



Withy King slams Government's decision to cut Legal Aid

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Law firm Withy King has today slammed the Government's decision to cut legal aid, and vows to continue lobbying for change.

The Legal Aid Reform Bill was published yesterday (21 June 2011) confirming the Government's intention to cut legal aid, despite extensive petitioning by organisations such as Action against Medical Accidents, Resolution and The Law Society as well as the wider public.

Withy King believes that the government has not fully understood the implications of the reforms – especially for clinical negligence cases, which affect some of the most vulnerable in society.

Paul Rumley is a partner and clinical negligence specialist at Withy King. He said: "I am incredibly shocked that the Government has gone ahead with these proposals. Cutting legal aid will leave millions vulnerable and without a way to seek justice. It's going to have a massive impact on victims of clinical negligence – those who have been injured at the hands of medical professionals.

"These plans affect the vulnerable – babies, children, the elderly and those without mental capacity. It's outrageous that this bill has been passed; how does it fit with the government's promise to 'protect the most vulnerable in our society from the effect of the budget cuts'? It's simple – it doesn't.

"For example, we deal with many cases every year involving babies who are born with severe injuries due to a lack of care or inappropriate treatment. These children are often left with severe, life-long disabilities. As a result of this new bill, families will no longer be able to access our legal system. This means they will not be able to secure vital compensation to help them pay for the on-going specialist care and equipment their children will need. How is that fair?

"We have repeatedly been told that the bill is designed to save money and that cases can now be progressed on a no-win, no-fee basis. What the government hasn't listened to or understood, is that it will not be possible to take forward the most difficult cases – for example those involving severely injured babies and children – on a no-win, no-fee basis because of the high costs involved in investigating these claims. So for those people, justice will no longer be available to them in this country."

Many clinical negligence claims are against NHS hospital trusts and their practitioners. Withy King accuses the government of "putting the NHS above the law".

Paul Rumley said: "The Government funds the NHS so ultimately, it is the Government which puts its hand in its pocket when things go wrong. Without Legal Aid, many people will be unable to pursue their claims for compensation for injuries caused by medical or dental negligence. Why shouldn't the NHS and its employees be held to account for their actions?

"Protecting the medical and dental professions from potential claims, because the Government has to fund the settlements, is an abuse of the Government's power, is undemocratic and represents a major conflict of interest."

Over the past 12 months, Withy King has been actively involved in petitioning against the cuts – adding its voice to the Law Society's national campaign 'Sound off for Justice'.

"We had hoped that the Government would pause and listen before it published this highly damaging bill like it did with the NHS reforms, or at least amend and assess the bill, but that doesn't appear to have happened at all. We will continue to campaign against the changes and urge other legal professionals to do the same. We hope that eventually we will be heard on behalf of all of the severely disabled children and other vulnerable clients who will be hardest hit by these changes," said Paul Rumley.

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CASE STUDY

Withy King Solicitors is currently helping five-year-old Annie Burchell of Kidbrooke, South London bring her case against Queen Elizabeth Hospital and King's College Hospital for a catalogue of errors which left her with lifelong disabilities. Annie's case, which is funded by Legal Aid, could not have been brought by her family if the proposed legal aid cuts were now in force and they would not have been able to start their fight for the compensation Annie desperately needs to help her make the very best of her future.

Annie's mother, Yvette Livingstone, a former hotel receptionist, said: "The changes to Legal Aid could have had a devastating effect on Annie's future. There is no way we could have brought this case without Legal Aid and there is absolutely no way we will be able to see it through without it. Annie's injuries were entirely preventable and it is awful to think that we may not be able to get compensation for her. We will never be able to change what has happened to Annie, but the money will at least help her to pay for medical treatment in the future which might give her a better quality of life."

Annie was born in 2006 with a sacral dimple on her spine. It was not detected during the routine hospital checks immediately after her birth. However a health visitor noticed it when Annie was 10 days old and recommended an ultrasound which Annie had at three months and was incorrectly given the all-clear. When she was eight months old, Annie developed meningitis which she was treated for. Two weeks later she developed similar symptoms again. An MRI scan revealed an infection in her brain and she underwent brain surgery to have it removed. A few months later, Annie started developing severe bowel and bladder problems. Shortly after that, her legs became partially paralysed. Further investigations revealed that the sacral dimple on Annie's back had led to a cyst developing on her spine which had become infected and so trapped the nerves to her bowel, bladder and legs. Had the sacral dimple been investigated at an early stage, the problem would have been treated successfully and the disabilities avoided.

Annie has undergone foot surgery and walks with the help of splints. She has lost the feeling in her feet, has to be catheterised six times a day, has on-going, serious bowel issues and has to take daily medication.

Annie's solicitor Paul Rumley, a clinical negligence specialist at Withy King, said: "Annie's story is just one of many heart-rending cases which are settled every year. It's unbelievable to think that in a country like Britain, we may be facing a situation where children like Annie will no longer be able to gain access to justice. Legal Aid is essential for many families and without it, they will have to suffer in silence, the medical profession will no longer be held to account and compensation will no longer be awarded to pay for the life-long care of those who need it the most."