

need to be spent before no win, no fee or other insurance can fill the gap.

Cases are currently run only by specialists who have been assessed and approved by the legal aid board according to their methods and results. Cases that were concentrated in firms which had skills and experience will now be spread widely, probably according to price. The changes mean poorer quality advice, less efficient handling of cases and money wasted.

Complex cases, sometimes at the edges of medical knowledge and sometimes with foundations in issues about medical ethics, have traditionally been run with legal aid and have contributed to medical practice, risk assessment and patient safety. These are exactly the cases which may not be litigated under the new proposals and this contribution will be lost for all patients.

Ben Gent is a partner in the clinical negligence team at Simpson Millar

Housing

We estimate that some 50 to 60 per cent of current clients' matters would fall wholly or partly out of scope of the green paper's proposals, so will not receive any public funding.

Of these, many involve claims for disrepair, usually by local authority and housing association tenants who have suffered from serious if not life-threatening defects for years despite their efforts.

There are also many being assisted with re-housing matters, where they need an emergency transfer due to threats or actual violence and the local authority has failed to take any steps, or where they should have transfer priority due to medical, care and/or overcrowding reasons but have not been awarded it. These are usually frightened and vulnerable people who have done their best to get landlords or local authorities to carry out their duties, but have either been ignored or face flawed decisions.

The green paper only mentions legal aid for homelessness matters for appeal to the county court. Many clients come for assistance in seeking a review and continued temporary accommodation when their application as homeless has been refused. Others come when a local authority fails to accept their application in the first place.

If the green paper is right, these clients will not receive legal aid. As a county court appeal is only on a point of law, restricting public funding to that would have a catastrophic effect on homeless applicants, who are highly vulnerable, and cannot be aware of all the

complexities of a homeless decision review process which is their last chance to challenge on the facts.

Giles Peaker and Sara Stephens are solicitors in the housing and public law department at Anthony Gold

Welfare

If the recommendations made by the green paper are introduced, all current advice provision for welfare benefits would be abolished. There would be no assessment of merit or means for the purposes of establishing whether an appellant should be represented in bringing an appeal.

Few private sector solicitors still offer specialist welfare benefits advice. The recent procurement round saw the welfare benefits contracts transferred to the not-for-profit sector.

Their survival has been dependent on funding from other sources including local government. That funding appears largely now to have been withdrawn.

Therefore removal of legal aid funding as well means the whole specialist advice network disappears.

The vast majority of clients who seek assistance from a solicitor or advisor with an appeal are incapable of pursuing the process alone.

As identified in the green paper, these are the neediest groups, often disabled and highly vulnerable. The law and its application in this area is complicated, often involving concepts of Human Rights Act breaches or technical interpretations of regulation.

DWP statistics show that, from October 2008 until February 2010, 40 per cent of tribunal appeals against the new benefit assessment of 'fit to work' for employment and support allowance were successful. We know the DWP are getting it wrong.

The reality will be a large-scale reduction in the number of appeals brought and therefore large reductions in the number of applicants successfully, and rightly, claiming benefits they are entitled to – benefits which are often their only means of survival.

Jane Pritchard is head of domestic violence and housing at Blacklaws Davis LLP and is also a specialist in welfare benefits advice

LEGAL AID MINISTER and sometime City solicitor Jonathan Djanogly insists he is not just "jumping on mediation bandwagon" because of the cuts. He argues it offers a genuine alternative to state funded civil cases. But does a mediator agree they can plug the funding gap?

As the proposed cuts do not include mediation, family mediators with LSC contracts should be perfectly able to deal with most of the types of cases for which funding is likely to cease. While I don't endorse the cuts, the government's green paper may be the green light for the reinvigoration of this most ancient dispute resolution process. Why? Because the popular reliance on litigation as a first resort will be largely removed from family legal aid solicitors' options lists. Something will need to fill the void and mediation is ideally placed to do so (with a little help from its ADR – 'appropriate' dispute resolution – cousins).

Most of the cases which end up in court could typically be dealt with more swiftly, at less cost, and, most importantly, achieving better lasting outcomes, through mediation. Commonly, many LSC clients are still referred to mediators for compulsory pre-litigation assessment, with coaching from their advisers to defeat the mediators' best efforts to engage them into the process so that court applications can be funded and the misconceived right to have a day in court nurtured. Such an approach will not be an option for much longer.

As an in-court mediator, I see many of these cases first hand. Cases where, literally, the only issue may be whether a parent should be able to change the midweek day they see their child. Or where the issue is over a pension in a divorce where there has been a lack of guided advice about the fundamental nature of marriage as a joint enterprise. These are perfectly capable of being resolved by mediation with the support of lawyers advising in the background.

So, while the immediate concerns about a reduction in funding are understandable, I am confident that the promotion of mediation as the main process option will be better for many families. By working creatively with others, mediators have a tremendous opportunity to help provide family-focused outcomes cost-effectively.

Stephen G Anderson is a solicitor at Birketts

Cuts by numbers

Total civil cuts – £279m

Housing – £12m

Welfare – £22m

Education – £1m

Clinical negligence – £17m

Immigration – £18m

Consumer – £5m

Actions against police – £2m

Debt – £17m

Employment – £4m

Total family cuts – £178m