**Benefits Advice and Tribunal Support**

**Final report**

**October 2015 to December 2016 (15 months)**

**Introduction**

The Benefits Advice and Tribunal Support (BATS) project supported a broad range of York residents by providing advice to workers to enable them to successfully help claimant’s challenge benefit decisions. This involved up-skilling front-line workers and volunteers who work outside of the traditional advice sector as well as support for advisers in advice settings. By providing appeal casework support advisers/workers are able to help their clients challenge decisions more knowledgeably and at a higher level, producing better results than would otherwise be achieved.

In some cases, advice and support was provided to support the challenge at an early stage, such as mandatory revision. In-depth support included one to one sessions with advisers/workers and, when appropriate, their clients; detailed comment on cases and help with mandatory reconsideration and submission preparation. Written submissions prepared by the BATS adviser were provided when appropriate, and in a few detailed guidance was sufficient to enable the front-line worker to produce the final version. Representation at appeal was provided in circumstances when the adviser/worker’s role did not permit them to provide this level of support to their client or a case was sufficiently complex and representation was likely to improve the outcome of the case.

The support has also included advice about potential error of law by the First-tier Tribunal with further appeal to Upper Tribunal. This is a technical issue, involving consideration of the evidence before the First-tier Tribunal, and does not require direct contact with the claimant.

The capacity of front-line workers to take on-going casework appears increasingly limited, reducing their capacity to work on a case with a second-tier service. A large proportion of those using the service have been support workers, who, due to the nature of their work, have ongoing interaction with their clients. In a few cases, for example where the front-line worker or agency is unable to retain involvement, the project took direct responsibility for the case and all communications with the claimant.

An Appeal Pack was developed providing templates and resource information. This was made available at training, meetings and online. Those who accessed the BATS project were given a copy for reference to support their work.

Free training was provided: ‘Benefits Toolkit’ and ‘Challenging Decisions’. These bespoke sessions were developed to meet the needs of those working with claimants in order to maximise the likelihood of better outcomes.

BATS was originally funded for 12 months between October 2015 and September 2016, however the project length was extended as the project worker was not in post until December. Between October and December the service was delivered by the WBU advice team and active promotion did not begin until January.

**Links to financial inclusion objectives**

Ensuring stability of income and maximising benefit entitlement has clear links with enabling York residents achieve positive outcomes when managing their money. This enables individuals to make clear decisions about managing their budget, prioritising spending appropriately and developing financial capability.

| **Objective** | **How the project met the objective** |
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| Equip individuals with the knowledge and skills to bring about their own financial stability | The welfare benefits system has become increasingly complex and the move to Universal Credit creates new challenges for claimants learning to budget monthly. Maintaining and maximising benefit income is essential. Helping claimants to understand the responsibilities underlying benefit claims and the consequences of changes can help with financial planning and making positive decisions which increase household income (eg. in-work benefit calculations).Supporting workers offers a way for vulnerable clients with chaotic lifestyles to access specialist advice. BATS enhances the knowledge and confidence of front-line workers and their clients to enable them to successfully challenge incorrect decisions. |
| Advice and information services achieve greater coordination | Providing increased support to non-advisers and thereby promoting the work of the WBU ensures that workers and volunteers become increasingly aware of the resources that are available to their clients and promotes effective joint-working. BATS also provided an effective service to experienced advisers. WBU is an active member of Advice York and has encouraged awareness of the partnership through its services. |
| Increase awareness and understanding of the benefits system (by residents, advisors and sign-posters) | Supported help to appeal level helps workers understand the benefits system more fully and increases knowledge and confidence. This cascades to the work they do with other clients. WBU encourage advisers to empower their clients through understanding and support rather than undertaking work in isolation from the client. Targeting promotion to agencies who do not provide a direct advice role will raise awareness and promote understanding of their clients’ benefit situation and how best to support them. |
| Reduce cost of living (food, fuel, childcare and white goods and furniture) for those living in poverty | Raising awareness of sources of benefit support includes advice about YFAS and budgeting loans. Welfare benefits advice often touches on broader issues such as access to childcare, food parcel providers and low-cost furniture (such as, Community Furniture Store). Ensuring income is stable avoids penalties and interest and allows claimants to make sustainable budgeting plans. |

