Unlawful!

Judges in the Court of Appeal declared that almost all of the Government's "work-for-your-benefit" employment schemes were unlawful.

Geology graduate Cait Reilly and unemployed HGV driver Jamieson Wilson both succeeded in their claims that their unpaid schemes were legally flawed after the court found the DWP had exceeded its powers.

The court ruling means universal credit claimants who have had benefits docked for not properly taking part in schemes such as work experience and the work programme are entitled to a rebate.

It doesn't add up

As the Legal Aid Sentencing and Punishment of Offenders Act 2012 wended its way through Parliament, the Government always made one thing clear: that judicial review was safe. While legal aid for other areas of law was pared to the bone or removed entirely, judicial review was left alone. In the words of the Attorney-General in 2011, "the 2011 legal aid green paper 'proceedings where the litigant is seeking to hold the State to account by judicial review are important, because these cases are the means by which individual citizens can seek to check the exercise of executive power'. The green paper became a Bill. The Bill became an Act. Judicial review emerged relatively unscathed. And that, we thought, was that.

It was too good to be true. In November 2012, Prime Minister David Cameron and Justice Secretary, Chris Grayling, noisily announced plans to curtail citizens' access to judicial review as a remedy for the country's economic woes. Announcing his plans, in a speech to the CBI amid a raft of other supply-side measures intended to boost growth, Mr Cameron was quick to write-off many applications for judicial review as 'completely pointless'. A consultation paper, adding flesh to the bones of the political rhetoric, was swiftly published. Chief among the Government’s arguments in support of these changes was the increase in citizens’ recourse to judicial review over the last 40 years. In the words of Mr Grayling, 'the number of applications has rocketed in the past three decades, from 160 in 1975 to 11,200 last year – an increase of almost 7,000 per cent'.

This early history serves to illustrate that judicial review is a cornerstone of our constitution every bit as venerable and important as Magna Carta or as habeas corpus; legal institutions whose names fell easily from the mouths of our Ministers when in opposition. More recent history illustrates that the Government’s reliance on modern statistical trends is misplaced.

Considered in this context, this latest attack on the institution of judicial review forms part of what Emily Thornberry MP has described as a ‘sustained onslaught on British citizens’ access to justice’. It is an assault which encompasses cuts to legal aid and the erosion of employee’s rights. And, like those changes, this attack should be taken seriously.

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