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or advice which is
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to establish
his or her
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Mick Antoniw solicitor and Labour Assembly Member for Pontypridd, argues that access to the law is a fundamental human right and that the next Labour Government should commit to enshrining this in law.

Legal Aid cuts

the end of post war consensus

The UK Government's decision to end the availability of legal aid for the majority of people in the areas of social welfare law, family law, housing and debt is more than a restriction of access to justice. The changes represent an end to the ideological consensus between the parties which emerged from the Rushcliffe Report in 1945 which, with cross-party support, led to the Legal Advice and Assistance Act of 1949.

Press reporting has been largely focused on problems with access to law but the changes go far deeper and represent a fundamental shift in thinking about the role of law and the courts in our society. They represent an end of the belief in access to justice as a fundamental social and human right.

Karl Marx saw the law as a tool in the hands of those in economic power to exploit the masses. Most lawyers would not accept this representation of the modern day legal system, but the Government's reforms of legal aid and other legal changes will have caused a degree of empathy amongst some of the highest echelons of the legal profession. None other than Lord Neuberger, President of the Supreme Court

suggested that the Government's changes might lead to an undermining of the rule of law.

"My worry", he said, "is the removal of legal aid for people to get advice about the law and get representation in court will start to undermine the rule of law because people will feel like the government isn't giving them access to justice in all sorts of cases; and that will either lead to frustration and a lack of confidence in the system or it will lead to people taking the law into their own hands."

Viscount Simon, during the House of Lords debate of the post-war Attlee Government's proposals for the establishment of a state system of legal aid, described how they really thought they were creating a National Health Service for the law:

"If members of our community are to share equally in the value of the institutions of the country, as if they are, as George III, I think said, to glory in the name of Britain, then the question of securing legal aid and advice to those who cannot afford to pay professional fees is one of enormous consequence. It is an incorrect slander to say there is one law for the rich and another for the poor. Our system of open courts and incorruptible judges exists to protect all, rich and poor, who are wronged and to vindicate their rights and to explain where they are wrong."

Recommending the report he said: "I therefore recommend this report to the house with this simple reflection that whatever the difficulties may be in the way of poverty, no citizen should fail to get the legal aid or advice which is so necessary to establish his or her full rights. I hold that this is an essential reform in a true democracy". So, access to justice arising from the post-war consensus is a fundamental democratic right essential to establish equality before the law.

The UK Government's *Legal Aid Sentencing and Punishment of Offenders Act 2012* is more than a budget cut – it is a fundamental shift in the law and the role of the law in our society. It begins a process of taking us back to pre-war legal arrangements, whereby access to law for the poor was only available to those with support from trades unions, charities or pro bono lawyers (who used to be referred to as the poor man's lawyers).

The purpose of the legislation is purportedly to save £350 million from a legal aid budget across the UK, excluding Scotland, of £2 billion. In a period of

austerity, if one accepts the government's rationale in reducing the deficit (which I don't) a 17.5 per cent cut in legal aid does not seem unreasonable.

However, a breakdown of legal aid expenditure reveals a different picture. £1.2 billion is already committed to criminal legal aid.

Even this government is unlikely to see citizens committed to prison without legal representation. To do so would probably amount to a breach of human rights legislation, denying the right to a fair trial. The remainder of the legal aid budget is predominantly for what we might call social welfare law – housing, benefits, family breakdown and debt. Of these, by far the largest has been custody disputes at £468 million. Of the remainder, £60 million is for tenant advice, £33 million for debt advice and £28 million for welfare advice. A further £52 million is for actions against the NHS and health care providers – cases such as clinical negligence, social care disputes and so on.

So, a total of £121 million is spent in providing advice for the poorest and most vulnerable in our society, amounting to 6 per cent of the total budget.

Citizen's Advice Bureaux statistics for 2010/2011 put debt, welfare benefits and housing in the top four highest demands for help. The third highest was in fact for employment advice, but legal aid has not been available for employment advice for some time. Even exceptional appeals are now excluded, and if that was not enough a new fees regime has been introduced which is likely to put employment tribunals beyond the reach of most workers, particularly those who are not in a trades union.

Countries such as Wales and regions such as the North East and North West will be particularly hard hit. The impact will be hardest in the poorest areas, especially those with high levels of unemployment and disability, and on those over 55 years of age. Typically affected will be Blaenau Gwent, Caerphilly, Merthyr Tydfil, Rhondda Cynon Taff and Neath and Port Talbot where the percentage of over 55s with disability is between 50 and 52 per cent.

Combined with the impact of welfare reforms on Wales, which the Welsh Government's own analysis puts at around £590 million for 2014-15, we see emerging a social and economic environment of communities which are increasingly impoverished due

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...no citizen should fail to get the legal aid or advice which is so necessary to establish his or her full rights.

to a lack of jobs, low pay where jobs do exist and reduced benefits for those dependent on benefits, and which are also disenfranchised from the legal system.

This I believe is what Lord Neuberger is referring to: whole communities where many already feel disconnected from the electoral process and no longer bother to vote and who are now forced into increasing poverty with little recourse to law to protect their rights. In such an environment, why should anyone respect the law let alone defer to a rule of

law which is increasingly only for the rich?

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....why should anyone respect the law let alone defer to a rule of law which is increasingly only for the rich?

Perhaps we are, and perhaps with deliberate intent, moving towards the sort of society Marx recognised, whereby the law existed to protect the rich and powerful and the illusion of the rule of law kept the poor in their place. Where they challenged the law, the interests of the rich and powerful prevailed.

So what is the alternative? What should a future Labour Government do?

Labour was of course complicit with restrictions on access to legal aid, although ensuring at least minimum provision for the poorest. This is where they differed from the current Conservative legislation. However, Labour's analysis of access to justice was predominantly one of looking for the transfer of costs from the public sector to the parties engaged in litigation, as happened with civil litigation such as personal injury and breach of contract by means of contingency fees and no-win no-fee insurance arrangements. But all other areas were looked at very much in terms of how to reduce costs by limiting access.

A future Labour government should go back to the 1945 drawing board. It should re appraise what the law is for and the reason to support and increase access to justice. It should see access to the law as an essential ingredient of the empowerment of the poorest communities. If one applies a ranking of priorities with equality and social justice at the fore, those issues affecting the poorest would be removed from this budgeting process altogether. With a bill currently around £140 million for advice and representation in areas of debt, family, welfare and

housing law, we should be looking at increasing the level of support, preferably through community legal advice centres and community advice agencies such as CAB as well as through the legal profession.

These areas of advice and support should be regarded in the same way as the NHS, a fundamental right. Put in its proper perspective, funding is not an insurmountable burden but an essential expenditure in a democratic society. In fact why shouldn't it be funded from unclaimed welfare benefits? The Department for Work and Pensions (DWP) reported that in 2009/10 the amounts unclaimed were £2 billion in Income Support and Employment and Support Allowance, £2.8 billion in Pension Credit, £3.1 billion in Housing Benefit and £1.9 billion in Job Seekers' Allowance.

In the great scheme of things the cost of legal advice and representation in these areas is a pittance. Perhaps what the government is more interested in is an environment where people will accept what they are given and be powerless to challenge it. At the same time, the benefits bill is reduced due to lack of knowledge, advice and representation.

Labour should start the process by setting out the principles on which legal aid is available. It should then prioritise the most important of these and commit to proper funding through approved law firms, advice agencies and law centres.

Funding can come from either or a combination of mechanisms: from central state funds or as I suggest above, from the DWP itself in a sort of "polluter pays" principle. Other potential sources of funding could come from the elimination of tax relief on private education, which is currently worth in excess of £100 million a year. Or if all else is unacceptable what about a special tax on the legal profession itself - a social justice levy on the richest earners, or an additional 1 per cent VAT levy on legal fees above a certain level. There are many options but what is essential is a return to basic principles.

As the Australian Supreme Court Justice Wayne Martin recently said when referring to the issue of access to justice: "it is the Rolls Royce of justice systems, but there is not much point of having a Rolls Royce in the garage if you can't afford the fuel to drive it anywhere."



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The seismic changes to civil legal aid will damage children and have unintended consequences which could end up costing far more to the public purse than they save, argues **Sonia Behr**, a family lawyer practising in Blaenau Gwent.

April fool for broken families

On 1st April this year, in one fell swoop, access to justice for most people will have effectively come to an end. Civil legal aid will quite simply no longer be available for advice on family problems, debt, housing, benefits or employment. It remains only for domestic violence and child protection cases.

Whilst many solicitors welcome the end of legal aid for divorce (after all, how much do people spend on their weddings?) many are concerned that the cuts in other areas of family law will have unintended consequences. This could end up costing far more to the public purse than the savings in legal aid.

The damage caused by this seismic change, particularly to children, may best be illustrated by a few examples from a typical legal aid practice's daily workload.

The Dad on £71 a week Job Seekers' Allowance

A recently unemployed young man sits in front of me and explains that he has split up from his girlfriend "and now she won't let me see the baby". He was a hands-on Dad: there at the birth and fully involved thereafter. The baby is nine months old and says "Dadda". The man is tearful because it has been two weeks and he thought she would come round. Now he suspects she was already seeing

someone else and the new boyfriend does not want him around. He is in a panic and does not know what to do. He is frightened (with reason) of the new boyfriend but even more frightened that he may not see his baby again.

Actually, he will not be sitting in front of me telling me this because there is no longer any legal aid for advice on contact or residence disputes between parents. Previously, I would have referred him to mediation and if that did not work (because the ex refused to go) then we would have applied to court. Eventually, that young man would have been given regular contact and that baby would grow up knowing his father.

He will have to apply to court himself. Who will tell him this, or explain how to go about it? Our receptionist could hand him a leaflet explaining why he cannot see a solicitor and listing the phone numbers and addresses of the local courts. He is likely to become frustrated, depressed and angry. The already overburdened court staff will have their work cut out.

He could snatch the baby and then his ex would be in the same position as he is now. He would not do this because he loves his baby son. Others in his position might take the law into their own hands. What is already a bad situation escalates with police and social services becoming involved at far greater cost than a straightforward contact application.

