

A red leather folder with a silver chain and a brass padlock. The folder has three circular holes at the bottom. The chain is attached to the top of the folder and loops around the padlock. The padlock is brass and is locked. The folder is red and has a textured surface.

HOUSING RIGHTS REVIEW

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Increasing access to justice



Housing Rights Review is produced by Housing Rights Service, the leading provider of independent specialist housing advice. We work to achieve positive change by protecting and promoting the rights of people in housing need.

Advisory Group Members

Lisa Allison, Simon Community NI; Jolena Flett, NICEM; Kevin Higgins, Advice NI; Maeve Kelly, NIFHA; Peter Shanks, University of Ulster

Editorial Team

Sharon Geary, Sarah Hamilton, Nicola McCrudden, Claire Moss, Etain Ni Fhearghail, Wayne Simmons

If you would like to comment on this edition, or contribute to a future edition please contact Claire Moss on 9024 5640 or email claire@housingrights.org.uk. This issue can also be viewed at www.housingrights.org.uk

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The views expressed in Housing Rights Review do not necessarily reflect the views of Housing Rights Service or its members unless otherwise stated. The appearance of individuals in these photos does not suggest that they are, or have been, clients of Housing Rights Service.



Claire Moss
Editor

The Comprehensive Spending Review announcement on 20 October has caused debate and looks set to have major implications for many areas including housing. While we wait to see how these will apply in a Northern Ireland context, Housing Rights Service is alarmed at the Institute of Fiscal Studies analysis that the poorest 10% of the population will be hardest hit losing 5.5% of their net income. This is compared with the top earners who are set to lose just 4.5%.

One of the review's key proposals is to allow social landlords in England to offer intermediate rental contracts for new tenancies at rent levels between current market and social rents. It is anticipated that this would help reduce extensive waiting lists for social housing.

While the objective of this proposal is to be commended, market value rents have been steadily increasing; in the past nine months rents in Belfast have increased by 7%. The emergency budget in June announced caps on Local Housing Allowance and an increase in the Discretionary Housing Payment (DHP) fund. With a decrease in the amount of assistance available for housing costs, it remains to be seen if this will really be an affordable option. Page 9 looks at the process for securing DHPs for clients.

At present, single people aged 25 or under are only entitled to the shared rate of Local Housing Allowance. However, from 2012 this age limit will rise to 35 years. Housing Rights Service is aware of the problems currently faced by our single clients in trying to access and maintain accommodation on the shared room rate. Given Government projections that this change will impact on a further 88,000 people, what are the housing options open to this group?

We welcome the extension of the time period for Support for Mortgage Interest (SMI) arrangements to assist those on low incomes meet their mortgage costs. However, new arrangements took effect on 1st October which halved the interest payable to claimants from 6.08% to 3.63%. We have serious concerns about the potential impact of these changes. Many people who have been granted suspended possession orders based on the higher rate of SMI, may again be at risk of losing their home. Pages 6 and 7 go into more detail on our concerns regarding the changes to SMI.

Housing Rights Service is keen to secure legal aid assistance for people facing repossession as a result of housing debt. With the anticipated reductions in the fund available for legal aid we recognise this will be a challenge. However, changes to Support for Mortgage Interest and other welfare benefits could mean more families are faced with losing their home. This makes the need for this legal aid assistance even more acute. We asked all our local political parties for their views on this issue, you can see their thoughts on page 10-13

As we go to press, the Northern Ireland Executive are due to hold emergency meetings to decide how to make savings of £4 billion. We hope, in light of all we have discussed above, that the Minister for Social Development, Alex Attwood, MLA's call for the Executive to put the poor and needy at the heart of its financial planning is heeded.

We will watch with interest.

Enjoy this edition.

The Commission on the Future for Housing

The Commission on the Future for Housing launched its much anticipated report in May. Jennie Donald, Policy Officer with the Chartered Institute for Housing looks at what happens next.



The Commission's report has five substantive sections, dealing with: the significance of housing; the institutional framework; moving towards a mixed housing economy; opening up housing opportunities; and the future role of the Northern Ireland Housing Executive.

There are around 150 recommendations on fundamental areas of housing policy and delivery and a list of actions for statutory and other bodies. However, one of the most important suggestions made by the Commission was for the housing sector to embrace new ways of working and innovative partnerships. The Commission cannot directly implement its recommendations, but organisations working together, with government, can start to see those recommendations realised.

