



Housing Executive in breach of human rights

Donnelly v the Northern Ireland Housing Executive [2003] NICA 55

On 12 December 2003 the Court of Appeal in Northern Ireland ruled that the Housing Executive must look again at its decision not to take action against a Limavady family who had embarked on a campaign of sectarian intimidation against their neighbours.

The case was taken by Mr and Mrs Donnelly who contacted Housing Rights Service in 2001 following a series of over 100 incidents from their neighbours, the Gambles, spanning a period of 15 years. The police had been informed on 64 occasions and had taken 7 successful prosecutions against the Gamble family who were Housing Executive tenants. However, the Housing Executive failed to apply its own procedures for dealing with anti-social behaviour and instead offered to rehouse the victim. The Housing Executive gave a number of reasons for doing so, including concerns about the risk to health and safety of its staff.

After exhausting the Housing Executive's complaints procedure, Housing Rights Service referred the case to the Law Centre NI for judicial review. At the hearing, which took place earlier in the year, it was argued that the Housing Executive acted unlawfully by taking into account an irrelevant consideration (i.e. the risk to staff) and that failure to take action was in breach of Article 8 of the European Convention on Human Rights (i.e. right to respect for private and family life). The application was dismissed by Mr Justice Weatherup

who found that the risk to personal safety was not an irrelevant consideration and that there was not a breach of Article 8 as the Executive "had achieved a fair balance between the appellant's rights and the public interest in an effective public housing system".

The subsequent appeal has however been upheld. In its ruling, the Court of Appeal held that the Housing Executive had not discharged its duty to take "reasonable and appropriate measures" to secure the victim's rights and that failing and refusing to commence proceedings for possession was in breach of Article 8 of the Convention. The court did however agree that the safety of the Housing Executive's staff was a material and relevant consideration to be taken into account.

Since the legal dispute began the Gambles have bought their home, but a High Court judge decided that the Housing Executive acted unlawfully in agreeing to the sale but held off making an order until after the outcome of the Court of Appeal hearing.

Housing Rights Service has welcomed the Court of Appeal's decision and is hopeful that, as a result of this ruling, the Housing Executive will apply its anti-social behaviour policy more consistently in the future.

The judgment can be viewed at <http://www.courtsni.gov.uk/en-GB/Judicial+Decisions/>

Contents :

Editorial	2
Housing Allocation Changes	3
HMO Registration Scheme	3
Court report	4
• Unfair terms apply to license agreements	
• End to means test for DFGs	
Legal eye update	5
• Anti-social Behaviour provisions become operational	
Casework Corner	5
• Grants levels unrealistic	
The debate	6-7
• Responses to anti-social behaviour	
News features	8-9
• Discretionary grants scheme	
• NIHE -new recovery system for overpayments	
Information items	10-11
• Future of legal services	
• Supporting people	
Focus on	12
• Homeless Support team	

editorial

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Housing Rights Review is produced by Housing Rights Service an independent organisation working to prevent homelessness and eradicate poor housing in Northern Ireland.

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A balanced response needed to tackle anti-social behaviour

The issue of anti-social behaviour continues to receive significant media attention and tackling it has become a priority for government. It is true that the problems facing some neighbourhoods are intolerable and need to be addressed. However the government's punitive approach, whilst grabbing headlines, only offers a partial 'quick-fix' response to a complex problem. In reality many of these measures are failing.

Of particular concern is emphasis on using housing and homelessness legislation to tackle behaviour. In Britain, landlords have had wide-ranging powers for a number of years to deal with anti-social behaviour. Despite this, government is proposing further enforcement measures even though evidence points to a lack of understanding and expertise about how to use the existing powers. In Northern Ireland, the NIO recently released a consultation document outlining measures to tackle anti-social behaviour. The main focus is on the introduction of Anti-Social Behaviour Orders (ASBOs) to deal with persistent nuisance, harassment and criminal behaviour of individuals aged 10 and over.¹ These are being proposed before the new legal provisions brought in by the Housing (NI) Order 2003 have even been implemented.

This legislation has given social rented landlords extensive powers to tackle anti-social behaviour through exclusion and eviction from social housing. These include 'trial' introductory tenancies for new tenants (which the Housing Executive will be implementing from April) along with extended grounds for possession and powers to take out injunctions. Additionally, from February, the Housing Executive will be exercising its power to exclude people, including homeless people, from social housing if it decides that their behaviour is unacceptable. Excluded families will not be entitled to an independent appeal hearing and are likely to be forced into the private rented sector where landlords are less equipped to deal with the issue.