The divorced Mum

A mother of three had an acrimonious divorce. Her ex had the children for half term and refuses to return them. He lives some distance away. The police are not interested because it is a civil matter between parents and the children are not in any immediate physical danger. Ditto social services. They tell her to see a solicitor. She cannot pay for a solicitor; she is recovering from breast cancer and on benefits.

The ex has money and has applied to court for a residence order. He says she cannot cope. He has already put the children in a new school and bought them an X Box. He has a new partner. Mum will have to represent herself and travel to the court in his area.

Previously, we would have applied for an early court hearing, probably within the week. Now it will take several months and meanwhile the children, aged 6, 8 and 10, may not see or speak to their mother at all during that time. They may settle into school and attach to their step-mother; leaving the court, a year on, with a very difficult decision to make.

This desperate Mum will also be given a leaflet on the Ministry of Justice website to download their guidance. She leaves the office feeling she has lost everything. She cannot sleep for thinking about her children and what they are doing. The children believe their mother has abandoned them. Her eight year-old starts bedwetting. Her six year-old starts hitting children at school.

The devoted grandparents

We are in Wales where grandparents see their grandchildren at least weekly, often daily. They frequently child-mind while the parents work. Now their son has left his partner and she seems to be taking it out on them. She refuses contact to their four year old grandchild whom they used to look after every Friday, often overnight. She refuses to attend mediation. They are heartbroken and know their grandchild must be missing them too. Their son has gone off the rails on 'miaow' and does not seem too bothered.

Grandfather has industrial lung disease. Grandmother has painful arthritis in her hands from years of cutting bones in the local chicken factory. Their grandchild is the light of their life and she was equally attached to them.

A court would almost certainly re-instate contact but there is no legal aid anymore. They are on state pension. They will have to represent themselves. Who will explain all this to them? They are bewildered. They too will be given a leaflet with the addresses of

the courts and a website to download the forms. They do not have a computer. They leave the office feeling old, tired and defeated.

Their grandchild becomes withdrawn at nursery. She will not tell anyone what is wrong for fear of displeasing her mother who has told her not to mention her Dad or his family. She draws the same picture over and over again of her grandparents' dog but will not tell the teacher its name.

The new young Mum

Social services have told a young Mum that her boyfriend, the father of her two month old baby, has a history of violence. She says he has never been violent to her and Social Services cannot give her any specific information on the previous allegations. He has no convictions as the women did not press charges.

Social services tell her that she must end her relationship otherwise they will call a child protection conference. Although she still loves him, frightened young Mum ends her relationship and her ex (who is employed) applies to court for contact, denying the allegations.

Mum is not eligible for legal aid because ex was not violent to her specifically. Social services are still saying that she must oppose his application for contact 'to prove she can protect her child'. They say he is likely to turn violent on her and that is a risk for the baby.

Although social services are calling the shots behind the scenes, they refuse to assist young mum as it is now a 'private law matter between parents'. They will only become involved if the court asks them for a report.

Young Mum is left on her own to attend court. She becomes anxious and upset about the proceedings. The baby has colic. She finds herself screaming at the baby when he won't settle at 3a.m. Maybe she gives him a little shake.....

In all these cases, experienced solicitors would seek to de-fuse the situation, give measured legal advice, reassure clients and, where possible, negotiate a settlement without a final contested hearing or even going to court.

The government, social services, the police and even the courts are probably unaware of just how many cases solicitors successfully filter in this way. Many predict it will take about a year before statistics reveal these cuts to be a false economy. Meanwhile, the risk of emotional harm to children should remain on 'high alert'.

Turning back the clock

The cuts to civil legal aid seriously undermine housing rights, argues solicitor¹ **Robert Jones**.

The Legal Aid and Advice Act 1949 represented a huge advance but during the 1960s its limitations in meeting day to day legal needs of ordinary people became increasingly evident. The television play *"Cathy Come Home"* demonstrated the evil of homelessness and centrality of decent housing in building the good society. New rights such as repairing obligations on landlords under short tenancies, rent rebates, rent registration and much increased protection from eviction under the Rent Acts, meaningful only with legal advice available, led to the opening of law centres and ultimately the Legal Advice and Assistance Act 1972 – the Green Form scheme. This enabled solicitors to give advice and assistance on housing (as well as welfare

benefits, debt, employment and other areas). In 1993 non-solicitor not-for-profit advice agencies, eg CABs, were brought into the Scheme.

Four years after celebrating 60 years of Legal Aid, committed legal aid firms, law centres and not-for-profit advice agencies are all seriously hit by legal aid cuts.

Unless within a service preserved by the 2012 Act, housing advice is lost. Gone is access to advice on status – are you tenant, licensee, or other? if tenant what type? – on which key housing rights depend. Gone is general advice on housing allocation from transfer/ waiting lists, rights to succeed to tenancies, sublet or take lodgers, tenancy deposits and bonds, overcrowding, landlord licensing and safety duties and offences and the role of local authorities.

Gone is any pretence to a pro-active, holistic approach previously urged upon practitioners, an approach bringing comprehensive advice to the linked problems characterising those afflicted by ill-health, poverty, unemployment, family breakdown and chaotic lifestyle. Essentially only emergency services are preserved.

Assistance defending eviction or court orders for possession or sale of a home (excluding squatting but including unlawful eviction and home loss through bankruptcy initiated by a creditor) remains. However, the rules are tightly drawn and early intervention, where alternatives may be explored and negotiated, is seemingly ruled out. What could be preventative work will be turned into crisis management; last ditch emergency action after



time limits have expired will increase.

Homelessness or threatened homelessness (statutorily defined) remains within scope but again early intervention seems ruled out; presently threatened homelessness occurs when accommodation is likely to be lost within 28 days (though the Welsh Government proposes substituting 56 days). A person is treated as having no accommodation if it is unreasonable to continue to occupy their home but when making the difficult argument that premises are so unsuitable that it is not reasonable to continue to occupy them, the client's status is unascertainable until the outcome is known! Homelessness help is restricted to rights within Housing Act 1996, Parts 6 (housing allocation) and 7 (homelessness). It remains to be seen whether *housing* practitioners can advise on accommodation duties under the Children and National Assistance Acts, e.g. for the "homeless intentionally".

Help for occupants of "rented or leased" homes at "serious risk of harm" on health or safety grounds caused by a "deficiency" in the home directed at getting the landlord to reduce or remove the risk remains. When is a "risk" sufficient to be "serious"? Arguably licensees are even outside this limited protection unless "rented" (suggesting the requirement of a tenancy) is given a wide meaning. Damages claims are out: tenants with a substantial claim for enduring years of disrepair misery must go it alone against a professionally represented opponent or forego substantial damages unless a "no win, no fee" arrangement is obtainable.

Help on home adaptations under disability facility grants, assistance with injunctions under the Protection from Harassment Act 1997 and accommodation (together with support) for asylum-seekers stays.

Compared to welfare benefits – out altogether except appeals on a point of law to the Upper Tribunal – housing may seem to have escaped lightly. But this ignores the impact on Housing Benefit, Discretionary Housing Payments and means-tested benefits mortgage interest elements. Kenneth Clarke, then Justice Minister, claimed that some problems within scope needed no legal expertise to resolve. Presumably he had in mind Housing Benefit? Yet in *R v Housing Benefit Review Board for East Devon District Council ex p Gibson*, the late Lord Bingham, a hugely respected senior judge, described the Housing Benefit Regulations as "far from straightforward", sympathising with lay persons who wrestled with them. Moreover practitioners who

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When the benefits system is being turned upside down and entitlement cut back, it is cynical to exclude those most affected and needing help to cope with change.

take cases under legal aid without "sufficient benefit" to the client simply do not get paid.

Eviction action and homelessness frequently start with Housing Benefit decision-making. Where there are rent arrears, practitioners will invariably look at the Housing Benefit situation and consider maximising client income, inevitably involving consideration of potential state benefit entitlement. Who will do this work now? The 2012 Act's restrictions simply encourage poor professional practice and are short-sighted for taxpayers. Is it not more sensible for practitioners to be able to deliver a comprehensive service, putting the client on a firm and stable footing which can prevent homelessness, rather than wait for homelessness to occur, with the attendant social costs to the individual/family concerned and accommodation/support costs on the local housing authority? When the benefits system is being turned upside down and entitlement cut back, it is cynical to exclude those most affected and needing help to cope with change.

Discretionary exceptional funding remains (s.10) but that is really about the UK Government forestalling inequality of arms claims at Strasbourg for breach of Article 6, European Convention on Human Rights rather than anything else.

The Legal Aid Sentencing and Punishment of Offenders Act 2012 is a mean measure, penalising the weak and vulnerable. Exclusion of benefits advice limits the efficacy of advice in other areas as well as cutting the benefits bill. Shirkers and greedy lawyers are not the mischief here: this is a conscious rolling back of the welfare state, leaving in place as little safety net as possible.

1. Former housing and welfare rights specialist now retired from practice

The future of advice and legal support

Bob Chapman, outlines the work of the Low Commission, of which he is a member, on access to advice on social welfare law.

Access to justice, especially for poor and vulnerable people, is an essential ingredient of civil society. Advice and legal support on Social Welfare Law relating to asylum, benefits, community care, debt, employment, housing, immigration and other areas of public law, such as special educational needs and judicial review, are central to ensuring this access. Advice and support services are currently mainly provided by the not-for-profit sector and the private sector, although some local councils also provide direct services on welfare benefits and debt. They are funded by central and local government and by the Welsh Government, through legal aid administered by the Legal Services Commission and through grants and contracts, as well as by charitable trusts and the private sector.

Changes to the scope of legal aid as a result of the *Legal Sentencing and Punishment of Offenders Act 2012*, combined with reductions in central and local government funding, are threatening the provision of these services as never before.

Against this background, the Legal Action Group has established the Low Commission, chaired by Lord Colin Low (a cross-bench peer and disability rights campaigner), with funding from the Baring Foundation and four other trusts. There are nine other commissioners.