Some of those recommendations will fall naturally to other organisations; however, there are programmes of work identified in the Commission's report that CIH would like to pursue.

So, what does that mean in real terms?

- We have already held an event on 'Shared Housing' that framed it as the Building Block for Cohesion, Sharing and Integration and examined housing's role in relation to government policy on cohesion and integration.
- The first meeting of the Housing Market Panel – a cross-sectoral group recommended by the Commission to observe and advise on market trends and intelligence – has been scheduled for the beginning of October.
- CIH and the Northern Ireland Assembly Research and Library Service are jointly holding a seminar to discuss 'Investing in Affordable Housing' and what approaches and models can be adopted or adapted to ensure that there continues to be sustained investment in affordable housing.
- We are also developing a Housing Investment Think-Tank that will bring together a group

of experts to proactively explore ideas and options around public and private investment in affordable housing.

These are just a few of things that CIH is doing to move the Commission's recommendations from the page into practice in relation to the significance of housing and developing a mixed housing economy.

Above all, we will continue to encourage and facilitate discussion and debate on the key issues raised by the Commission. Engaging with Ministers, government departments, housing organisations, the private sector and community and voluntary organisations is integral to ensuring that the Commission's recommendations are translated into actions. As we all await the outcome of the UK Spending Review, the Commission's report and recommendations, written in the context of increasingly constrained spending across the public sector, are both timely and relevant. The Spending Review will undoubtedly present challenges for the housing sector, but it may also provide unique opportunities, particularly with respect to public policy.

The Commission on the Future for Housing in Northern Ireland has provided a vision for housing in 2020 and the directions to make that vision a reality. We are committed to playing our part in following those directions and building on the recommendations made by the Commission. However, the Commission's report is a 'gift' to the whole housing sector and we would urge everyone to 'unwrap' the opportunities contained within its pages.

For more information on the Commission report and regular updates on the 'next steps', please visit www.cih.org/northernireland/housingcommission.

Spending Review

The Spending Review on 20th October confirms the allocation for the UK government and the devolved administrations for the period April 2011-March 2015. However, it is important to remember as spending decisions on housing and homelessness are devolved the Spending Review does not confirm specific departmental spending allocations or policy decisions outside of England.

Summary of Key Announcements relevant to Housing

- The government is going to save £7bn a year from spending on welfare and benefits by 2014-15.
- The Universal Credit (UC) will replace the current system of means tested working age benefits and tax credits.
- Household benefit payments for couples and lone parent households will be capped at around £500 per week from 2013 with single adult households being capped at around £350 per week (DLA claimants, War Widows and working tax credit recipients will be exempt from the cap)
- The age threshold for the Shared Room Rate in Housing Benefit will be increased from 25 to 35
- A one-year time limit will be introduced for contributory Employment and Support Allowance for those in the Work Related Activity Group
- Temporary changes to the Support for Mortgage Interest scheme will be extended until January 2012. These are the reduced waiting period for new working age claimants of 13 weeks and the increased limit on eligible mortgage capital to £200,000
- Social landlords will be able to offer intermediate rental contracts for new social rented tenancies at rent levels between current market and social rents
- Capital investment in social housing to deliver 150,000 new affordable homes over 4 years. (The Homes and Communities Agency's last target was 50,000 per year.)

The NI Assembly is currently working on the allocation of departmental funding with confirmation settlements due by mid-November.

New features on Housing Rights Service website

We relaunched our website in August of this year and added 3 new features:

- a blog detailing our experiences to date with the Preventing Possession Initiative;
- a Learning & Events section to include details of all our upcoming events and courses; and
- a members only area which contains a wealth of resources for housing practitioners.

All members of Housing Rights Service should have received log in details and instructions. If you have not received these, please contact Etain on 028 9024 5640 or email etain@housingrights.org.uk

Legislation changes

The Registered Rents (Increase) Order (NI) 2010 came into effect on 1 October 2010. This piece of legislation increases rents by 1.9% for rents that have been registered during the period 02/04/2007 - 04/04/2010. A landlord must give 4 weeks notice of this increase.

The rate of help available through Support for Mortgage Interest changed on 1 October 2010. Further information on the impact of this change can be found on page 7.

Update on the Private Rented Sector Strategy

The second Housing Bill which is currently going through the Assembly process includes provisions (i) to introduce a tenancy deposit scheme, (ii) to introduce a landlord registration scheme, (iii) to extend the notice to quit period for longer term tenants, and (iv) to enhance the private tenancies order.

