



## **Proposals for the reform of Legal Aid in England & Wales Response to Ministry of Justice consultative document**

### **1. About us**

- 1.1. The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes.
- 1.2. The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

### **2. Our comments**

- 2.1. We welcome the opportunity to contribute to the consultation of the Ministry of Justice on the reform of legal aid.
- 2.2. We are primarily a tax body and as such we have limited involvement in legal aid issues. However, we have extensive knowledge of the problems people on low incomes encounter when trying to cope with the great complexity of welfare law and practice. We would claim to be experts in the field of tax credits law and practice.
- 2.3. We fear that the proposals to remove welfare benefits (which includes tax credits) from the scope of legal aid will have serious and damaging effects upon the ability of low-income people to access justice.
- 2.4. The timing of these proposals is particularly unfortunate for the following reasons:

- 2.4.1. The general cuts programme is having a damaging effect on the capacity of advice agencies and welfare rights departments of local authorities.
  - 2.4.2. There are unprecedented levels of change in the benefits and credits systems planned for the next three years.
  - 2.4.3. Government departments dealing with benefits and credits are planning to reduce significantly their face-to-face and hard copy support.
  - 2.4.4. The largest drive ever to reduce error and fraud in the benefits and credits systems is just underway which will result in unprecedented levels of prosecutions, disputes and appeals. Moreover, we are particularly concerned that the concepts of error and fraud are all too often conflated, and that departmental error or misleading information is not taken into account.<sup>1</sup> This could mean that there is precious little difference in the treatment of an erroneous claim and a fraudulent one, making it even more important for claimants to have access to the courts to ensure statutory safeguards are enforced.
  - 2.4.5. Tax credits disputes are notoriously complex and are not generally amenable to solution by telephone and it is likely that the backlog of cases held with HM Revenue and Customs will be cleared out in the next three years in preparation for the Universal Credit.
- 2.5. So, just as demand will be driving up to a peak, the ability of the low-income citizen to obtain help, guidance and support will be going in the opposite direction. Lone parents and those with disabilities will, in our opinion, be particularly affected with consequent increases in poverty and deprivation amongst these populations.
- 2.6. This is highly specialised and technical work and not capable of “industrialisation” through a telephone service. The observations in 4.218 of the consultation document seem to exhibit a significant lack of knowledge of how the advice sector works in practice and the support available for the 6 million people within the tax credits system. There is only one passing reference to tax credits in the whole of the document.
- 2.7. **We therefore strongly recommend** that welfare benefits remain within the scope of legal aid. This should be reviewed in four years’ time when the impact of the Universal Credit system will be able to be evaluated.

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14 February 2011

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<sup>1</sup> See <http://www.litrg.org.uk/News/2010/error-and-fraud>