The aim of the Commission is to develop a strategy for access to advice and support on Social Welfare Law, which:

- meets the need for the public, particularly the poor and marginalised, to have access to good quality independent advice and legal support;

- is informed by an analysis of the impact of funding changes and by an assessment of what can realistically be delivered and supported in the future;
- influences the thinking and manifestos of the political parties in the run up to the 2015 general election.

The Commission was launched in December 2012 and will collate evidence about demand for advice and support on Social Welfare Law, assess the impact of funding changes, explore different options for future provision including and different options for funding the services, and develop a strategy for the future provision and funding of advice and support on Social Welfare Law. Our aim will be to develop recommendations by September and publish our findings in December 2013.

In terms of our broad approach, we are clear that:

- we must come up with solutions, not just rehearse problems;
- we can't just put the clock back, although there may be a case for arguing for restoration of legal aid in some particular areas;
- we must get the narrative right, finding the right hooks to interest politicians and policymakers;
- we need to engage the wider support of charities representing women, older people, troubled families, younger people, disabled people, black and minority ethnic groups - all of whom are potential beneficiaries of our work;
- our recommendations need to be affordable and realistic.



There is no magic solution and we think it is important to take a comprehensive look at where changes need to take place, rather than just tinkering with present arrangements.

Our strategy is likely to cover focus on five key areas.

1. Reducing demand

Are there ways that we can reduce the need and demand for advice and legal support at the outset, rather than just thinking about how best to meet need? We will explore reducing failure demand by getting things right first time, public education, and early intervention.

2. Simplifying or improving the system

Are there changes that could be made to current procedures which would reduce the need for advice and legal support or help mitigate the impact of reduced advice and legal support? Possibilities include systems thinking, improving the way particular aspects of the system are run, and alternative approaches to dispute resolution.

3. Developing provision

No one approach is going to be appropriate for all situations. We are likely to need tiers of provision comprising: generalist advice and information embedded at community level, perhaps involving a wider range of community based agencies than hitherto; web-based information; and helplines; all backed up by a network of specialist legal support, including national support to providers, as well as access to face to face support where it is most

needed. We will look at making better use of new technology and for those without access to new technology we will explore different forms of digital assistance, including trusted intermediaries. More joined up working, the role of the private sector, trade unions and pro bono work, support for litigants in person and self-representation will also be included.

In all our thinking about forms and patterns of provision, we need to try and ensure the continuation of generalist and specialist provision, as well as ensuring the quality of advice provision, appropriate forms of national support, the retention of skills and expertise, the provision of independent, as well as government advice, and the role of strategic work aimed at improving the system.

4. Funding for provision

We need to look at how to make the best of continuing sources of funding, as well as exploring potential new sources. This will include continuing sources of funding, new sources, including perhaps the NHS, Housing Associations and other sources, such as a national scheme for Interest on Lawyer Trust Accounts, increase in contingency fee arrangements, paid-for advice, insurance, new funding approaches such as “polluter pays” or “invest to save”- type mechanisms, new approaches to commissioning and Social Impact Bonds.

5. Making the case for investment

In addition we need to be able to make the case for a more strategic approach to investment in advice and legal support. The case must demonstrate the impact of the provision of advice and legal support on the lives of service users and make the business case for investment, through saving costs down the line (homelessness, unemployment) and generating income (tax on earnings). It will also need to make the case for reducing the system overload that could result from the introduction of the welfare reforms, make the case for particular Government departments to support advice work which will help promote their own objectives and argue the case for the complementary role of the Big Lottery Fund and of Trusts and Foundations.

This work comes at a time when the Welsh Government is reviewing advice services in Wales – the Commission will look with interest at the findings of the review when it is published in the spring. *For further information and to submit evidence to the Low Commission go to: www.lowcommission.org.uk*



Illustration: Judy Stevens

Has the time come for a public legal education service in Wales?
Clare Shirtcliff who works for Advicenow, says there are lessons to be learned from Canada.

Do it yourself?

I've recently returned from Canada, where I spent five weeks visiting public legal education projects in British Columbia, Alberta, Ontario and Quebec to find out more about how Canadian citizens are equipped with the knowledge, skills and confidence to help them resolve everyday legal problems.¹

I was particularly interested in how they help people without legal representation to represent themselves. We face a large increase in the number of people in this position in Wales from April 2013 because of changes to our legal aid system. Broadly speaking these changes will radically reduce and in some cases completely eliminate publicly funded legal services in both family law and what has come to be referred to as 'social welfare' law (the areas of debt, welfare benefits, housing, employment, education and immigration). Many more people will face the prospect of having to deal with everyday legal problems without free or contributory legal advice, assistance and representation.

If they get involved in court proceedings, more people may decide that they have no option but to represent themselves. This will add to the number of

self-represented litigants that already exist in our court system.

People who represent themselves in the Canadian legal system are called 'self-represented litigants'. In England and Wales, the formal term is 'litigants in person' but people also talk about 'self represented parties' as well as 'self represented litigants'. The bottom line is that we're talking about people without legal representation – through choice or necessity.

The Canadian provinces I visited have already seen an increase in self-represented litigants, largely as a result of significant cuts to legal aid. In some provinces there's also a shortage of lawyers, particularly in areas such as family law. So even if people have the money to pay for a lawyer, there's a real chance they'll end up having to represent themselves.

The effect of increasing numbers of people representing themselves on the court system has been noticeable. It slows everything down, things take longer and there are more delays.

Lawyers are used less and less, basically only by those with money. The legal system is changing as a

result, slowly but surely. Judges have to ask more direct questions to find out the information they need because people who represent themselves often don't understand what it is they need to tell them.

Some people view the increase in self-represented litigants as demonstrating that more people understand they can do something to help themselves and what to do. At the same time there is also concern that other people end up not asserting their rights or tolerating things they shouldn't have to because of the difficulties of being unrepresented.

So how are self-represented litigants helped in Canada? Here's an idea of the service offered by just one organisation I visited. The Vancouver Justice Access Centre² helps members of the public involved in court proceedings. They focus on solving problems by helping people to settle their cases and preparing those who do go to court. Approximately 75 per cent of people coming to it want help with family law. The Centre is based in the Provincial Court building and open Monday to Fridays. It has eighteen Ministry of Justice staff but also houses staff from other government and non-government organisations that provide services to their clients. These organisations include the Family Duty Counsel Program provided by the Legal Services Society, the Credit Counselling Society and Mediate BC. There are also a number of organisations that run clinics at the Centre, for example, Access Pro Bono and a paralegal organisation whose volunteer paralegals will actually do tasks for self-represented litigants (e.g. draft an affidavit, fill in a form) under the supervision of an Access Pro Bono lawyer.

The Vancouver Justice Access Centre also houses the Self-Help and Information Service³ which consists of a large open plan room with six public access computers at separate desks together with a networked printer, staplers, binders, and hole punches. People use the computers to do online research and word processing. There's a resource library, including videos and booklets. There are also some small meeting tables and chairs available for people to use as they wish. There is one staff desk in the room and two others in an attached office. The three members of staff (Civil and Family Justice Coordinators) are in and out of the room, actively offering to help people but in a way that makes it clear that it is the visitor's case and they are not there to take it over. Their job is to identify the problem and then link the client to the services they need.

Staff help people with a range of tasks such as finding publications that explain the law in plain language, including many in languages other than

English; finding useful websites and self-help guides; getting information about government services and agencies; understanding court forms and with copying or faxing forms and other materials.

A prominent poster on the wall explains what they can and cannot do for people; essentially highlighting the difference between legal information and legal advice. So staff can answer questions about procedures in court; give people information about and refer them to out of court options such as mediation; provide court forms and instructions; tell people if they have filled in the required sections of a court form; make a photocopy of court documents people prepare at the centre; tell people about free legal courses that are available to the public; provide people with information on how to access free legal advice; and book an appointment at a free legal advice clinic if someone is eligible.

However there are limitations to the service. Staff can't tell people whether or not they should be bringing their case to court, if they have a good case, which documents to file in court, what words to use in a form or what to say in court or at a hearing. They also can't give people a legal opinion or advice about their case, interpret advice given by someone else or talk to a judge on their behalf.

The service was much needed and the dedicated and hard-working staff clearly assisted those self-represented litigants that managed to get to them to make a better job of representing themselves than they would have done without help.

Do we need to set up a similar service in Wales? Would we better off extending the remit of existing services? What would such a service look like? How would it reach the people who are so unconfident, overwhelmed or nervous that they don't turn up at a court looking for help? Where would the funding come from?

These are all questions that need to be discussed. And at the same time, we mustn't forget that public legal education has a big role to play in preventing people getting into difficulties in the first place or dealing with problems at an early stage, so avoiding courts altogether where possible.

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...identify the problem and then link the client to the services they need.

1. Thanks to the Winston Churchill Memorial Trust (www.wcmt.org.uk) for providing a Travelling Fellowship. The full report is available at <http://goo.gl/hkTOz>.
2. <http://www.ag.gov.bc.ca/justice-access-centre/vancouver/index.htm>
3. <http://www.supremecourtsselfhelp.bc.ca/index.htm>

Whose benefit?

Lessons from direct payments

The move to Universal Credit poses a huge challenge for tenants and landlords, predicts Duncan Forbes, Chief Executive of Bron Afon Community Housing.

Plans to end the payment of Housing Benefit direct to landlords once Universal Credit is introduced from October 2013 are causing concern to housing association and local authority landlords. In future, the vast majority of working age tenants of housing associations and local authorities receiving the new Universal Credit will be responsible for making their own rent payments to landlords. Some vulnerable tenants and pensioners will continue to have their housing costs paid direct to their landlord though no decision has yet been made on what criteria will be used to identify tenants as “vulnerable”.

The Government argues that these so-called Direct Payments will give benefit claimants increased financial responsibility, making it easier for them to make the move into work.

A number of demonstration projects are testing how tenants manage monthly payments of Housing Benefit and are exploring what kind of support they need to move to the new system. Preliminary findings from these projects, which included one in Torfaen, indicate serious challenges for both tenants and landlords.

The project’s investigations include:

- different levels of support tenants may need, such as advice on managing personal finances and budgeting;
- the exemptions that need to be in place for Direct Payments;
- payment switch-backs to the landlord if a tenant falls into arrears;
- the support to help tenants to pay back any arrears and to potentially return to Direct Payments;
- early intervention switch-backs before arrears reach trigger points.

