Tories’ contempt for the poor

The Government continues to wield its ideological sledgehammer to the welfare state with the introduction of mandatory reconsideration before appeal for all social security benefits as of October 2013. Prior to this, a claimant could appeal a Department for Work and Pensions (DWP) decision immediately rather than ask for the DWP to review their decision. The benefit of doing this was twofold. First, doing a review by the DWP would usually not get paid – by appealing straight away the person secured the basic rate of income, usually £71 for a single person which would cover the appeal hearing. Secondly by appealing, the claimant sidestepped and removed the risk of any bias from the DWP decision maker reviewing the claim and rubber stamping the original decision, the claimant was able to access an independent impartial Tribunal and receive a fair hearing.

The Tribunal service over the past seven years has seen a huge increase in the number of negative DWP benefit decisions being appealed to the First Tier Tribunal. According to the Tribunal statistics in 2006/07 there were 254,000 appeals heard and by 2011/12 there were 434,000 appeals. The expected forecast for 2013/2014 is that the Tribunal service will hear another 607,000 appeals. The Tribunal service saw a 52 per cent increase in receipts of appeals between January and March 2013 compared to the same period in 2012, with 155,000 appeals received. The increase is mainly due to the negative decisions made on Employment and Support Allowance claims. According to the Disability Alliance around 50 per cent of oral appeals and 20 per cent of paper hearings are successful.

With such an increase in appeals and with at least half of these appeals being successful, for this Government there can only be one solution – smash the current system and make it as difficult as possible for people challenging governmental decisions. And that is what they have done. From 28th October 2013, the Government have removed the claimant’s right to appeal before asking for a reconsideration. Mandatory reconsiderations must be requested within a strict one month period by anyone wanting to challenge a negative DWP decision on their claim. Requests for reconsiderations outside of the one month period are discretionary and can only be challenged if refused by judicial review.

When a claimant requests a reconsideration, no action during the first month will be taken by the decision maker while they wait for the claimant to submit further information. At the end of the month the DWP decision maker will then start the process of reviewing the original decision. The DWP have not ruled out that the reviewing decision maker could be the same person who made that original decision. Impartiality it seems does not exist here.

If that were not bad enough, it gets worse. There is no maximum time limit for the decision maker to reconsider and make their new decision. This could mean possibly many months without a new decision and long delays in justice for vulnerable people. What exacerbates this is that during this review process, where the claimant is requesting a review of a decision not to award benefit outright, they will receive no money. This could potentially leave a vulnerable person without money for many months and will have a huge knock on effect on people's lives. If a person is unable to claim another benefit, such as job seekers allowance, they will be left without money. They may receive housing benefits and council tax reduction but this will not cover any shortfall for water rates or heating charges or council tax or food and utilities, and they will be at risk of being evicted from their homes. They won’t be able to claim crisis loans as they no longer exist. People will simply be left destitute.

Once the DWP have completed the review process, if the claimant is unsuccessful they would then need to appeal directly to the Tribunal service ensuring all the correct forms are completed within yet again another strict time limit. The claimant would then need to wait for the Tribunal service to notify the DWP of the appeal. The DWP will then have to provide an appeal bundle to the Tribunal service, yet there is no time limit for the DWP to do this within until October 2014 when there will be a 28-day time limit. Once the Tribunal service receive the bundle the case will be listed for a date some time in the future where the claimant can finally have an independent impartial hearing of their case to determine whether they are entitled to the benefit.

Until then, there is no time limit for the DWP, all that there is, is an indefinite delay before an independent tribunal can look at the facts of the case and decide whether the claimant has an entitlement to benefit.

The right to a fair trial and to a case being heard promptly before an independent and impartial

August

8: The Metropolitan police issues a formal apology to the family of Ian Tomlinson killed by one of its officers during the G20 protests in London in 2009. Julia Tomlinson said: ‘The public admission of unlawful killing by the Home Office agreed to lift the ban on health workers who have HIV performing certain procedures is the final verdict, and it is as close as we are going to get to justice’. This followed the confirmation that the Metropolitan police would offer the family compensation.

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12: The Home Office agrees to withdraw its plans warning illegal immigrants to ‘go home’ after a legal challenge. Two claimants said the vehicles – dubbed ‘racist vans’ – breached the Government’s duties on equality. The Home Office agreed that it would consult before launching such campaigns in the future.