**PROJECT BENEFITS**

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| **Benefit** | **Performance Measure** | **Project outcome** |
| Second-tier support to advisers/workers to help their clients challenge benefit decisions. | 80 instances | **80** instances, to 76 individuals; incidental advice also given. |
| Representation at appeal involving direct claimant contact. | 10 instances | **Total: 22, 6 pending**  **10** direct representation at an oral First-tier Tribunal hearing; 8 attended and 2 confirmed in February. Further 3 cases are likely pending agreement and dates.  **7** written submissions only to First-tier Tribunal  Written submissions to be provided in a further 3 cases once appeal papers received.  **5** detailed guidance on submission.  **Note**: other cases were taken forward without direct client contact or without direct representation. |
| Training sessions: Benefits Toolkit and Challenging Decisions | 2 free sessions delivered to 10 workers | **30** attendees - 2 sessions delivered. |
| New organisations accessing the appeals project. | 10 organisations (more than one worker likely in each organisation) | **11** |
| Appeal Pack | 150 distributed | **155** |

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| **No of beneficiaries** | **Detail** | **Project performance** |
| **110** | **Total** | **132** |
|  | 80 instances of support to workers/advisers enabling York residents and their family to access expert advice when challenging decisions, improving outcomes. | 80 instances |
|  | 10 instances of directly representing York residents at appeal. | 22 cases |
|  | 20 advisers/workers attending sessions, improving the support they can offer to a broad range of clients and client groups. | 30 attendees |

**Second-tier support to challenge decisions**

There were 80instances of providing detailed advice for 76 residents, mostly at appeal level but including some mandatory reconsiderations. Most of these instances led to ongoing case-work, including support with mandatory reconsideration requests and appeal submissions and representation. The majority of the remaining cases were taken forward by the adviser without further support. The outcome of many of these is unknown because the client did not update the front-line worker about the outcome. In 3 cases the client moved away from the area and contact was lost. In 1 case the referring agencies involvement ended on their client being detained in hospital due to severe mental illness before authorisation from the client could be obtained and they currently lack capacity to act. The offer of support remains open with on-going communications with the health worker and HM Courts and Tribunals Service in the hope that suitable support may be put in place and authorisation obtained.

In 3 cases, where the outcome is known, the challenge to the benefit decision was successful prior to appeal hearing.

The majority of cases relate to appeals against Personal Independence Payment decisions, in line with the government’s accelerated roll-out transferring adults from Disability Living Allowance and the resulting reduction in entitlement; occasionally the advice has had to be that the claimant no longer meets criteria. Other appeals related to the Employment and Support Allowance capability assessment, overpayments and capital.

Some cases did not progress further as the outcome was not likely to be successful, although disappointing for the claimant the advice given provided clarity and clear direction about the decision.

**Representation and submissions**

**First-tier Tribunal**

17 written submissions were made by the BATS project worker to the First-tier Tribunal; of these 10 then involved direct representation at a First-tier Tribunal hearing

In 5 instances detailed guidance notes for submission were provided to the front-line worker.

In 18 of these 22 cases the representation or submissions led to a successful outcome at appeal. Decisions are awaited in 4 cases, 2 where representation has been agreed.

In 5 cases no grounds to support the appeal were identified. In one of these advice about the process and presenting the case at the hearing were provided to the appellant who wished to progress the case anyway. In 3 of the cases the client was advised that a new claim for the same or alternative benefit had more chance of success.

In all of the above cases, grounds to support the appeal were provided after gathering evidence from meetings with the worker and their client directly.