During the project some tenants of housing associations and local authorities will be receiving their Housing Benefit monthly and paid directly to them for the first time. For tenants the move to Direct Payments raises several issues. These include the ability to receive Housing Benefit and pass it on to their landlord, which may mean having a bank account for the first time, and effective budgeting so that Housing Benefit intended for rent isn’t used for other bills. Many tenants (and possibly their support providers) may not have dealt with these issues in the past, and therefore providing advice and support to tackle these issues is essential.

In the case of Bron Afon, 435 households were involved in the first wave of the project. These were chosen because they were considered to be best placed to manage Direct Payments. However, in the results published up to December 2012, Bron Afon saw tenants’ indebtedness increase at least four-fold, with the average arrears increasing from £50 in June to £200 by October. One in eight of these tenants had been switched back to landlord payment with a debt of up to eight weeks rent to clear. The most that can be deducted from a tenant’s benefits to repay rent arrears is £3.55 a week, so it is likely to take a tenant who owes £200 one year to clear their debt, while a tenant who owes eight weeks rent (£600) will take three years to repay their arrears, assuming they don’t miss any further payments.

Whether a tenant pays their rent or not may well depend on what is happening in their life on the day that the money goes into their bank account and whether a desperate need to spend on some other necessity arises. The decision whether or not to pay the landlord or use the benefit on something else is now in their hands.

There is ample research evidence of the difficulties

that tenants face due to living on low incomes. A study undertaken for Policis on behalf of the National Housing Federation found that 29 per cent of working age social tenants felt they would struggle to cope with Direct Payments, and would appear both vulnerable and already highly stressed. The baseline survey of tenants involved in the demonstration project commissioned by the Department for Work and Pensions found that 51 per cent of tenants struggled with their household budget during the last year. It also found that 95 per cent of the tenants in Torfaen who were participating in the demonstration project did not have any savings. It is no surprise, then, that the temptation to use the money to meet other apparently more pressing needs will be strong. One tenant explained that they had used the money to

Mounting arrears can cause major problems for landlords in the social sector. The situation will deteriorate further after April with the introduction of the under-occupation rules (dubbed the “bedroom tax”) which is expected to affect 1,300 of Bron Afon’s 3,000 working age tenants. Apart from rising rent arrears landlords are seeing their rent collection costs increasing. In the case of the demonstration project, one member of Bron Afon’s staff is deployed on the project for every 160 tenants, many times the staffing level for recovery of rent from those tenants not within the project. It is anticipated that as more vulnerable tenants receive their Housing Benefit in future phases of the project, there is likely to be increasing pressure on collection costs and resources in the weeks ahead.

Whilst Credit Union accounts have been a success



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51 per cent of tenants struggled with their household budget during the last year

buy a washing machine. If you have no savings, you cannot even afford to have the cooker or fridge fixed or to replace it if it breaks down without using money destined for another essential or borrowing. Perhaps it is no surprise that pay day loan providers are expecting their businesses to flourish.

Many tenants have set up an account purely to receive the Housing Benefit and pass it on to Bron Afon. In a few cases there has been a clear lack of understanding about how bank accounts and Direct Debits work. Some tenants have thought that the Housing Benefit would automatically transfer to Bron Afon, whilst others set up a standing order and then made the rent payment using their swipe card.

as the payment is guaranteed to get to the tenant’s rent account, the downside of using the Credit Union is the £5 monthly fee that is currently being paid by Bron Afon for each account.

Researchers commissioned by the Department of Work and Pensions are capturing the lessons to be learned from the demonstration project. It is still early days, but by December 2012 Bron Afon had identified that a significant minority of tenants will require ongoing support to cope with Direct Payments.

The move to Universal Credit will undoubtedly pose a huge challenge for both tenants and landlords. Watch this space!

Smoking is the greatest preventable threat to public health. Jeremy Felvus, Senior Government Affairs Manager at Pfizer Ltd, argues that more needs to be done to help smokers who want to quit.

Our greatest health challenge

Smoking is arguably the greatest preventable threat to public health in Wales. It disproportionately affects those from deprived sectors of society, is the largest single preventable cause of ill health and accounts for seven per cent of total NHS expenditure. The Tobacco Control Action Plan for Wales (TCAP) can therefore be seen as the Welsh Government's most important public health action to date.

In line with most public health policy, the TCAP tries to balance immediate treatment with longer term prevention. Whilst longer term health promotion is important, if Wales is to achieve the ambitious aims of the TCAP and see smoking prevalence rates fall to 20 per cent by 2016 and 16 per cent by 2020, it must take immediate, widespread and sustained action to support current smokers to quit now. Crude estimates suggest that as many 20,000 quitters per year will be needed to achieve the targets.

The TCAP recognises the scale of the challenge it sets and correctly describes how leadership is key to success. A variety of leaders are identified, particularly at national level the Tobacco Control Delivery Implementation Board and at local level the Directors of Public Health. Arguably, there is a third leader that evidence shows is crucial if Welsh Government is to achieve its vision of a smoke-free society for Wales - the local General Practitioner (GP).

In 2010 Pfizer commissioned the Bevan Foundation to research perceptions of services to support smoking cessation, as a response to the draft TCAP. This highlighted that amongst health professions there was a lack of awareness of and compliance with the most authoritative guidance (by NICE) on quitting. It

also demonstrated that the current configuration of services in which Stop Smoking Wales is central and GPs are peripheral may not be optimal for potential quitters. This research allowed policy makers, perhaps for the first time, to see how important GPs are to quitters.

The rate of decline in smoking prevalence has now plateaued - if we are to see a further decline there must be greater focus on sub-groups within the smoking population and in particular, on smokers in lower socio-economic groups. The TCAP shows a gradient running from the lowest rates of smoking prevalence at 14 per cent in the least deprived communities of Wales to more than three times this rate in the most deprived, at 44 per cent.

Last year Pfizer commissioned the Bevan Foundation to undertake further research on the attitudes and experiences of smokers from lower socio-economic groups in Wales. The findings were consistent with previous research, notably that the gap between highest and lowest socio-economic groups is large and widening, and that the majority of smokers do want to quit. As an aside, a significant minority - 27 per cent - did not want to quit which raises the question for policy-makers as to how much resource is expended on this group when there are so many willing quitters.

The research also uncovered a host of new insights. It found that lower socio-economic groups are most likely to use the least effective methods of quitting (unaided or nicotine replacement therapy alone), that failed quit attempts decrease the chances of a future successful quit and that alternatives to group-based methods of quitting are essential. It concluded that smoking cessation services need to be able to respond to differing individual needs if they are to be effective. As part of this, there is scope to increase GP engagement.

Quitting smoking is not easy and staying quit is similarly difficult. For all types of support there are differences in effectiveness, but authoritative guidance from NICE suggests that all interventions are cost-effective and should be available. This chimes with our findings that support should be tailored to individual smokers' experiences and circumstances.

Implementation will determine the ultimate success of the TCAP, as the First Minister, Carwyn Jones, recognised when he said that his government would "focus on delivery".

Given the scale of the challenge it seems obvious that everyone who can make a contribution to the smoking cessation effort must do so. All Health Boards were required to develop their own local implementation plans. Although the pharmaceutical

industry is not recognised as a formal partner in this, at Pfizer we believe we can also play a part. Not only have we funded research that has hopefully enabled Welsh Government and Health Boards to identify key issues, our experience of working at both policy and practitioner levels in this field across the UK can bring additional insights and resource. We too have a real interest in seeing the TCAP succeed.

With this in mind, we supported a “best practice” seminar in July 2012 with sessions covering public health, maternity, hospital, community pharmacy and general practice. Some common themes emerged.

First, a focus on achieving a reduction in smoking prevalence rates in all Health Boards is essential. Leadership on this rests with the Director of Public Health, but it must be built into the Health Boards’ performance management reviews to ensure sufficient attention is paid by boards. The Tobacco Control

Delivery Implementation Board could monitor performance.

Second, there must be a focus on lower socio-economic groups, which are both the hardest to reach group and the most in need of support. The overall targets will not be achieved if prevalence rates in this group are not significantly reduced, so Health Boards must direct resources to them.

Third, the particular needs and preferences of lower socio-economic groups should be acknowledged. There need to be different, more imaginative methods of delivering smoking cessation support. There must be a recognition that individuals require individual consideration. Crucially, when people present as potential quitters there must be an immediate response rather than deferring support to another day or another service.

Fourth, local services must be geared up to deliver in this fashion. Health Boards should follow NICE guidance by making all therapeutic options available, but more importantly engaging GPs in the process. This may require Health Boards to revisit what they expect from GPs for their smoking cessation payments under the QOF scheme. As part of this, the positioning and offerings of the Stop Smoking Wales service should be re-considered.

Wales has a huge challenge, a reasonable plan, good evidence of what works and a growing understanding of where to focus efforts. Whilst everyone must play their part there must be an increased focus on people in lower socio-economic groups and deprived communities and on how GPs can do more to support potential quitters.

How to bring this about? Health Boards have many priorities, but there is no greater public health challenge than smoking. Boards must prioritise a reduction in smoking prevalence in their areas and in particular task their Directors of Public Health with motivating the local GP community to lead the fight. Everyone must play their part.

Declaration of interest

Jeremy Felvus works for Pfizer Ltd who developed and promote a smoking cessation treatment. Summaries of the Bevan Foundation’s research are available on www.bevanfoundation.org – the full reports are available on request.



Defending ‘local’

Bigger authorities are not necessarily better, argues Paul Griffiths a public services consultant, looking at data on education.

There is a proposition widely circulating Wales that we would be better off with less local government – fewer, larger local authorities with fewer, less significant functions. Wouldn't it be sensible if the Welsh Government ran schools? Wouldn't it be good if the NHS ran social services? Wouldn't seven local authorities be cheaper and better than twenty two?



local government

The major problem with this proposition is that there is no evidence to indicate that bigger government is better than smaller government – no evidence that bigger government is any cheaper or that it achieves any better results. Researchers after researchers have scoured the globe to test whether the size of the unit of public service delivery correlates with efficiency or performance and the conclusion is always the same – size does not matter.