It is hoped that these provisions could be implemented in 2012. The Department has also been holding awareness sessions for landlords, agents and councils throughout the year.

Work is also underway to raise the current fitness standard and a stakeholder group will be established shortly. Legislation to enhance the fitness standard in the private rented sector will be taken forward at the first available opportunity.

Coalition changes and their implications

In June 2010 the UK Coalition Government announced changes to Housing Benefit, Local Housing Allowance and Income Support for Mortgage Interest. Ruth Barry outlines these changes and looks at the implications



In June 2010, as part of the plans to address the huge deficit, the coalition Government announced changes to Housing Benefit, Local Housing Allowance and Support for Mortgage Interest.

Housing Benefit proposals

Housing Rights Service has long acknowledged the need for reform to the Housing Benefit system. We recognise that, by getting the balance right, Housing Benefit can deliver a simple and fair system of housing support which pays a fair rate of benefit to claimants while also protecting the taxpayer. However, we do not support all of the proposals announced in the June 2010 budget as being the correct approach.

It is our view that these proposals will hit low income households hard during the recession precisely when they are most in need of support. We have serious concerns that such measures could push some families over the edge. Many clients who approach us regarding Housing Benefit are either pensioners, those with disabilities, people caring for a relative or hardworking people on low incomes. We have serious concerns that the measures will disproportionately impact on groups that are protected under Section 75, Northern Ireland Act 1998.

The June 2010 budget contained the following proposals:

- **From October 2011, Local Housing Allowance rates will be set at the 30th percentile of local rents (instead of the 50th percentile)**

There are some 38,000 private tenants who currently have their Housing Benefit assessed on basis of Local Housing Allowance and it is calculated that each of them would lose on

average £7-£8 a week. Housing Rights Service does not support this proposal on the basis of the detrimental impact it will have on clients' ability to afford rental accommodation.

- **From 2010-14, Local Housing Allowance will be up-rated in line with the Consumer Price Index**
Housing Rights Service does not support this proposal and believes, in the long term, there will come a point when the cheapest property available in a given market area is more expensive than the Local Housing Allowance rate. This will create increased hardship, an inability to sustain private rented accommodation and a greater demand on homelessness services.
- **Housing Benefit awards will be reduced to 90% of the initial award after 12 months for claimants receiving Jobseeker's Allowance (April 2013)**
Housing Rights Service believes that this will put increasing pressure on tenants in Northern Ireland due to higher levels of long term unemployment. We believe that if the government is going to proceed with this there has to be a safeguard in place that will ensure application of this reduction is subject to the demonstrated availability of suitable employment.
- **Deductions for non-dependents will be up-rated in April 2011 on the basis of prices**
This proposal means that deductions from the claimants eligible rent, where

EXAMPLES OF HOW THE SMI DECREASE WILL IMPACT ON HOUSEHOLDS

Mortgage amount	Help weekly 6.08%	Help weekly 3.63%	Loss per week	Loss per annum (interest only)
£50,000	£58.46	£34.90	£23.56	£1,225.12
£100,000	£116.92	£69.81	£47.11	£2,449.72
£150,000	£175.38	£104.71	£70.67	£3,674.84
£200,000	£233.85	£139.61	£94.24	£4,900.48

other adults live with the claimant who are not part of the family for benefits purposes, are set to increase. Housing Rights Service does not support this proposal and believes it will be an incentive for tenants to encourage their children to leave home and a disincentive to voluntary sharing thus increasing future demand on housing stock.

- **From April 2013, housing entitlements for working age people in the social sector will reflect family size**

This change will restrict housing benefit for working age tenants who are occupying a larger rented property than required for their household size. It is our view that people should not be penalised unless it can be demonstrated that more suitable accommodation can be accessed.

- **From April 2011, Housing Benefit claimants with a disability and a non-resident carer will be entitled to funding for an extra bedroom**

Housing Rights Service fully supports this positive proposal.

- **The Government contribution to Discretionary Housing Payments will be increased by £10 million in 2011-12 and £40 million in each year from 2012-13**

Whilst we support the need for an increased pot of money for this purpose, we consider the proposed measure hugely inadequate and disproportionate to the measures.

Support for Mortgage Interest

On 1 October 2010 the proposed changes to Support for Mortgage Interest came into effect. These changes reduced the rate that Support for Mortgage Interest is paid from 6.08% to 3.63%. The table accompanying this article demonstrates the potential impact of this reduction.

