

BRIEFING NOTE FOR COUNCIL 11 SEPTEMBER 2013

Motion proposed by Councillor Whitaker and seconded by Councillor I Pattison and Councillor Refern:

This Council notes with deep concern the Coalition Governments cut to the national legal aid budget by £350 million depriving many people from legal aid advice.

Council is additionally concerned that claimants including vulnerable residents needing help in cases of medical negligence, employment and welfare will no longer be entitled to legal aid.

These people will be denied justice as their cases will be unheard without the support of a legal aid lawyer.

This Council believes legal aid cuts in addition to the Government cuts to public services are a further blow to those people already enduring hardship. Council believes that the impact of the cuts to legal aid will result in a two tier legal aid system.

This Council resolves to write to the Justice Minister urging him to reverse these cuts and to also urge the Two M.Ps to lobby for this cut to be reversed in accordance with the well being of their Constituents.

In an effort to cut the £2bn annual legal aid bill in England and Wales by £350m a year, the government has implemented changes to reduce the types of civil proceedings for which legal aid funding is available. Changes to funding for criminal cases have also been proposed.

Legal aid helps with the costs of legal advice for those who cannot afford it. It funds solicitors and agencies to advise on legal problems, such as eviction, debt and family breakdown and, if necessary, to provide representation in court.

The government has indicated that it is targeting resources at those most in need with the changes in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which came into force from April 2013. It reverses the position where legal aid has been available for all civil cases except those specifically excluded by the Access to Justice Act 1999. The new Act removes some types of case from the scope of legal aid funding, and provides that other cases will only qualify when they meet certain criteria.

In summary, funding has been removed from some areas of civil law. These include family law, such as divorce and custody, personal injury and some clinical negligence cases, some employment and education law, immigration where the person is not detained, and some debt, housing and benefit issues.

Cases that continue to be funded include family law cases involving domestic violence, forced marriage or child abduction, mental health cases, asylum cases, and debt and housing matters where an individual's home is at immediate risk.

In addition, there have been changes to the eligibility of applicants and assessment of the amount payable by way of legal aid. All applicants are now subject to a capital assessment regardless of whether they are in receipt of certain benefits. Monthly income contributions have increased by up to 30% of disposable income.

With regard to legal aid for criminal matters, which makes up more than half of legal aid expenditure, the government has previously announced measures to strengthen the Crown Court means-testing scheme, including the seizure of assets of convicted criminals to recoup the cost of a failed defence. This has been in force since July 2013. Also this year, the government launched a consultation on proposed further changes, including the possibility of introducing price-led competitive tendering in the criminal legal aid market. However, the government has since indicated that it will amend its proposals in order to retain the principle of defendants being able to choose their solicitor.

Monitoring Officer Comments

The briefing note has been prepared by the Monitoring Officer.

Section 151 Officer Comments

The Section 151 Officer has been consulted and has no further comments.