15: A ban on health workers who have HIV performing certain procedures is lifted. Dame Sally Davies, the chief medical officer, said the ban was outdated and that it was more likely that a person would be struck by lightning than be infected with HIV by their doctor or dentist.
Eldh News and Events

The European Lawyers for Democracy and Human Rights (ELDH - www.eldh.eu) continue to be active on a wide range of issues.

Turkey

On 28th – 29th September 2013, our Turkish sister organisation ÇHD (Progressive Lawyers Association) held its 3rd International Law Symposium in Istanbul: ‘Being a Revolutionary Lawyer’. ÇHD President Selçuk Kozağaçlı, who spoke at Haldane’s Defending Human Rights Defenders conference, received ELDH’s birthday letter in prison. He thanked us and sent his best wishes. His trial opening will be on 24th-26th December 2013. Obviously this date has been chosen by the court to discourage lawyers from Europe to observe. The indictment of about 600 pages has been submitted to the court by the public prosecutor and was approved by the court. ÇHD held a press conference insisting that the indictment is not based on truth and law and that it is grounded on political motives, to prevent lawyers, members of ÇHD and members of the People’s Law Office from defending the basic rights of the people.

The Danish District Supreme Court took a shock decision on 3rd July 2013 to shut down and impose a hefty fine on Kurdish Roj TV and its parent company Mesopotamia Broadcasting accusing them of being guilty of inciting terrorism. The broadcasters were sentenced to pay a fine of 5.2 million Danish krone each and their broadcasting licenses were revoked. Roj TV, Mesopotamia Broadcasting’s MMV and Nace TV also had their licenses revoked. ELDH protested against this judgment. On 18th September 2013, in Copenhagen, ELDH sent observers on a fact finding mission to observe the opening of a trial against seven Kurdish politicians and business people who are charged with financing Roj TV.

Edward Snowden ELDH initiated a statement that the grounding of the Bolivian presidential jet and treatment of Edward Snowden shamed the European Union. This was a big success. Together with the other two organisations, the European Centre for Constitutional and Human Rights (ECCHR) and the Transnational Institute, ELDH collected 65 signatures of various organisations.

On 30th August 2013 in Berlin, the 2013 Whistleblower Prize was awarded to Edward Snowden, by IALANA (German section), Vereinigung Deutscher WissenschaftlerInnen, and Transparency International.

Cuban Five Haldane’s sister organisation in Germany, the German Association of Democratic Lawyers (VDJ) is organising a screening of the film The Cuban Wives in Düsseldorf on 11th October 2013 together with three other NGOs within the One-World-Festival. The film will be also be shown in Berlin on 4th and 7th October 2013 during the Berlin Latin American Festival.

Western Sahara Our Basque colleague Urko Aitartza is organising a human rights mission to Western Sahara at the end of October or beginning of November 2013. There are colleagues from Spain, Italy and Germany who are interested. We need at least two more colleagues from England. Please contact me if you would like to participate.

Conference on Europe in Belgrade Preparations have begun for a conference on EU and European Human Rights in Southern Europe. The conference date is most likely to be on 7th June 2014. The organisers will be ELDH and the Serbian Democratic Lawyers, with the support of Lawyers for Human Rights (YUCOM). The conference will be held in English.

Marxism and Law Preparations have also begun on a colloquium on this topic, with the aim to invite some of the leading contemporary German and other European theorists such as Michael Heinrich, in London in autumn 2014.

The next meeting of ELDH’s Executive Committee is in Rome on 19th October 2013 at the Casa Internazionale delle Donne (International House of Women). The next day the Haldane’s sister organisation, the Italian Association of Democratic Lawyers, will organise a colloquium on Europe. Please contact me if you are interested in coming.

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September

22: A Freedom of Information request by the charity the Money Advice Trust reveals that local councils have used bailiffs to collect debts on their behalf over 1.8 million times. The charity criticised the number as excessive and said councils should be more responsible in how debts are collected.

8: The Chilean Judges Association issues a statement apologising for its inaction during the reign of the dictator Augusto Pinochet, saying: “It must be said and recognised clearly and completely: the court system and especially the Supreme Court at that time, failed in their roles as safeguards of basic human rights, and to protect those who were victims of State abuse.”

10: Home Office statistics reveal that the use of tasers by police officers has more than doubled over two years. In 2009 there were 3,128 deployments rising to 6,649 in 2010 and 7,877 in 2011.

15: The demonisation of benefit claimants continues as the Director of Public Prosecutions Keir Starmer announces increased prison terms of up to 10 years for those who falsely claim. Starmer said the £1.9 billion annual cost of the fraud should guide decisions about whether prosecution was in the public interest.

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