Housing Rights Service believes that this change will have major implications for people in Northern Ireland who are already vulnerable and struggling to maintain their homes as a consequence of mortgage debt or loans secured on their homes. Housing Rights Service is worried that the changes to Support for Mortgage Interest will have a huge impact on struggling homeowners' ability to meet their repayments.

Housing Rights Service appreciates that there is a huge deficit that needs to be addressed by the coalition Government and sees merit in looking to public expenditure to address this. However, targeting Housing Benefit, Local Housing Allowance and Support for Mortgage Interest in this way will actually give rise to serious increases in public expenditure. In our view, a more sophisticated cost benefit analysis is required to ensure that the approach taken is fit for purpose.

New housing legislative proposals welcomed

Fiona Douglas, Policy Officer for Housing Rights Service provides an overview of forthcoming housing legislation.



The Housing (Amendment) (No. 2) Bill was formally introduced to the Northern Ireland Assembly on 22 June 2010 and referred to the Social Development Committee on 30 June 2010. The stated purpose of the Bill is to:

- enable better regulation of the private rented sector,
- provide new tools to tackle fuel poverty,
- promote effective housing management and
- clarify the existing law in respect of homelessness.

Housing Rights Service recently submitted written evidence to the Committee on the contents of the Bill. We welcome its introduction and broadly support the measures contained therein. In particular, we have long advocated for the registration of private landlords and we consider this to be at the forefront of improving the regulation of the private rented sector.

We believe it is paramount that the Bill requires landlord registration to be an inescapable statutory duty with appropriate sanctions in place for non compliance. Through our experience of the registration scheme for Houses in Multiple Occupation, we are aware that the existence of a statutory scheme alone is not enough.

It is our view that tougher sanctions are an essential means for ensuring sector wide compliance. On this basis, we have called for:

- a commitment to a timeframe within which to implement the scheme; and also
- tougher sanctions for non compliance.

Another measure included in the Bill that we very much support is the introduction of Tenancy Deposit Scheme(s) in Northern Ireland. This is both timely and necessary given the increased reliance on the Private Rented Sector to meet housing need in Northern Ireland. As with the Landlord Registration Scheme, we urge the Department for Social Development to commit to a timeline within which this scheme must be operational.

We have recently highlighted a number of other issues to the Committee, including omissions in the Bill which had been included in the original consultation and the Private Rented Sector Strategy. We hope to see a re-instatement of these measures in the current Bill:

- Increased fines for non compliance with the registration scheme process for Houses in Multiple Occupation up to a maximum of £20,000 as proposed in the original consultation document.
- An extension to Notice to Quit periods to two months where the length of the tenancy is over five years and three months where the tenancy is over ten years. Such a commitment was made by the Minister

for Social Development in March 2010 at the launch of the Private Rented Sector Strategy.

In terms of the proposals relating to anti social behaviour we are relieved to see that the Department has taken on board our views expressed in the original consultation. We appreciate the rationale behind the new proposals whereby consent to exchanges of social tenancies will be withheld where there has been a court order made against one or other of the tenants on the grounds of anti social behaviour.

The rest of the proposals are largely technical amendments that do not change the original policy intention. Overall, Housing Rights Service agrees with the approach taken by the Department. It is clearly evident that the views of consultees to the Private Rented Sector Strategy and the original Bill Consultation were taken on board by the Department which is testimony to the knowledge and expertise that exists in the voluntary sector.

To read Housing Rights Service's evidence provided to the Committee for Social Development log on to the policy library of our website www.housingrights.org.uk

Sarah Corrigan, Housing Adviser with Housing Rights Service discusses the options available when a client is experiencing a shortfall in Housing Benefit.



The problems associated with shortfalls in Housing Benefit (HB) payments and varying rent levels in the private rented sector (PRS) are all too familiar to advisers. This article looks at the significance of Interim Payments and Discretionary Housing Payments in helping alleviate financial hardship and sustaining tenancies.

Interim Payments (IP)

An IP is a statutory right. Its aim is to cover housing costs while HB entitlement is calculated. Payment should be provided if the NIHE does not work out an applicant's HB entitlement within 14 days of receiving all relevant information required to process the application. This statutory right is rarely exercised leaving many tenants accruing rent arrears while awaiting the result of their application.

Advisers should consider this important information regarding IPs:

- An IP can be requested if a delay is caused by: NIHE; the landlord; employer; Social Security Agency; or the Land and Property Services.
- A client does not have to apply for an IP, they request it.
- Advisers can often do this for their client by telephone or in writing. If an IP is requested by telephone, it is advisable to follow this request up in writing.
- Advisers can contact the client's landlord to let them

know that this payment has been requested and what it means.