At the moment much of the debate about size relates to the support provided to schools. There is a justifiable lament that our educational attainment does not compare well with some parts of Europe and Asia, and that our current rate of improvement is not as great as that in England. The argument seems to follow that we need bigger units of administration to support schools – to do the property and financial management, provide the catering, organise the school buses, provide for additional learning needs, challenge and support performance improvement.

Let's just check that argument against some of the evidence available. The leading European country on all the different available measures of educational performance is Finland. Here responsibility for all forms of education, other than universities, lies with its 342 local authorities which have an average population size of less than 20,000. In contrast the average population size of a local authority in Wales is over 130,000 – over six times the size of those in Finland. In case anyone thinks that Finland is

somehow unique, Swedish local authorities have an average population size of just over 30,000. These small local authorities are responsible for far more than our local authorities in Wales, raising most of their own revenues and running the health service. Of course local authorities in both Finland and Sweden have a wide array of arrangements for working together to achieve their purposes; but in all these arrangements they ensure that responsibility and accountability stay local.

I am not arguing that Finland's local authorities are successful because of their small size. Instead, I believe that Finnish schools are successful because of the high levels of financial and cultural investment in schools and teachers and because of the comparatively low levels of inequality in that country. But I am arguing that successful schools can be consistent with comparatively small local authorities.

Our current Education Minister, Leighton Andrews, is to be commended for putting the performance management of our schools at the heart of our endeavours. For far too long, school performance was seen as a no-go area for local authorities and civil servants. The new school banding system, which allows schools to be appraised according to both their exam results and socio-economic backgrounds, is a very powerful tool.

We can test the impact of the size of local authority in Wales on the banding achieved by schools in each local authority area. The table below shows the population of each local authority and calculates the average band achieved by the secondary schools in each local authority. So, for example, Neath Port Talbot has, on this measure, the best performing schools in Wales with an average band of 1.72. In contrast Merthyr Tydfil has, on this measure, the worst performing schools in Wales with an average band of 4. No measure captures all the complexities of reality but this measure is useful for this purpose.

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The new school banding system, which allows schools to be appraised according to both their exam results and socio-economic backgrounds, is a very powerful tool.





| | Population | Average School Band |
|-------------------|------------|---------------------|
| Cardiff | 345,400 | 3.3 |
| Swansea | 238,700 | 2.07 |
| RCT | 234,000 | 3.95 |
| Carmarthenshire | 184,000 | 3.56 |
| Caerphilly | 178,800 | 3 |
| Flintshire | 152,700 | 2.5 |
| Newport | 145,800 | 3.12 |
| Neath Port Talbot | 139,900 | 1.73 |
| Bridgend | 139,400 | 3 |
| Wrexham | 135,100 | 3.55 |
| Powys | 133,100 | 2.92 |
| Vale of Glamorgan | 126,700 | 2.62 |
| Pembrokeshire | 122,600 | 2.37 |
| Gwynedd | 121,500 | 2.78 |
| Conwy | 115,300 | 3 |
| Denbighshire | 93,900 | 2.12 |
| Monmouthshire | 91,500 | 3.75 |
| Torfaen | 91,200 | 3.86 |
| Ceredigion | 75,300 | 3.29 |
| Anglesey | 69,900 | 2.6 |
| Blaenau Gwent | 69,800 | 3.75 |
| Merthyr Tydfil | 58,900 | 4 |

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throughout the world small local authorities are effective when they work together to share specialist tasks.

The figures are consistent with all other research – there is no significant correlation between the population size of the local authorities and the performance of its schools. Size does not matter.

So, if making things bigger does not make things better, what should we do to improve attainment in our schools? A key step forward will be to support all

the steps being taken to achieve better performance management. When I enter schools I find a transformation in the regard for data – teachers, team leaders, heads and governors in schools are identifying and following the data to foster success and focus efforts where the need for improvement is greatest. At last, the weaker local authorities are following the best to improve their performance

management – and the current Minister must take much of the credit.

The recently-established four consortia of education authorities have the remit of informing local authority directors, heads and governors of the performance of each part of each school and then focussing support where the greatest gains can be made. This is a critically important innovation – throughout the world small local authorities are effective when they work together to share specialist tasks. This is what these consortia will do in supporting better performance management

The recent Estyn report on Merthyr Tydfil identified a local authority which has good partnerships with local schools but has almost zero regard for its performance management responsibilities. There is little to suggest that creating a larger unit of administration will answer the problem. Using the school improvement consortia to provide robust challenge and support for Merthyr’s schools and local authority would be the Finnish way forward.

Alongside good performance management, the quality of leadership matters. This is sometimes used to argue for fewer, larger local authorities - if we have only a few effective leaders then the answer would be to give them larger organisations to lead. Practice rarely bears out this proposition. Take an effective leader in one setting and ask that person to perform in a larger setting and their effectiveness all too often diminishes. A more realistic answer is deliberately to develop leadership potential within schools and local authorities – more leaders working at the right level rather fewer leaders working at the wrong level.

If small, ‘local’, local authorities are no worse but no better than large units of administration the question may be asked: “why are they worth defending?” The progressive politics of Wales over the past century or more has been based on a view that collective action can positively support individuals in their various social and economic endeavours – that government can be a good thing. If government were to become ever more detached from our communities, my fear is that government would be less positively regarded. We would begin to mimic the atomised and market driven, unequal relations that have increasingly characterised our neighbours in England over the past few decades.



Ebbw Vale Primary School

Improving English and Mathematics attainment

Lizzie Swaffield, David Egan and Danny Saunders outline how the Heads of the Valleys Education Programme is raising educational attainment in some of Wales's most disadvantaged communities.

Turning Heads, published in 2006, is the Welsh Government's overarching strategy for regeneration in the Heads of the Valleys. In 2009, the Welsh Government created the Heads of the Valleys Education Programme (HOVEP) to drive forward improvement in educational attainment which many hope will be the catalyst for regeneration.

One of the key challenges within the Heads of the Valleys is low attainment by 15 year olds. The current (2011) attainment levels for the "Level 2 Inclusive" threshold (five GCSE qualifications at grades A*-C including English/Welsh and Mathematics) are 35 per



...the study also emphasised the sharing of these elements by all effective schools and warned that there is no “magic bullet” or single intervention that schools can use to increase attainment at level 2

cent of students in Blaenau Gwent and 39 per cent in Merthyr Tydfil, compared with 50 per cent for Wales. The HOVEP target is far more ambitious: no less than 70 per cent of students gaining these qualifications by 2020.

In the short term, low attainment levels pose major problems for tertiary and higher education providers, because school-leavers who have potential do not have the entry qualifications for more advanced study.

In the longer term, they reduce overall employment prospects through not having a highly-skilled workforce fit for the twenty first century.

The challenge is not simply about GCSE attainment – it is also the consequence of a more prolonged educational journey. The reduction of a worrying poverty gap in educational achievement is paramount, especially through developing professional learning communities based on the sharing of good practice.

It is not as though the challenges are impossible – they can be achieved as Ofsted’s case studies of 12 schools working very successfully in disadvantaged English regions for years under very challenging circumstances show. The pupils in these schools are far more likely to experience poverty (as measured through eligibility for free school meals), to have lower levels of parental support for learning, to be irregular in attendance, to experience emotional and psychological difficulties, and to be more prone to gang culture. Despite these circumstances the schools consistently secured outstanding inspection reports over a sustained period, and demonstrated upward trajectories for attainment by young people as they move through key stages 2-4. In the words of Ofsted these case studies “defy the association of poverty with outcomes; they enable such young people to succeed and reduce their disadvantage”. If areas of poverty in England can do this then so can schools in the Heads of the Valleys.

HOVEP has commissioned a review of good practice in a sample of eight schools across South Wales, using evidence from Estyn inspection reports, interviews with senior leadership teams, and case

studies of a mix of improving and successful secondary schools.

The conclusions emphasised the importance of inspirational and energetic senior leadership plus strong middle management, together with the delegation of significant responsibilities to prominent teaching staff – all accompanied by professional development. In every case a pronounced learning and teaching ethos emerged through partnership working with other stakeholders, especially feeder primary schools. There was also advanced and effective use of data so that everyone knew what pupils had achieved in the past, are achieving in the present, and should achieve in the future. The senior leadership teams recognized the value of detailed and comprehensive pastoral support, and set high standards for attainment alongside rigorous self evaluation of performance through regular monitoring.

The study identified the key elements for an effective school in the Heads of the Valleys: focused leadership cultivating high expectations, wider curriculum choice and flexibility, embedding basic skills throughout the curriculum, ensuring and enhancing the quality of teaching, providing effective intervention and support, using monitoring data and self-evaluation, working with primary schools and other learning providers, and building professional development strategies. Crucially, the study also emphasised the sharing of these elements by all effective schools and warned that there is no “magic bullet” or single intervention that schools can use to increase attainment at level 2.

HOVEP has acted on these recommendations and its *Level 2 Inclusive Strategy* focuses on improved attainment in English and Mathematics in eight secondary schools.

First, enhanced support for student learning is being provided by universities in South East Wales, focusing on within-school student mentoring for individual students in years 9-11 (13-16 year olds) who are estimated to achieve borderline D/C results in English and Mathematics. There is also potential for direct mentoring and tutoring support by undergraduates, which is reinforced through accreditation of the undergraduate’s activity thereby strengthening their employability profiles and CVs.



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...success depends on the efforts and ownership of the Level 2 Inclusive Strategy by the schools in their entirety

Second, teaching and leadership in the eight schools is strengthened by building up a middle management professional learning community involving Heads of Department of English and Mathematics. The

programme is being led by two former secondary head teachers with reputations for leading outstanding schools. There is a strong emphasis on the forensic use of data, tracking, early intervention, and effective approaches to learning and teaching.

In addition, outstanding teachers are nominated to receive practical training; they are then expected to embed their experience by developing coaching capacity within their respective schools, cascading good practice to colleagues.

