



**An evidence-based report on the need for preventative legal advice
work for people with mental health conditions (MHC)
January 2014**

1. Executive summary

In the past 12 months, Chesterfield Law Centre has seen an explosion of unrepresented people with mental health conditions at Chesterfield County Court. This signals a lack of preventative advice and casework service that was previously funded by the Legal Aid Scheme. The Law Centre has seen people with mental health conditions lose their rented and mortgaged properties that could have been avoided had there been a preventative advice and casework service. Through the preventative advice and casework service that was funded by the Legal Aid scheme, the Law Centre achieved health and financial outcomes that are beneficial to both clients and health services. A strategy is needed from Service Providers and Advice Agencies to ensure that early prevention work is maintained to provide holistic support and intervention to help people with mental health conditions.

2. Introduction

The purpose of this report is to highlight the issues that people with mental health conditions have experienced since the Welfare and Legal Aid Reforms came into force in April 2013. This paper looks at the reasons for the need for early preventative advice and casework service for people with mental health conditions. It also makes proposals on how their tenancies and mortgages can be effectively sustained, if they receive an early preventative advice and casework service. Details on the welfare and legal aid reforms are found in the appendix.

3. How the Reforms affect people with mental health?

3.1 The Legal Aid reforms mean that preventative advice work is no longer funded by legal aid. This is the essential part of legal advice, casework and representation work that people with mental health conditions require as it forms part of their coping strategy in dealing with daily tasks. Legal Aid also does not fund advocacy services. Legal Advice and Legal Representation is now only available from the point at which Notice Seeking Possession is issued by a Landlord or a Notice to Quit is served or threatened. There is only face to face advice for mortgage repossessions in very limited circumstances.

3.2 Chesterfield Law Centre has found that, since the Legal Aid reforms, the number of people with MHC accessing its services have reduced by 36%. However, statistics from Law Centre's Chesterfield County Court Possession Duty Scheme tell a different story. The Law Centre has seen an increase in the number of unrepresented clients with mental health conditions using this service. 2013 saw a 150% increase over the previous year in unrepresented tenants or mortgagees with MHC turning up at court and accessing the court duty scheme. This 150% rise could have been stemmed had legal aid had not been stopped for those seeking early preventative advice.

3.3 In 2013, out of the clients the Law Centre represented, 17% of them received an outright order for eviction. 83% received a Suspended Possession Order, and so kept their homes, or their cases were adjourned.

Case study

A couple that has learning disabilities as well as mental health conditions came to the Law Centre after they had been evicted from their home for rent arrears. They lacked the support they needed to access advice in order to sustain their tenancy successfully. They both had very complex needs and had they obtained advice before the eviction, it is likely that the eviction would have not happened.

The Law Centre was able to assist them under the Legal Help Scheme as they sought advice from us once they had become homeless. We were able to assist them in being re-housed by the Council. This was at a cost to the local authority, health and social care services who were working with the family to secure alternative accommodation.

3.4 Of those that had mortgages, half of the clients with MHC received an outright Possession Order from the court. Experience suggests that early intervention could have saved at least half of these homes, as well as saving public authorities approximately £5000.00 for each homeless application.

Case study

The Law Centre represented a client with a mental health condition. The client acquired depression when he lost his job and that caused him to have mortgage arrears. After the Law Centre intervened at court, we were able to persuade the Judge to adjourn the case and we made arrangements through the Mortgage Rescue Scheme for the mortgage to be taken over by a Housing Association. Legal Aid no longer funds advice and representation on mortgage repossessions and so we were only able to intervene as a result of us being in court on the day of their hearing and the availability of the Mortgage Rescue Scheme – itself due to close imminently.

3.5 According to statistics collated at Chesterfield County Court, at least two thirds of rented homes that were lost could have been saved but for the fact that last minute intervention can mean that potential remedies to prevent evictions have been lost.

3.6 The Law Centre has found that some of their clients were on the waiting lists to be allocated a support worker to assist them in maintaining their mortgages or tenancies. It has also found that those that do use Housing-Related support services to assist them in maintaining their tenancies and mortgages have been successful assisted in maintaining their properties.

3.7 Unfortunately, because of the reduction of funding to local government, Derbyshire County Council has announced (21.1.2014) that Housing-Related Support services will stop from October 2014.

3.8 The Law Centre currently works with two Housing-Related Support providers – Action Housing and Framework, to train their support workers in spotting potential cases and to refer on to advice agencies.

Case study

A client had served in the army for a number of years. He suffered from depression and post-traumatic stress that made it difficult for him to stay in his new job on leaving the army. He accrued rent arrears. He was unable to get preventative advice due to the changes in legal aid. He was only able to access legal advice once court proceedings had commenced. At the court hearing, the Law Centre was able to persuade the Judge not to evict. After he had the benefit of debt and benefit advice he was able to pay the arrears and he was supported in an application to SAFFA who made a payment to help clear the arrears.

4. Health outcomes that can be achieved through advice, casework and representation

4.1 Chesterfield Law Centre now collates health outcomes from their clients. At 31.8.2013, it found that its legal services had:

- Increased confidence, self-esteem and well-being for over **half** of its clients.
- Reduced stress, anxiety and depression for 88% of its clients*.
- Helped **two-thirds** of its clients to settle/stay in their accommodation.
- Increased knowledge of their rights for nearly two-thirds of their clients.

* Figures at 31.12.2013

4.2 The Law Centre has also:

- Managed/secured over £0.75 million for their clients through housing-related debt and employment casework.
- Secured a repayment plan or had debts written off for 57% of debt clients.
- Prevented homelessness for 75.5% of clients and families who are mortgagees.
- Prevented homelessness for 72% of clients and families who are tenants.

