policy perspective, transferring the dispute resolution of tenancy deposits out of the courts would be entirely in line with wider Government strategy to reduce pressure on the courts and develop alternative remedies wherever possible. The Government's own pilot scheme which was administered by the Independent Housing Ombudsman means that we have a tried and tested model for how alternative dispute resolution could work.

A similar approach could be delivered either by the default scheme itself or by an existing body such as the Residential Properties Tribunal Service (RPTS) whose functions are being

expanded in the Bill. Indeed RPTS have indicated to Citizens Advice that they would be both willing and able to take on such a role as soon as a default custodial scheme comes into operation.

The Government is to be applauded for finally taking action on this important issue. But it would be a tragedy if, having been such a long time coming, the reform provides only half the package with the result that it meets the needs of neither tenants nor landlords. The Lords stages of the Housing Bill provide the opportunity to put this right.

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# More consumer sacrifice at the altar of competition?

*Susan Marks* on why Ofcom needs to learn from evidence on failures in consumer protection law and regulation elsewhere.

**T**raditionally legislators have followed a reactive discipline, not wishing to intervene in competitive markets until and unless there is a case to do so. The general idea is that a competitive market will ensure firms providing poor value and poor service cannot survive as consumers switch and take their business elsewhere. The great experiment of introducing competition into markets for services traditionally provided on a geographical monopoly basis, such as fuel and telecoms has put this idea to the test. However, applying this policy in practice means that consumers have had to suffer detriment as a result of faulty competition before regulation is put in place. And often interventions to respond to consumer detriment are not only too late but narrow in scope, leaving lots of opportunities for firms to get around the law. The telecoms market is going in the same direction.

This is a hard approach to policy making if you are a consumer, particularly someone living on a low income. The overwhelming desire to secure competition at all

costs, and measure effectiveness of that by reference to macro measures showing large scale of switching behaviour overlooks the harm experienced by individual consumers who are ridden rough shod over in the race to achieve market share.

## Learning Lessons

More widely consumer protection law has been running to catch up with rogue and unfair trading practices for the past 30 years.

But the lessons have been learned. At EU level and within the recently published UK Consumer Strategy there is a desire for a shift towards a consumer protection framework that is fit for the future – that prevents consumer detriment arising in markets, and can respond to innovative rip offs without the need for new laws.

It is a pity then that some UK bodies set up to protect consumers are still uncertain about the approach they should take.

Ofcom, for example, are wondering if they should actively regulate mis-selling by new entrants in the telecommunications market or not.

A recent consultation by Ofcom 'Protecting citizen-consumers from mis-selling of fixed-line telecoms services', sought comments on the

effectiveness of current safeguards from mis-selling and high pressure selling.

## Problems Growing

Whilst consumers have been able to change their carrier since the 1980's, the introduction of further competition in March 2004, with wholesale line rental products, has meant that there is now much more scope for business to compete for customers. As the race for sales gathers momentum, Ofcom acknowledges that, if the energy market is anything to go by, this means there is also more scope for mis-selling,

They are right. And CAB evidence is that telecoms sales representatives are following the examples set for them by fuel sales personnel. Consumer accounts are being transferred between rival suppliers without the customer's consent, leaving consumers and advisers to sort out the muddle. Citizens Advice would like to see companies called to account.

- A CAB in the North East reported their client's son had been asked to sign to acknowledge that a doorstep sales representative had left information for his mother. The client found her service had been cancelled and another

company was now her supplier. She cancelled but her son still received a bill for calls.

- A CAB in Kent reported their 90 year old client who lives alone had been cold called and persuaded to sign a telecom package contract. She had wanted to end the visit and failed to read the form but she did ask if the salesman was from BT. He said 'yes' but in fact it was another company. When the adviser contacted them they said they were not interested in the client anyway because she was a BT "Light User".

- A CAB in Wiltshire reported telephone mis-selling by a new telephone company. Their client had simply asked the caller to send details and gave no consent to change supplier. They then received three different bills and are worried the company may pursue them for debt.

- An 80 year old woman discovered she had been switched to a new telephone supplier without her consent, following a cold call. She did not know this had happened until she received a bill, followed by a reminder, threatening that the account would be passed to debt collectors.