- Once the client's HB entitlement has then been calculated, NIHE will either ask your client to pay back the amount they have been overpaid or will give them the extra HB they were entitled to. If NIHE's decision is that your client was not entitled to HB, they will have to pay the IP back.

The decision to refuse an IP can only be challenged by Judicial Review or a complaint to the Ombudsman.

Discretionary Housing Payments (DHP)

Differing from the statutory right to an interim payment is the discretionary extra payment of DHP.

A DHP is an extra payment for private tenants to help pay the difference between the rent charged by their landlord and the rent used by NIHE to work out their entitlement to Local Housing Allowance. This difference is often known as a "shortfall". The award of a DHP can help cover some or all of this shortfall, however, it will not exceed it.

These tips may be useful for advisers working with DHPs:

- Clients can contact their local NIHE district office to request an application or can download one from NIHE website. This should be

completed and returned as soon as possible.

- NIHE is allocated a limited discretionary fund from the Department for Social Development. Each request is considered on its own merits, with payments made to those most in need. It is important to show that your client is in need of urgent financial help and outline the possible result if DHP is not awarded i.e. risk of homelessness.
- NIHE states that wherever possible and reasonable to do so, an applicant of DHP will be expected to take steps to improve the circumstances that have led to their need for DHP i.e. find more affordable accommodation.

An award of DHP only lasts for a set period of time, (usually around a maximum of 6 months), and is not a long term solution. Interestingly, in England, DHPs can be used for past rent arrears, (R [on the application of Gargett] v. Lambeth LBC 2008). We would welcome a similar approach in Northern Ireland.

Arguing the case for Legal Aid reform

Housing Rights Service hopes to secure legal aid assistance for people facing possession as a consequence of housing debt. Housing Rights Service Policy Officer Ruth Barry provides a brief overview.



Our primary aim will be to secure government commitment to making free representation available to people who face having their home repossessed as a result of housing debt.

There is a real need for this assistance. In 2008/09 demand for Housing Rights Service housing debt advice service increased by 300%. In response to that demand, we launched the Preventing Possession Initiative in February 2009.

Central to this project is the in situ Court Representation Service, the only one of its kind in Northern Ireland, for people facing the imminent threat of repossession. This service seeks to ensure that homeowners and tenants who are threatened with debt related possession action have access to free independent advice, support and representation on the day of their hearing.

Research undertaken into the first six months of the Court Representation Service indicated that in 74% of cases homelessness was prevented as a result of direct intervention by the service.¹

The availability of legal aid assistance in other jurisdictions

There is a disparity between the provision of publicly funded legal services in NI and that in other parts of the UK. In England and Wales legal aid is available for schemes where the client is a defendant to possession proceedings and rent and mortgage arrears are not in dispute. These are often referred to as "Help at Court" schemes.

Scotland also has grant funding in place to meet additional legal needs resulting from the economic downturn. By comparison, NI is experiencing a complete lack of public funding to resource similar measures.

The costs involved

Housing Rights Service has long advocated for investment in the prevention of homelessness. We believe assisting homeowners and tenants to remain in their current accommodation can avoid both the human and financial costs of homelessness.

Research carried out by Shelter concluded that each mortgage debt advice case costs the state, on average, £229.00. This makes the provision of advice a low cost, high value option, particularly when compared to the cost of repossession. It is estimated that repossession of a vulnerable household costs the Exchequer £16,000.²

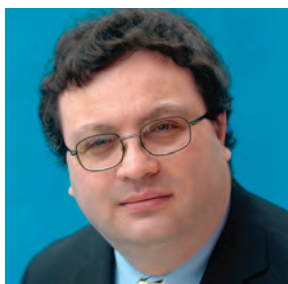
Work to secure this change is now underway. If you would like further information please email ruthb@housingrights.org.uk.

In place of our normal debate feature, we asked all the local party justice spokespeople to give us their perspective on this issue.

We would like to thank everyone who took the time to contribute.