The Department for Social Development has developed guidance for both the Housing Executive² and Registered Housing Associations (RHAs) on the operation of these provisions. This is a most welcome development and has been an issue which Housing Rights Service has campaigned for since the release

of the draft Housing Bill. Set within the overriding principle that eviction should always be a last resort; the document contains important guidelines for landlords considering eviction including, attempting mediation and ensuring that any appropriate support is available to help the tenant modify their behaviour. This approach is encouraging as it recognises the complex nature of the problem.

Eviction and exclusion will not change behaviour. There are better alternatives. We need to deal with the underlying social and personal problems that cause anti-social behaviour and develop innovative responses which engage with perpetrators at an early stage to help challenge and amend behaviour. This multifaceted issue does not lend itself to a one stranded solution. A strategic approach which combines much greater emphasis on prevention and resettlement services, alongside enforcement, is the most sensible way forward.

¹ "Measures to tackle anti-social behaviour in NI" (deadline for response 1 April 2004)

² "Housing (NI) Order 2003: Anti-Social Behaviour Guidance for the Housing Executive" (Oct 2003)

Changes to housing allocation take effect

The Housing (NI) Order 2003 makes significant changes to the legal framework governing the allocation of social rented housing. These will be implemented from the beginning of February 2004.

Articles 124 and 137 of the 2003 Housing Order introduce new eligibility criteria. This applies to applications made under both the Housing (NI) Order 1988 (i.e. homelessness legislation) and under the Common Selection Scheme.

Firstly, the Housing Executive must not allocate housing to people who are ineligible because of their immigration status or to those who are not habitually resident. Under asylum and immigration law the Housing Executive is already required to treat certain applicants as ineligible for assistance based on their immigration status. As such, this change is a technical amendment to ensure housing legislation is compatible with asylum and immigration law.

Secondly, the Housing Executive may also determine that an applicant is ineligible if they, or a household member, are guilty of 'unacceptable behaviour' that makes them unsuitable to be a Housing Executive tenant. This is an entirely new power. Unacceptable behaviour is defined as

behaviour that would entitle the Housing Executive to a possession order under Grounds 2 and 3 of the Housing (NI) Order 1983. This includes behaviour such as nuisance and annoyance to neighbours, causing deterioration to property or using premises for illegal or immoral purposes.

The Department for Social Development (DSD) has developed guidance for the Housing Executive to follow when applying their discretion in this area.¹ This states that when applying the test the Housing Executive "*should not apply blanket exclusions against particular classes of applicant where individual cases could be considered on their own merits*". It goes on to emphasize that "*an applicant's suitability to be a tenant should not be assessed on the basis of past conduct alone*" and that the Housing Executive must have regard to the circumstances at the time the application is considered.

When considering whether a possession order would be granted, the Housing Executive has been advised to consider whether the court would consider it '*reasonable*'. This means that all relevant matters must be taken into account e.g. health, dependants etc. Additionally, the Housing Executive would need to be satisfied that, if a

possession order had been granted, it would not have been suspended by the court. Only if the Housing Executive is satisfied in all of these aspects should it consider using its discretion to decide that an applicant is ineligible for an allocation. Applicants who are treated as "ineligible persons" are entitled to be given reasons, in writing, for the decision. According to the DSD guidance, their names will not appear on the waiting list.

Under the homelessness legislation, where the Housing Executive has decided that an applicant is ineligible for the full duty, it must then consider if the applicant is in priority need. If the Housing Executive is satisfied that the applicant has a priority need, it must treat him in the same way that it would treat an applicant in priority need who became homeless intentionally.

It is unclear at the time of writing how the eligibility test will be applied in practice and, for example, whether current waiting list applicants will be affected by the changes. Housing Rights Service will be monitoring the impact of this new provision, along with other measures such as introductory tenancies, and will keep readers informed.

¹ Housing (NI) Order 2003: Anti-social behaviour – guidance for the Housing Executive (Oct 2003)

HMO registration scheme

In December 2003, the Housing Executive released proposals for a statutory registration scheme for Houses in Multiple Occupation in Northern Ireland. The requirement to develop the scheme was provided by the Housing (NI) Order 2003, which also amended the definition of a HMO. The new broader definition is "a house occupied by more than 2 qualifying persons, being persons who are not all members of the same family." This includes a person whose only or principal residence is the HMO and includes full time students.

It is intended that the scheme will take effect from 1 May 2004 and will focus on areas with the highest concentration of HMOs (referred to as HMO Action Areas) and on very large properties in any area (i.e. capable of occupying 10 or more people). Under the proposals the scheme will require all registered houses to fulfil certain fitness and management standards.