This is a challenging work programme. There are many issues to be negotiated, including raising the attainment levels for 14 year old boys at the end of key stage three, avoiding counter-productive division within year groups based on the identification of C/D borderline groups, ensuring that accurate and coherent data are easily and readily available, managing school timetables and class sizes, and responding quickly to recent curriculum changes

announced by the WJEC for the English GCSE.

Perhaps the most significant interest within the professional community is that success depends on the efforts and ownership of the Level 2 Inclusive Strategy by the schools in their entirety, rather than placing all of the responsibility for action on the English or Welsh and Mathematics Departments. This point is predicated on the knock-on effects of improvement in literacy and numeracy raising attainment levels in other GCSE subjects.

Examples from elsewhere show that successful schools demonstrate improvement in attainment for students over a sustained period of time. There are few dips in performance; instead there is a persistent and upward trajectory, despite the challenging circumstances of learners. HOVEP is focusing on Level 2 performance as a key indicator given its importance for post 16 education and training, but there is also widespread recognition of continuity and support for learning before and after level 2. These proposals are therefore embedded within an overall HOVEP work programme. This includes alignment to new school consortia and regional funding arrangements plus integration with national policy for 14-19 provision and learner support – including implementation of policies emerging from the Welsh Government’s recent Review of Qualifications.

Philosophy for all

Learning philosophy supports democracy, argues **Rod Cunningham**, an education consultant.

Philosophy for children, communities and colleges (P4C for short) is a practice designed to develop the capacity to think creatively and critically with other people. It involves establishing of “communities of enquiry”, where the participants build on each other’s ideas, subject arguments to scrutiny and support each other in the development of understanding around issues of importance to the participants themselves.

The essence of the practice is the formulation of good questions by the participants which then act as a basis for dialogue and discussion. The aim is not to reach a definitive answer to the questions but rather to explore underlying concepts leading to greater awareness of a range of opinions, beliefs and viewpoints.

P4C develops the capacities necessary for a genuine, deliberative democracy in that it rehearses the skills of listening, of argumentation and of dialogue. Such collaborative activity leads to a greater tolerance of views at the same time as building confidence and emotional intelligence. This leads to more balanced and thoughtful judgements about issues of importance and consequently to better democracy. P4C is not really about philosophy but could better be described as ‘doing practical philosophy’. Not only is the practice effective in the ways outlined above but it is also very enjoyable.

In the UK, P4C is promoted by a charity called SAPERE. The original practice focused on school-aged children but has recently expanded to include community groups and students in universities and colleges.

The practice of P4C was developed in New Jersey schools around 40 years ago by Matthew Lipman. He showed that children as young as five or six can happily engage in discussions about ‘big issues’ when such discussion originates from within their own experience. Philosophy for children is now practised in over fifty countries.

A P4C session usually starts with a story or a

picture which gets people thinking. Participants are invited to reflect, discuss and produce questions. These questions are considered by the group and one is chosen to be the focus for discussion. Apart from discussion, games and puzzles are used to get people moving around, mixing and to keep the atmosphere light. The main activity in P4C involves following enquiries arising from pupils’ own puzzlement.

Children’s literature is often used as a stimulus in P4C since selected examples address issues important to young people, such as: friendship, identity, relationships with others, place in the world, etc. Stories are very important and highly motivating to most people.

Crucially P4C is not aimed at inculcating any particular moral teaching, what it does is assist participants to think and speak intelligently about issues that are important to them, thereby promoting critical and creative thought and the ability to make good judgements within a collaborative and caring environment.

In communities, Community Philosophy is a growing movement in which voluntary groups in civil society engage with philosophical thinking and action. It is practiced by a wide range of groups, from older people through the work of Age UK, within Philosophy in Pubs, the youth and community sector, and by housing associations. Community Philosophy provides spaces, resources and expertise that enable local people to join, form, and sustain self-determining, democratic thinking communities. These groups have already helped many individuals and communities develop their thinking skills and dispositions, deepen their own thinking and that of others, and explore thinking as a practical tool for engagement in community and cultural life. Community Philosophy brings people together, gives them a chance to access practical, transformational philosophy, develop a thoughtful, purposeful voice, and take pleasure in these collaborative activities.

Community Philosophy employs practices from the



In Community Philosophy there is an emphasis on the potential for group self-determination and thoughtful social action

community of enquiry approach used in school-based Philosophy for Children. As with P4C in schools, a stimulus may be chosen to initiate thinking and questioning. Alternatively, in Community Philosophy, topics may be chosen in advance, based on the issues that those working in the community have gleaned through everyday dialogue with local people or that have emerged through previous enquiry.

As with P4C in schools, supportive and challenging philosophical dialogue is facilitated with the aim of exploring the ideas and concepts that emerge. In Community Philosophy there is an emphasis on the potential for group self-determination and thoughtful social action. The Practical Thinking Model and the Stages of Community Philosophy reflect the action oriented, democratic and locally focused nature of the enterprise.

Community Philosophy aims:

- to support the practice of Community Philosophy through developing self-determining and self-sustaining democratic communities of philosophical enquiry and action.
- to help individuals and communities develop

philosophical enquiry as a practical tool for engagement and action in community and cultural life.

- to promote the creative, collaborative and caring aspects of philosophical enquiry, whilst developing critical, independent and reflective thinking.
- to make philosophy an accessible, purposeful and pleasurable means to the promotion of personal and community well-being.

A number of universities offer modules on the facilitation of P4C as part of their initial teacher training courses. The practice is seen as a valuable addition to the toolbox of teaching strategies and as useful development of the teachers' own capacities for critical and creative thinking. The reflective nature of P4C makes it ideal as a basis for action research and on going learning and improvement. There is a significant body of research now available on the effectiveness of P4C in schools and links with higher education institutions will add to this and to research on P4C in other contexts.

Rod Cunningham welcomes further discussion
via vron.rod@btinternet.com



Food for thought

The community canteen

The Abergavenny Community Canteen enables people to share making and eating food as well as furthering community action and awareness. **Gill Parsons** and **Jeremy Gass**, both canteen 'regulars', explain how it works.

Every September, Abergavenny overflows with people attending and participating in the annual Food Festival. This success has turned it into a national event drawing visitors from 'the great and the good' of the food world to humble day trippers living nearby. But the town has also spawned another food event, the Community Canteen, inspired by local people wanting to bring together food and the politics that link its production and consumption. A wider audience of interest is also emerging as people in other parts of the country and beyond want to know more about how it works and how to create similar events in their areas and countries. Of course, compared to the Food Festival the Community Canteen is small beer, but it is an idea that is coming of its time in an austere and disconnected age.

So how does the canteen differ from other eating out experiences?

Firstly, everyone attending is potentially a 'canteener' playing a role in the creation of the event and the experience of the evening. At some time a diner may well have helped out in preparing the meal or taken the lead on making or planning it; been part of the entertainment; got the room ready or picked flowers for table decorations; done the washing up; put the tables and chairs away or swept up at the end of the evening.

The mechanics of the Community Canteen reach

beyond the simple headline of people joining together to cook and eat. Some basic principles include using locally produced or fairly-traded food and, where possible, organically-grown ingredients: all the vegetables are bought from a local organic farm. The meals are vegetarian or vegan, or at the least always include a vegan option. Interestingly many of the diners are not vegetarians and certainly not vegan, but no concerns have been voiced that meals are not 'proper' food. It has become a stereotype that meat-eaters are somehow disadvantaged and short-changed by being exposed to vegetarian or vegan food. The canteen offers an inclusive approach to the eating and cooking of food where 'the alternative' is not dismissed as 'cranky'. Most canteeners describe the food as delicious and many have been introduced to recipes from as far afield as North and sub-Saharan Africa, Thailand, Italy and Spain as well as Wales.

Minimising waste and other environmental concerns also 'spin off' from this approach. Time and experience mean there is little left-over food, but when there is, it is always taken away by grateful canteeners. All vegetable peelings are composted as a matter of course. On one occasion these peelings were collected for the next meal and used to make a vegetable stock for the Thai curry – taking recycling to a whole new level!

Entertainment is also part of the evening: usually provided between courses and spanning the gamut of performance art. The canteen provides a platform for professional and amateur performers usually from within the local community and has included solo performers, a jazz trio, singing groups, a poet and a story teller. In keeping with all the other roles guest entertainers will at the least be diners too.

The food and hire of the hall costs from £2.50 to £3.00 per person but diners can choose to donate more to the chosen cause for the evening: each canteen supports a different organisation from a list of suggestions collected at previous events. These are mostly humanitarian or environmental organisations, with interests ranging from local issues to global concerns. Victims of the chemical disaster in Bhopal, Medical Aid for Palestinians and a group establishing a nearby community orchard are just some of the causes. Gaining financial support from the canteen is not just about turning up with a collection tin, someone has to advocate on behalf of the cause explaining its relevance and how the money raised is to be used. While this may look like 'armchair activism', it not only educates but also successfully provides activities for people to become involved

with. It is both localism and inclusiveness in action as people become more politicised and socially engaged in their community.

As awareness of the canteen has grown so too have the numbers of invites, bookings and volunteers. The camaraderie from working in the kitchen to turning up as a diner makes for an unusual and unfamiliar evening out. As Maria, a regular attender explains: "...being involved with the cooking is great fun and the chance to chat and socialise and even learn something new, it didn't feel like a chore just an extension of the experience." For canteeners, the activities of cooking and eating bring a shared purpose, turning people from being simply consumers disengaged from the origins of the food to active producers of the event.