¹ Housing Rights Service Research Paper, "Preventing Possession Initiative: Analysis of the Court Representation Service for Mortgage Possession Proceedings in Northern Ireland", October 2009: Pg 4: <http://www.housingrights.org.uk/policy-library/88-policy-evidence-research-legislation-goodpractice.html>

² Shelter- Results and Recommendations: Outcomes of advice for struggling homeowners, 2010: http://england.shelter.org.uk/professional_resources/policy_library/policy_library_folder/outcomes_of_advice_for_struggling_homeowners



Dr Stephen Farry MLA is the Justice Spokesperson for the Alliance Party

There is a twin challenge of ensuring access to justice for all and controlling costs. Access to justice is particularly critical with respect to those in society who are most vulnerable, while the pre-existing need to control costs has entered a new dimension within the current public finances climate. Reform of legal aid is an inescapable obligation.

As part of his first keynote speech as Justice Minister in June 2010, David Ford announced his intention to conduct a fundamental review of legal aid services. There should be a formal announcement around this in September. The legal aid system has been effectively unchanged since the 1960s. In the last financial year, more than £100m was spent on legal aid. However, this significant sum was skewed towards comparatively few high cost cases. There are issues over the fairness of the distribution of the scarce resources available.

In his vision for a future legal services system, the Justice Minister stressed several key points. First, the system should enable people to solve their legal problems. Second, and related to this, there should be greater scope for finding solutions outside the formal context of taking cases and going to court, especially given the cost as well as stress that arises from this. Finally, there could be a much wider choice of providers of legal advice services. This could build on the existing work of organisation such the Citizens Advice, Advice NI, the Law Centre and, indeed, Housing Rights Service.

The Housing Rights Service campaign for legal aid assistance for admitted debt proceedings could fit well into this new and radical vision for legal services in Northern Ireland.



Ian Paisley Junior, MLA is the Justice spokesperson for the DUP

You would have to have had your head in the sand not to realise that the economic downturn has had the greatest impact on those on low wages who also own their own homes. The last two years have seen a frightening increase in the number of homes under repossession or threat of repossession.

When a person finds themselves in such economic turmoil that they are in major debt or could lose their home they are despairing of any help and feel forsaken by all. Knowing that they can turn to an organisation such as Housing Rights Service and receive professional and free legal advice that could help get them out of a downward economic spiral must seem like a "Godsend" and as such the campaign by Housing Rights Service to secure legal aid for people facing possession as a consequence of housing debt should be supported.

We have all read the headlines about fat cat lawyers making millions from legal aid payments and I agree the legal aid process needs to be reformed so as the most in need receive that support and it is not seen to be or perceived as a get rich quick scheme for certain lawyers.

I have no trouble supporting this campaign as it ticks all the right boxes. It is targeted at those in need. It is the deployment of government legal aid where it is required amongst the vulnerable and it is properly monitored. The Justice Minister too will know of the valuable work Housing Rights Service does for many people and will, I trust, recognise and support this campaign.



Alex Maskey is the Policing and Justice Spokesperson for Sinn Féin

Sinn Féin believes the provision of a professional advice service can be an essential safeguard to those whose financial circumstances have deteriorated and particularly so in the current economic crisis.

Unfortunately, many of our citizens have lost their homes due to the downturn in the economy with the consequent loss of employment. Many others currently face the same catastrophe. To all these homeowners, access to specialist advice has been absolutely essential. Housing Rights Service has provided this much needed assistance to many clients in danger of losing their homes by working closely with the court service and those who will determine the outcome of repossession cases. Indeed, this support and advice has prevented many homeowners and families from losing their homes to repossession.

Sinn Féin has long argued for the need to provide adequate resources and support through Housing Rights Service to ensure that our citizens have access to the type of specialist advice they require. We have further argued for the need to mainstream such a service.

Following the establishment of the Department of Justice, Sinn Féin believes we now have an opportunity to examine new ways of providing a professional advice service to meet the needs of those most in danger of having their homes repossessed.

Sinn Féin believes there are examples of good practice available in Britain and elsewhere wherein such specialist advice services are resourced and mainstreamed within the court service. We would urge consideration of how this service might be resourced and integrated within the judicial system in order to support those most in need.



Alban Maginness MLA is the Justice Spokesperson for the SDLP

I cannot think of anything more important to the wellbeing, strength and support of a family than the family home. The loss of any family home for whatever reason, but particularly for indebtedness is a massive and demoralizing blow. Therefore, at a time when many families face the challenges of mortgage arrears, negative equity, and increasing levels of personal debt, I think it is necessary for us all to provide effective means for families to protect themselves, when the ultimate nightmare of threatened home repossession materializes.