**Upper Tribunal**

11 cases related to requests to identify a potential error of law in a First-tier Tribunal decision and provide scope for further appeal. This led to 4 instances of submissions to Upper Tribunal on error of law grounds. Of these, 2 cases were referred back to First-tier Tribunal for re-hearing, leading to successful outcomes. In a further 3 cases error of law was identified but these were borderline cases and the adviser or claimant decided not to proceed. In the remaining cases, detailed guidance was provided but it is not known whether the client decided to take the case forward.

**Breakdown of benefit issues**

The majority of the cases involved challenges to Personal Independence Payment disability criteria. As this is a relatively new benefit, many of the concepts are to be tested and there is a lot of case law development, increasing the need for specialist support. Many of the other cases could be described under more than one issue area but have been included below under one issue only.

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| **Benefit** | **No of cases** |
| Capital | 2 |
| Decision and appeals rules and procedures | 3 |
| Disability Living Allowance disability criteria | 2 |
| Employment and Support Allowance work capability | 5 |
| Error of law | 11 |
| Failure to attend medical for PIP or ESA | 3 |
| Housing Benefit | 1 |
| Overpayments | 8 |
| Payment Issues | 2 |
| Pension Credit | 1 |
| Personal Independence Payment age rules | 1 |
| Personal Independence Payment disability criteria | 37 |
| Personal Independence Payment residential care | 1 |
| Right to Reside | 2 |
| Universal Credit sanctions | 1 |
| **Total** | **80** |

**Financial Gain**

These figures reflect the known outcomes where in-depth support has been provided, and the outcome notified.

* Total weekly income gain = £1,523
* Total annual income gain = £79,147
* Total lump sum payments / arrears = £58,891

4 further decisions are outstanding and some outcomes are unknown.

**Training sessions**

* Challenging Decisions

Delivered on 18th March 2016

* Benefits Toolkit

Delivered on 14th June 2016

The training was provided to 30 front-line workers in total. The courses were well received with positive feedback.

**New organisations accessing the project**

Information mailings and personal introductions were made to organisations across York, using both the Welfare Benefits Unit mailing list and voluntary sector online searches (eg. Charity Commission listings) and voluntary sector meetings. Eighteen organisations used the BATS service in total. Of these, 11 were new to the WBU appeals service. From the 18 organisations, workers across a number of projects or York districts were supported (eg. York CAB and the CAB GP outreach project; teams from three areas of the Community Mental Health Team). These organisations not only accessed the BATS project but gained further awareness of the support available from the Welfare Benefits Unit, increasing benefit advice provision available to York residents.

**Appeals Pack**

A Challenging Decisions ‘toolkit’ was produced and distributed, and available on the WBU website. The pack covers the rules and procedures for challenging decisions and appeals and includes practical information and templates for requesting medical evidence and writing submissions.

**Case studies and financial inclusion outcome**

**Case study 1**

The case was referred by the Peasholme Charity. Their client suffers severe limitations due to the impact of post-traumatic stress disorder, anxiety and depression following serious domestic assault. She is too scared to undress completely, and unable to bathe or change her underwear unless her mother is there for support. She also needs to be prompted every day to eat and needs help to manage her money, wash and change her clothes. She is very fearful of other people and unable to interact and unable to go out without her mother or support worker. Her dependence on her mother has a negative impact on her mental health and self-esteem. Her mother has to come over to take her to her daily visit to the local chemist, and frequently has to meet her inside and accompany her to the car. At the moment, she and her support worker are working towards building up her confidence to be able get to the chemist on her own.

Her application for Personal Independence Payment (PIP) was refused. We provided a written submission and represented the client at the appeal hearing. All of our arguments were accepted and the client was awarded the enhanced rate of both the daily living and mobility component of PIP, an income increase of £139.75 per week plus an arrears payment of £4,892. The client is dependent on income-related Employment and Support Allowance (ESA), and the award of PIP brings with it a £61.85 per week increase in the rate of ESA.

Prior to this, the claimant had significant rent arrears, including arrears accrued over the past 3 years due to the Housing Benefit under-occupation charge (bedroom tax) and was at risk of losing her home due to rent arrears. She also had arrears of Council Tax.