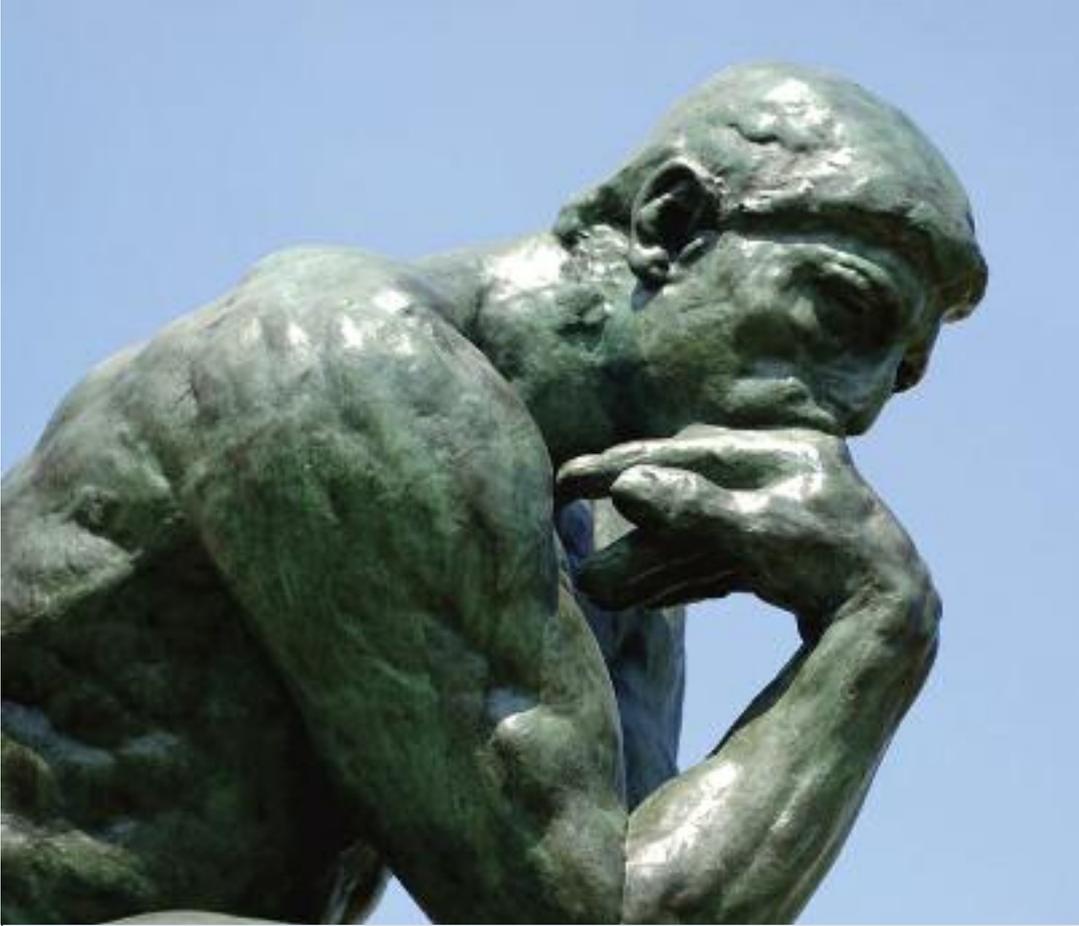
Organisers are surprised by the level of enthusiasm and support the event and its ideals have generated given its small beginnings. An initial one-off experiment has now grown to become a regular monthly event with plans extending it well into the future. A firm fixture on the social calendars of many living in and around this small market town, places at the monthly canteen are highly sought after - so much so that reserve lists are created to accommodate the numbers wanting to attend. In just over twelve months more than two hundred people have attended at least one canteen meal. The attractions of going to the canteen are many and individuals engage with the experience in ways that are meaningful for them: for Judith it is personal and sensory: "I am blind so love to be in a friendly atmosphere..." For Maria it is inclusive and a "safe" place to be: "I am a widow and socialising on your own is not always easy."

The canteen illustrates the power of collectivism allowing people to help themselves rather than creating a sense of a 'hand-out' to the disadvantaged. This is not to deny that existing austerity measures leave many without the means to even fund the cost of this monthly meal. Some see the canteen as having a role to play in responding to local poverty by raising funds for a traditional yet secular soup kitchen within the town. Whatever the motivation for engaging with the community canteen, the experience it brings allows a common purpose to emerge, linking food with politics and social cohesion.

The last word is given to Barry: "...shared cooking and eating seem to be activities that bind people together in all human cultures..."

“
...the Community Canteen is inspired by local people wanting to bring together food and the politics

Social Justice



In the first of a new series on key concepts relating to the Bevan Foundation's aims and values, **Gideon Calder**, Reader in Social Ethics at the University of South Wales, examines what we mean by social justice.

Start discussing social justice, and certain words come up.

Freedom, equality, community, rights, well-being, needs, social inclusion, diversity, democracy, fairness. Each term comes with baggage, usually positive. We seldom find leaders or policymakers pledging to wage war on freedom, or dedicating themselves to stamping out the creeping scourge of fairness. But the meanings of these values can seem both loose and complex. Everyone wants well-being, after all. The trouble is, for all we know, everyone has a different sense of what well-being is. If so, how on earth can it be promoted?

Each of these ideas is a vital tool when thinking about what social justice is and how to pursue it. Yet each is contested, sometimes drastically so. If everyone thinks freedom is definitely a good thing, this doesn't mean they agree on what it is, or what

kinds of policy might secure it, or how achievable it really is, or whether it's more or less important than equality. Sometimes more fairness for some means less fairness for others. Achieving a more inclusive society will still leave others outside, or at the margins. Some prioritise equality, others don't. But even its biggest fans depict equality differently from each other. Greater equality of opportunity, of income, of capabilities – each of these is distinct, powerful, and not always in tune with its neighbours. Basically, the whole dictionary of social justice is full of slippery terms that tend to be argued over, rather than easily defined.

Does this mean social justice is hopeless to pursue? Of course not. It just means that promoting social justice means, in part, thrashing out what these ideas mean, how they apply to contemporary society, and contributing to how they develop and



...it's about what the very society we live in should be like.

evolve. After all, they've been evolving ever since the term 'social justice' was invented. This is more recently than you might think – the mid-1800s. Of course, the Victorian age had features – child labour, drastic class inequalities, restriction of the vote and routine, legally endorsed sexism and racism – which will now seem fundamentally at odds with social justice, *whatever* it is. It's from a focus on such unfair disadvantage that most social justice thinking gets going.

Next we need to note what social justice isn't. For one thing, it isn't criminal justice. Justice for the oppressed or marginalised isn't the same as justice for those charged with an offence. And social injustices aren't the same as miscarriages of justice. Social justice is bigger: it's about what the very society we live in should be like. Even so the two kinds of justice hold something in common. Both, largely, are about giving people what's due to them.

But what is due to people, and why? In all the ways in which these questions get answered, perhaps two themes loom largest. One is desert: people should be given what they deserve. The other is need: a just society is one where people's needs are met. We'll come back to 'needs' in a later piece, as a topic in itself. For now, let's think about what people deserve. Does David Beckham deserve to earn exponentially more than Karen Booth, because he is a globally iconic footballer who brings pleasure to millions and she works on the hospital social work team? Conventional wisdom might say he does. After all, Beckham is someone who has taken his opportunities, and used them well – a 'striver' as George Osborne might say. But on what basis did he do this? Largely, it seems, through good luck. He was born in a particular place, and at a particular time, with particular talents, and given a particular upbringing – none of which features of his life he did anything to deserve, but all of which seem absolutely instrumental to his success. This seems a bit of a lottery – and perhaps, a kind of unfairness. So in a socially just world, would we still have David Beckhams? Would Karen's work be as well-rewarded, and well-recognised as David's?

One way to tackle such questions – a hugely influential one – comes from the work of John Rawls. In his 1971 book *A Theory of Justice*, Rawls suggests that we approach social justice by considering what principles we'd choose to be governed by, if we didn't know how we specifically, as individuals, would be affected by them. So he suggests that we imagine people behind a 'veil of ignorance', choosing principles of social justice. They are ignorant about three main things about their place in the society to which the principles will apply. Firstly, they don't know how talented they are – what gifts they might have been born with. Secondly, they don't know what their social position might be. And thirdly, they don't know what their priorities in life will be – what political philosophers call their 'conception of the good'. To imagine what people in this position would choose, is to imagine fair and impartial principles of justice. Why? Because, says Rawls, they can't bias those principles towards their own, particular, sectarian interests if they don't know what those interests are.

And they would prioritise liberty and equality. Why liberty? Well, because they wouldn't know what their conceptions of the good would be. They might be devout Hindus, or have no religion at all. They might be hermits, or intensely sociable. So they would want to guarantee freedoms of belief and expression, for example – the freedom to choose their lifestyles, as far as possible. And why would they be concerned about equality? Because they wouldn't know whether they'd be multi-talented or not, or what luck would provide them with in terms of the capacity to turn their talents into wealth. So they would seek to make the worst-off position in society as good as possible. Who'll occupy that position? It could be anyone. Like a reverse version of the old national lottery slogan: it could be you.

Rawls's model is powerful, but controversial. Politically, it represents a roughly 'social democratic' view of the world. As such, it has been criticized from both left and right. For the sympathetic too, it opens up questions: would this society require a strong welfare state, or achieve the balance between freedom and equality by other means? And, what would it mean in terms of actual policies on health, education, social care? After all, social justice is about what's happening on the streets and in people's lives, not just systems and principles.

Next time we'll look at 'redistribution' and 'recognition' – contrasting aims which help us focus on what promoting social justice means in concrete terms.

In action...



Mayor Gareth Jones and Mayoress Eirwen Edwards (centre) receive their award from Deputy Skills Minister Jeff Cuthbert AM (left) with June Jones, Chair Mid Wales Co-operative Membership (right)

Robert Owen Awards 2012

The Bevan Foundation was pleased to work with Co-operative Membership Cymru/Wales on the first Robert Owen Awards for co-operation.

The awards recognised the contributions of individuals and organisations across Wales, from young co-operators to Wrexham Supporters Trust. The award for "outstanding co-operation" went to the people of Machynlleth, in recognition of the community's response to the disappearance of April Jones.

Closing the poverty gap in education

The difference in achievement between children from low income and better-off families is stark. The first of a series of seminars, held in February 2013, saw teachers and head teachers, community education groups, Welsh Government and local authority officers share experiences about 'what works'. To find out more about the network, which is funded by the Joseph Rowntree Foundation, please email info@bevanfoundation.org.



Silk Commission – Prospects for more powers

More than 100 delegates packed into Cardiff's Pierhead building on April 17th to learn more about the second part of the Silk Commission's review of Wales's devolution settlement. With expert analysis of the devolution settlement and 'bite-sized' policy briefings, the seminar also provided an opportunity for further development of proposals about what should, and should not, be devolved.