- Despite using her right to cancel a new supply contract and confirming this with the company, a Lancashire CAB client found her bank account was being debited with payments by the telephone

company. She had to repeat the cancellation process.

### Current Controls

There is a mandatory requirement that notification of transfer letters should be sent to transferring customers by both the new and the old company and that there should be a 10 day delay before a new contract can be activated. This was established to address the problem of 'slamming', switching consumers without their knowledge or consent.

There are also proposals from the industry for a voluntary code on sales and marketing for fixed line telephone services. This code would commit firms to providing consumers with contract documentation and firms would make contact post sale to check the consumer wanted to switch and to reverse it if not. However, this code would be voluntary and seems to fall short of the requirements of the OFT's business to consumer code criteria in some fundamental respects, for example, the proposed telecom code on sales and marketing would not be mandatory and there is no disciplinary procedure for non-compliance.

Without any requirement for companies to meet the requirements of a code, and no teeth for the Regulator when it is abused, it is difficult to see how Ofcom can hope to achieve their consumer focussed objective, 'To further the interests of citizen-consumers through a regulatory regime which, where appropriate,

encourages competition.'

### What Next?

Should Ofcom regulate and how is a good question. But the answer should be clear. Across the EU high pressure selling has been recognised as an unfair commercial practice, and this is encompassed within the proposed Unfair Commercial Practices Directive which will, when it becomes law, prohibit high pressure and deceptive sales techniques. In the UK the DTI are consulting on tightening up doorstep selling regulations following a 20 month OFT investigation report on problems with doorstep selling. This investigation found considerable consumer detriment in the £2.4 billion market for goods and services sold through doorstep sales techniques. And in the fuel market Ofgem, the fuel industry regulator, is locked in battle with fuel companies in their efforts to agree a new licence condition on marketing which it is hoped will put in place a better regulatory framework than at any time in the past 10 years – with much evidence pointing to the need for this.

So in this context Citizens Advice does wonder how Ofcom can be in any doubt of the need to act now to prevent consumers experiencing the problems which seem highly likely to increase unless checked now.

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## Evidence reports published in the last year

- > **In too deep** (£7.00, May 2003)  
CAB clients' experiences of debt
- > **New tax credits** (free, August 2003)
- > **Paradise lost** (£6.00, November 2003)  
CAB clients' experiences of timeshare and holiday clubs
- > **Partnership potential** (October 2003)  
CAB views of the Community Legal Service
- > **Geography of advice – an overview of the challenges facing the Community Legal Service** (£6.00, February 2004)  
CAB views of the Community Legal Service
- > **Nowhere to turn – CAB evidence on the exploitation of migrant workers** (free, March 2004)
- > **Employment tribunals – the intimidatory use of costs threats by employers' legal representatives** (free, March 2004)
- > **Out of the picture** (£7.00, April 2004)  
CAB evidence on mental health and social exclusion
- > **Family misfortunes – the challenges facing publicly funded family advice** (£5.00, May 2004)
- > **Home remedies – the challenges facing publicly funded housing advice** (£5.00, May 2004)

## Recent briefings and responses to consultation papers

### March to June 2004

- Evidence to the Department for Work and Pensions Select Committee sub-committee on IT-Projects (March)
- Reforming the NHS complaints procedure – response to the Department of Health consultation on the draft regulations (March)
- Social security (Habitual Residence) amendment regulations 2004 – comments to Social Security Advisory Committee (March)
- Civil Partnerships Bill 2nd Reading Briefing, House of Lords. (April)
- Reforming the NHS complaints procedure - consultation on CHAI's proposals for the independent stage. (April)
- Asylum Support (Amendment) (No 2) Regulations 2004: abolition of NASS £50 single additional payments (May)
- Submission to Housing Corporation on guidance on evictions. (May)
- Housing Bill Commons Report Stage briefing on tenancy deposit scheme. (May)
- DTI consultation on proposed changes to the consumer protection (Distance Selling) regulations 2000. (May)
- Submission to Trade and Industry Committee inquiry into UK employment regulations (June)
- Asylum and Immigration (Treatment of Claimants, etc) Bill: Briefing on new Government amendments on recommitment in House of Lords (June)
- OFCOM consultation on protecting citizens-consumers from mis-selling of fixed line telecoms services (June)

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