5. Mapping of legal advice, advocacy, assistance and representation services for people with mental health conditions

5.1 Chesterfield Citizens Advice Bureau provides an Advocacy Service as well as a Benefits and Debt Advice Service to people with mental health conditions via an outreach service at the Chesterfield Royal Hospital and through direct contact. The Law Centre regularly accepts referrals from the CAB for specialist housing, housing-related debt and tackling hate and harassment advice. The CAB has reported a deluge in enquiries and benefits cases that it does not have capacity to deal with.

5.2 There are no other advice agencies within Derbyshire that provide specialist advice, assistance and representation service specifically for people with MHC. There are no local private practice solicitors in Derbyshire specialising in mental health or community care law.

5.3 There are national telephone help lines that specialise in debt and discrimination law. However they do not provide the face to face advice services that this client group desperately needs. As predicted, the take up of these telephone services has been very poor, as these were set up as an alternative to the scrapped legal aid funded services offered at the local level, through Law Centres and other advice agencies.

6. Proposals for future work

6.1 This report shows the need for early preventative advice and casework service in housing, homelessness and housing-related debt to people with MHC to prevent a crisis such as eviction, homelessness, repossession, disconnection of utility services and 'visits' from the bailiffs. This would save public sector money.

This will help them to look after their mental well-being, reduce reliance on health services and to maintain tenancies and mortgages to ensure that they have enough to live on, on a daily basis.

There is no prospect of the Government reversing its changes to Legal Aid, removing early intervention work from scope of Housing advice and representation. Other agencies and service providers should consider the cost / benefit effects of funding early intervention work and advice agencies need to consider other sources where funding might be available to fund legal advice work that has clear health and well being outcomes.

Appendix 1.

Background information about the Welfare and Legal Aid Reforms

AP.1 The recent reforms to welfare benefits and legal aid have led to some of the biggest change in people's entitlements to benefits, advice and assistance since the introduction of Welfare State in 1945 and Legal Advice and Assistance Act in 1949.

AP.2 In April 2013, The Welfare Reform Act 2012 and The Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into force. This meant that individuals and families on low incomes will no longer be able to access legal aided service for:

- Damages claims for unlawful evictions
- Disrepair, unless it seriously threatens health
- Under-occupancy
- Mortgage arrears
- Employment disputes
- Immigration
- Welfare Benefits

They will also encounter a reduction in allocation of legal aid for:

- Debt (by 96%)

AP.3 The reforms mean that many people with mental health conditions will no longer get early / preventative legal-aided funded service as that sort of work has been removed from the legal aid system. Legal aid can now only be granted when a person is in imminent danger of losing their home.

Welfare Reform

AP.4 Other welfare reforms, such as the 'bedroom tax' and the new requirement for many people on low incomes to pay some council tax, mean an effective drop in their disposable income. The result is to put their tenancies or mortgages at risk and affect their ability to heat their homes or to put food on the table.

AP.5 Welfare reforms have also impacted on people with mental health conditions through not being able to pay their bills, rent, mortgages and debt payments. According to the Centre for Welfare Reform (www.centreforwelfarereform.org.uk), the current welfare reforms will mean that people with mental health will experience:

- An end to Disability Living Allowance
- A reduction in disability-related benefits
- A reduction in housing and council tax benefits
- A reduction in Access to Work packages
- Problems in not being eligible to claim Employment Support Allowance
- Intrusive work assessments tested by private contractors
- A changeover to Universal Credit
- benefits up-rating re-indexed that will increase poverty
- An end to Independent Living Fund
- Problems in accessing social care services as the threshold for eligibility for services is likely to be heightened
- An increase to social care charges and taxes.

This is in addition to under occupancy rules and reduction in Council Tax Benefit, benefit cap and new rules for claimants under 35.

Appendix 2

Issues that people with MHC experience when seeking advice.

- Law Centre clients with MHC are typically eligible of Legal Aid and so on low incomes with disposable household incomes of less than £733.00 a month. This means they cannot afford to pay for advice.
- Those that receive services from Adults Social Care are required to pay a contribution of at least £26.50 week. This is likely to increase between £31.80 - £47.70 a week.
- The Council WHICH ONE? is proposing to increase eligibility threshold from 'Higher Moderate' to 'Substantial', which will mean that more people with MHC will lose services.
- As at 30.9.2013, 60% of Law Centre's debt clients regard themselves having long term health conditions; the majority of which are indicated as relating to mental health conditions.
- People with mental health conditions find that national telephone help lines are not accessible or useful.
- People with MHCs are likely to encounter dramatic changes in the disability-related incomes as well potentially losing Disability Living Allowance when they are reassessed for Personal Independence Payments. This means that they are likely to experience unnecessary emotional and increased financial hardship.
- This client group have good and bad days. Letters and messages from landlords/mortgagors can be ignored. They struggle to motivate themselves to access advice services and therefore rely on support workers or family members. Otherwise intervention is dependant on critical incidents arising, when it can be too late to intervene successfully.
- Chesterfield Law Centre's advice and casework service has found that public transport providers can be hostile or discriminatory in their attitudes towards people with mental health conditions.
- The Law Centre recognises that people with MHC have different needs that require personalised support and advice. We keep cases open longer than mainstream services and try harder to maintain contact, or make the most use of limited contact, as this client group cannot always maintain contact with the legal adviser.
- This client group is likely to experience a lack of family and social capital network.