The conference was organised by Positif Politics, Public Affairs Cymru, the UK Changing Union project and the Bevan Foundation.

In the news

The Bevan Foundation has been in the headlines again, shaping public opinion about social justice in Wales. We've been in the Sun (22nd January 2013) and the Financial Times (10th April 2013) and on Radio 5 Live (8th January 2013), commented in a BBC Wales 'Week In Week Out' on 19th March 2013 as well as commenting regularly in the Western Mail and on BBC Radio Wales.

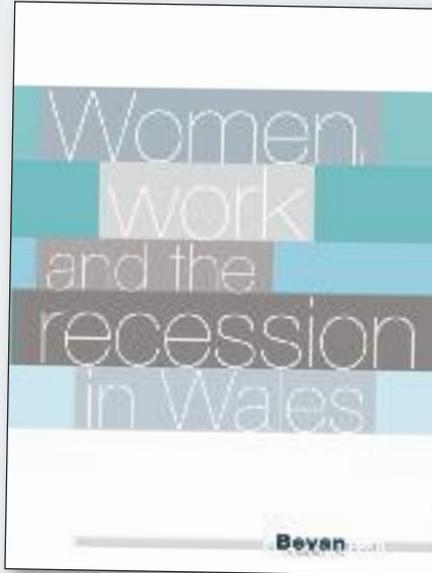


In print...

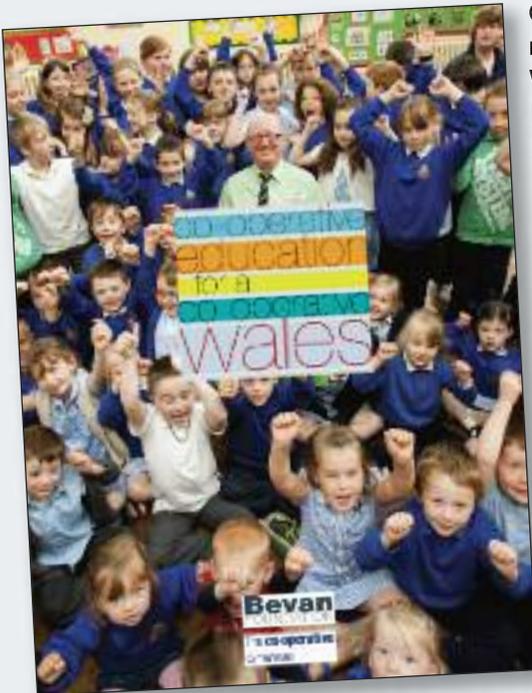
Women, Work and the Recession in Wales

Women are being just as hard hit as men by the economic downturn, finds the latest Bevan Foundation research report, although the impact has come later and been masked by the increase in women's state pension age. With few signs of any growth in employment, changes to social security benefits and further cuts to public services, the outlook is challenging. In such tough times, equality at work is all the more important.

Jane Hutt, then Minister for Equalities said "The Bevan Foundation report underlines the challenges facing women in the labour market. It will help to inform policy across Welsh Government as we seek to address both the long-term causes of gender differences in employment and pay and mitigate the effect of austerity measures." The findings were also debated in the National Assembly for Wales.



The Time has come for Co-operative Schools



Co-operative education has much to offer schools in Wales, according to a Bevan Foundation report for Co-operative Membership Cymru / Wales. A co-operative ethos can strengthen relationships between staff, pupils, parents and the wider community, and can bring dramatic improvements in achievement too.

Minister for Education, Leighton Andrews, is now exploring the potential for co-operative schools to be introduced in Wales, taking into account the findings of the Foundation's work.

New Membership Rates

From 1st April 2013 membership rates are:

- Individuals – £35 minimum
- Organisations - £250

(discount for small charities)

A growing number of organisations are supporting us by becoming partners – contact Victoria Winckler if you would like to discuss this.

Please help us by paying promptly, preferably by Direct Debit.

Coming soon ...

New members' area of our website – you'll be able to log in and access Review articles and more online.



Bevan FOUNDATION

Contact us:

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145A High Street
Merthyr Tydfil
CF47 8DP

T: 0845 180 0441

E: info@bevanfoundation.org

Find out more about...

Co-operative Membership

NAME **Mike Ash-Edwards**

JOB TITLE **Regional Secretary**

ORGANISATION **Co-operative Membership Cymru/Wales**

Member ownership is at the core of a co-operative business – the Co-operative Membership works with our members and businesses to give life to co-op values and principles.



What is your role in Co-operative Membership?

I am the Co-operative Group's Cymru/Wales Secretary with a remit to ensure that the democracy of the Co-operative in Wales works, that Co-operative Group businesses in Wales are accountable to our 500,000 plus members and that members are as

engaged as possible with the Group's activities. This includes acting as returning officer for Co-operative elections, convening the Cymru/Wales Board and members' meetings, and overseeing our programme of member engagement. I also have responsibility for the four Communities First cluster programmes managed by the Co-operative in North, South and West Wales.

What do you enjoy most about working there?

The Co-operative is an incredibly diverse business which includes running a bank, a food business, the biggest community pharmacy in Wales and funeral businesses. Working with all these different businesses and helping to ensure they are responsive and accountable to our members provides a real variety of activity which ensures life is never boring! When you add in our wide range of social and community activity, every day is different and throws up a different challenges. More than anything else though a co-operative is about its people, and this aspect of the role gives me most satisfaction. It is a real benefit to work in an organisation that tries to work to co-operative values and principles.

Why are you members of the Bevan Foundation?

We believe in a more community-focussed and caring society working more co-operatively to achieve benefit for all. The Bevan Foundation is trying to work towards many of the same social

goals and is actively seeking to encourage changes that would lead to a more co-operative world. We are very happy to support an organisation in Wales that has such a clear and focussed determination to help point us all toward better ways of doing things.

If you could pick anyone in the world, dead or alive, to speak to Co-operative members, who would it be?

Robert Owen to remind us all that co-operation is as relevant today as in his time.

Pupils of Ysgol Bro Ddyfi, Machynlleth make a film about peak oil with Co-operative Membership





Community
THE UNION FOR LIFE



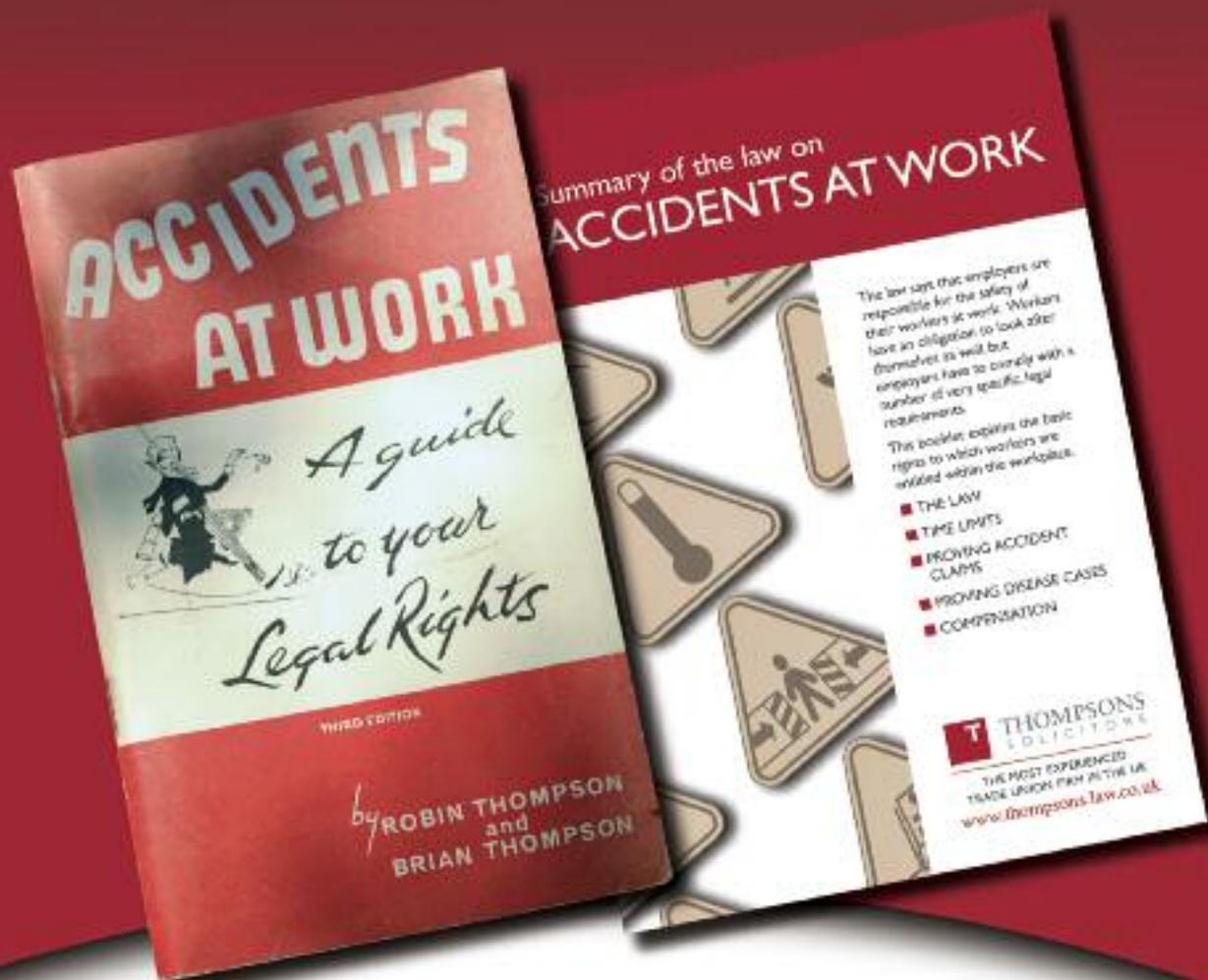
- ◆ ***Community* has been part of Welsh life for over 100 years**
- ◆ **We're proud to represent members across Wales in industries new and old**
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