Given the collapse of the domestic property market here, combined with serious job losses, the threat of mortgage arrears has grown as an increasing problem for a wider section of our society. Ultimately, the burden of debt and mortgage arrears cripples the capacity of a significant number of families to retain their own homes. This in most cases is not through personal mismanagement, nor greed, nor incompetence, but through the machinations of the housing, or employment markets, over which ordinary people have no control, nor personal responsibility. Given such an increasing level of financial problems for families, who are the victims of economic volatility, there is a very strong case for the State to step in, to lend some financial assistance through an extension of civil legal aid to protect the interests of families, who are at their most vulnerable and are, to be frank, on their knees.

In such circumstances, I believe that there is an irresistible case for legal aid assistance and I fully support Housing Rights Service's campaign to secure the necessary changes to legal aid to ensure that government commits to financing free legal representation for families facing legal proceedings for the repossession of their homes.



Tom Elliott MLA, Fermanagh and South Tyrone is the recently elected leader of the UUP and the party Justice spokesperson

The economic downturn in 2007 together with its impact on the housing market has resulted in an increase in repossessions across Northern Ireland. The valuable work of Housing Rights Service is to be credited, specifically due to the demand on its services – demands which increased threefold in 2008-09.

Around 80,000 people receive legal aid each year in Northern Ireland, with the bill costing £103million last year. Justice Minister David Ford is currently seeking to drive this cost down. In Northern Ireland there will continue to be challenges ahead for those wishing to access publicly funded legal aid services and this may indeed further impact upon individuals subject to repossession proceedings. However, we must examine whether a more efficient and targeted legal aid service can provide new opportunities to deliver for those most in need.

I am concerned by the disparity between the provision of publicly funded legal services here and in other parts of the United Kingdom and I will specifically highlight this through my work in the Justice Committee.

Each of us is aware of the difficult financial position that Northern Ireland and the rest of the United Kingdom now face due to the high level of national debt. However, efficiencies must be provided in a manner that is as fair as possible. I look forward to working with Housing Rights Service, who have played a major role in this issue coming to light, and others who to seek to benefit those most in need in Northern Ireland.



Kelly Andrews is the Justice Spokesperson for the Green Party

Since the global economic recession many households are facing increased financial pressures. Too much of our economy was based on unsustainable lending practices. One result of this is many households received credit and mortgages above and beyond the traditional lending guidelines, consequently many households are unable to pay these debts.

In the worst cases individuals and families are losing their homes, becoming homeless and facing bankruptcies. This can lead to many problems such as family break up, mental health problems and social exclusion. That impacts on the wider society. In our view the prevention of homelessness makes economic sense.

There is a disparity between the provision of publicly funded legal services in Northern Ireland and that in other parts of the UK. We believe it is only just that similar services are available here. We believe that the legal aid system should be available to protect people in court for debt proceedings, so that they can defend themselves and their families.

The Green Party believes in an adequate level of funding for Housing Rights Service that provides an invaluable source of information and advice for those who are in dire straits financially.

Challenging Homeless Decisions

A new system for challenging homeless decisions comes into effect on 1 December 2010. Sharon Geary, Legal Information Officer with Housing Rights Services discusses the changes.



The commencement of section 5 of the Housing (Amendment) Act (Northern Ireland) 2010 hails the most significant change to the homelessness legislation for several years. The means for challenging a homeless decision will move away from an internal two-staged appeal system, operated by the Housing Executive, to a statutory system of review and appeal to the county court.

Reviewing a homeless decision

From 1 December 2010, the first step in challenging a homeless decision will be to request that the Housing Executive carry out a review of the decision in accordance with the new Articles 11A and 11B of the Housing (NI) Order 1988, as inserted by section 5 of the 2010 Act. A request for a review can be made within 28 days of notification of the homeless decision, unless the Housing Executive agrees to extend this limit.

This statutory right to review applies only to decisions regarding:

1. The applicant's eligibility for assistance;
2. The duty owed to the applicant under Articles 10 and 11 of the 1988 Order - in order to determine if the decision regarding the duty owed under Articles 10 or 11 is correct it is essential to examine the Housing Executive's decision on the applicant's homelessness, priority need and intentionality status. It is the assessment of the client under these tests which determine what duty, if any, is owed to the applicant. The duty referred to in Articles 10 and 11 includes the provision of accommodation and advice and assistance.

3. The suitability of accommodation offered to the applicant by the Housing Executive in discharge of its duty under Articles 10 or 11.

Regulations have still to be passed with further details about:

- Who will carry out the review, i.e. someone of appropriate seniority and who was not involved in the original decision;
- Whether an applicant can have an oral hearing; and
- Time limits for carrying out a review and for making a review decision.