After paying off her priority debts, the client hopes to be able to build up to using a regular taxi service to take her to the local chemist. In the medium to longer term she intends to purchase a car. She says that she will feel safe once inside the car, and hopes that she will soon feel able to get from the entrance to her flats to the car on her own. This will give her a lot more independence and relieve some of the pressure on her mother as she will be able make some local journeys on her own and collect her mother to take her to her flat rather than her mother having to drive over every day.

**Case study 2**

This case was referred by a Community Mental Health Worker. His client already had an award of Personal Independence Payment, at the standard rate of daily living. The client had a long history of mental illness and schizophrenia. She had support from the NHS Community Mental Health Team but struggled to manage her day to day care and rarely left home. Having to stay at home increases her heating and other costs. Her fear of meeting other people increased following an altercation with local youths. When she did go out she invariably went by taxi, even when going somewhere local. The claimant and his support worker believed that she should be entitled to the mobility component of personal independence payment.

On taking evidence from the client grounds for entitlement to enhanced rate daily living and the mobility component of Personal Independence Payment were identified. The client was advised that an appeal tribunal have the power to reduce or increase an award, or leave the award unchanged, and therefore that there was a potential risk to her pre-existing award. She decided to proceed with the appeal. A written submission and representation at the hearing were provided. The Tribunal awarded the enhanced rate daily living and standard rate mobility component, an increase of £49 per week. This will help the client to pay for taxis and so encourage her to go out and decrease her isolation.

**Case study 3**

This case started with a request for an opinion as to whether the First-tier Tribunal decision involved an error of law. The client’s appeal in relation to Personal Independence Payment had been unsuccessful.

We looked over the appeal papers and identified that, arguably, the Tribunal had not adequately explained the basis of their decision. A submission requesting permission to appeal to Upper Tribunal was drafted on behalf of the adviser. Permission was granted and subsequently the Upper Tribunal agreed that there had been an error of law and the decision of the First-tier Tribunal was overturned. We gave advice about procedure throughout this process.

The case was referred back to be re-heard by a new First-tier Tribunal and we represented the client in the case, collecting evidence from him directly, providing a written submission and representing at the hearing. The appeal was successful and the client was awarded the standard rate of both the daily living and mobility element of Personal Independence Payment, an income increase of £76.90. As the case had taken two years to resolve, he was also entitled to an arrears payment of £7,920. He also became entitled to an additional severe disability premium of £61.85 per week with his income-related Employment and Support Allowance, with some backdated entitlement.

With this extra income the claimant would be able to clear accrued debts and set up realistic payment plans, whilst taking into account the extra costs associated with his disability.

**Future actions**

During the time of the BATS project availability for advice within York has decreased. We have been informed by some support workers that they are no longer able to support clients at appeal and Citizens Advice, with the end of Advice Services Transition Fund support, no longer have a specific benefits advice team. During the project the need to support front-line workers and volunteers led to a more ‘hands-on’ service, with more direct client contact than predicted (24 occasions) and, on occasion, taking cases forward independently from the support worker. The FISG funding has enabled the WBU to look at the appeals service offer, assess current capacity and identify the benefit of offering more involved support to advisers and front-line workers. The Welfare Benefits Unit continues to support the open BATS cases and to offer limited support with appeals. The WBU aims to find further funding to provide more direct client contact, still with the primary aim of upskilling workers to manage challenges, but also ensuring that specialist advice is practically applied to support residents when an adviser has limited capacity to take the case forward. This is challenging in a time when costs continue to increase compared to static funding. However, the WBU are working to increase revenue through marketing of the Advisers Guide and training. An application for funding to provide community training has been made and the income from such projects helps to support core costs. An application to JRF will be heard in May to look at providing the essential more in-depth approach identified during the BATS project to ensure York residents can gain the support necessary to challenge decisions successfully.

**Written by:**

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