Appealing to the county court

Under the new Article 11B(4) of the 1988 Order, where the decision made on review goes against the interests of the applicant, the Housing Executive has to notify the applicant of the reasons for the review decision. The applicant will also be informed of their right to appeal to the county court on a point of law, (Article 11B(5)).

Where the applicant is dissatisfied with the review decision or has not been notified of the decision within the prescribed time period then they may appeal to the county court on a point of law, (Article 11C(1)). An application for appeal to the county court should be made within 28 days from notification of the review decision or the date on which notification should have been given. An appeal can be brought outside that time limit only if the court is satisfied that there is a good reason for doing so.

Upon appeal, the court may decide to confirm, quash or vary the decision, (Article 11C(4)).

Case Report

Temporary accommodation pending appeal

Under Article 11C(5) the applicant may be able to get temporary accommodation pending the outcome of the appeal if the Housing Executive was under a duty to secure accommodation for them under Articles 8(1) or 10(3) of the 1988 Order, i.e. duty to provide temporary accommodation where the applicant may be homeless and in priority need or where there is a priority need but they became homeless intentionally.

Where the applicant is dissatisfied with how the Housing Executive exercises its power under Article 11C(5) they may take a second appeal to the county court against that decision, (Article 11D(2)). In this instance, the court may confirm or quash the decision being appealed against in respect of Article 11C(5), (Article 11D(4)).

Further information

Housing Rights Service will be producing a detailed guide on the new review and appeal system prior to its implementation. If you would like to pre-order a copy of this guide at a special price of £5 for members of Housing Rights Service and £7.50 for non-members please contact Adele Pound on 028 9024 5640 or email adele@housingrights.org.uk quoting 'Housing Rights Review'. There will also be a one day scheduled training course held in Derry and Belfast on 23rd and 25th November, respectively. For further information go to the Learning and Events page of our website www.housingrights.org.uk

In the case of *Joseph v Newham LBC* [2009] EWHC 2983, Mr Joseph (J) was a tenant in a one bedroom property along with his wife and two children. He applied for a transfer due to the overcrowding in the property. He was assessed under Newham LBC's, (the local authority), housing scheme and, although he should have been entitled to a two-bedroom property, his status was reduced because of a Housing Benefit overpayment which allegedly accrued in 1998/1999 and which had not been repaid. J's status was reduced by the local authority because they treated the Housing Benefit overpayment as a property-related debt.

J disputed the Housing Benefit overpayment and sought a judicial review of the local authority's decision. Up until his application for a transfer the local authority had made no attempt to address the debt issue or to recover it in any way. The basis of J's challenge was that too much time had elapsed since the debt arose and that, therefore, it should be statute barred i.e. the debt had arisen more than 6 years previously. J argued that it was unlawful and irrational for the local authority to take into account a statute barred debt when reaching a decision regarding his transfer.

The High Court allowed J's application for judicial review and held that the local authority had lost the right to recover the Housing Benefit overpayment six years after their original decision on the overpayment i.e. 1998/1999. Consequently, the local authority was wrong in treating the overpayment as a property-related debt. The court also held that using the debt as a property-related debt to influence J's transfer application was against J's legitimate expectations.

The judgment can be found at <http://www.bailii.org/ew/cases/EWHC/Admin/2009/2983.html>

a guide to

challenging homelessness decisions

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Housing Rights Service's latest publication is a detailed guide on the new statutory process for challenging homelessness decisions in Northern Ireland, which will come into effect on 1 December 2010. In a fundamental change, the Housing (Amendment) Act (NI) 2010 will provide homeless applicants with a legal right to challenge the Housing Executive's homelessness decision in the county court.

This guide will be an essential resource for anyone advising on how to challenge homelessness decisions and will be particularly useful to voluntary sector advisers and members of the legal profession. The guide contains comprehensive information on a range of topics including:

- A background to the homelessness in Northern Ireland and the role of the Northern Ireland Housing Executive;
- An overview of the relevant homelessness legislation, including the homelessness tests and duties owed to homeless persons;
- The new means for challenging homelessness decisions under the 2010 Act, including grounds for review, appeal and judicial review; and
- Relevant case law.

To pre-order a copy of this guide at a special price of £7.50 (normal price £9.95) please contact Adele Pound on 028 9024 5640 or email adele@housingrights.org.uk quoting "Housing Rights Review"

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