Housing Rights Service supports the introduction of a HMO registration scheme in Northern Ireland and broadly supports the measures contained within the consultation document. However, more emphasis on the improvement of tenancy management standards, including the use of standard tenancy agreements and the provision of rent books would be welcome. The closing date for consultation was 31 January 2003. Housing Rights Service response can be viewed on www.housingrights.org.uk

Court Report

Unfair Terms Extended to Licensee Agreements

Following the recent case of *Khatun and Others v LB of Newham* [2003] EWHC 2326 Admin, guidance on unfair terms in tenancy agreements given by the Office of Fair Trading (OFT) will now apply to licensee agreements, e.g. hostel accommodation (full case report can be viewed at <http://www.courtservice.gov.uk/View.do?id=1971>).

This judicial review case concerned three applicants who challenged the respondent's housing policy i.e. that:

- the council's housing placement policy for the homeless was unlawful as it required homeless people to accept accommodation without firstly being given the opportunity to view it, and
- the council's standard tenancy agreement contained unfair terms. (*The OFT acted as an interested party*).

The council argued that the

Unfair Terms in Consumer Contracts Regulations 1999 did not apply to land, including the terms of its agreements; that it was not a supplier for the purposes of the regulations, as it was fulfilling a statutory duty; and that the tenant was not a consumer, as she was seeking a benefit from the state. The 1999 Regulations protect consumers against unfair terms in contracts and state that a consumer is not bound by a standard term in a contract with a trader if that term is unfair.

The High Court determined that:

- the 1999 Regulations and Council Directive 93/13/EEC do apply to contracts relating to the transfer of an interest in land, including the granting of leases,
- the 1999 Regulations and the Directive apply to public authorities, and
- the council is a "seller or supplier" and the applicants are "consumers" within the

meaning of the 1999 Regulations and the Directive.

The OFT, together with certain other bodies, can take legal action to prevent the use of potentially unfair terms. A term is likely to be considered unfair if it causes a significant imbalance in the parties' rights and obligations under the contract, to the detriment of consumers. However, only a court can decide whether a term is unfair.

The OFT's '*Guidance on unfair terms in tenancy agreements*' and consumer leaflet '*Unfair tenancy terms - don't get caught out*' can be found at <http://www.of.gov.uk>.

The OFT's press release on the Khatun case can be found at:-

<http://www.of.gov.uk/News/Press+releases/2003/PN+133-03.htm>. Information is also available in Housing Rights Service's library.

London Borough of Harrow v Qazi [2003] UKHL

This case concerns the use of Article 8 of the Human Rights Act 1998, i.e. 'the right to respect for private and family life and the home', as a defence against possession proceedings. It is especially relevant to clients who are considering challenging possession proceedings although they do not have a legal right to occupy a property. The judgment can be read at: <http://www.publications.parliament.uk/pa/ld200203/ldjudgmt/jd030731/qazi-1.htm>.

Quinton v East Hertfordshire DC [2002]

In this case the County Court in England ruled that a person is not intentionally homeless if they fail to pay rent due to financial hardship. This is very significant for those challenging homeless decisions on this issue. Further details of this case can be found in the May/June 2003 edition of Adviser, page 31. Adviser is produced by Citizens Advice (NACAB).

End to means test for children with disabilities

The Department of Social Development (DSD) has announced that the means test for parents of children with disabilities who apply for the Disabled Facilities Grant (DFG) will be abolished from February 2004. The mandatory grant is intended to make the home of a person with a disability suitable for their needs and is open to people who own their home, landlords and private sector tenants. The decision follows the establishment of a working group in April 2003 by the DSD to look at whether the means test applying to the grant disadvantaged parents with disabled children. The decision has been welcomed by a number of interest groups who have campaigned for this change in the law.

Casework Corner

Grants levels unrealistic

Citizens Advice has highlighted an ongoing problem with Housing Executive home improvement grants not meeting the full cost of building work. One particular case is of an owner occupier who was awarded a grant of £2,300 to enable building work to be carried out to their property for water leaks and the repair of doors and windows. The client is in receipt of Income Support and is not able to contribute to the cost of any of the work. The client obtained quotes from several builders; all of which left a shortfall between the value of the grant and the amount requested by the builders. Consequently, the work has not been carried out and the grant has not been utilised.

The bureau adviser wrote to the Housing Executive grants office highlighting this case as typical of grant recipients in receipt of Income Support. The bureau queried how a person in receipt of Income Support can be expected to find the money to cover the shortfall to have essential works carried out. Following this, the Housing Executive reassessed the grant on this year's rates raising it to £2,500 and stated that although they realised there was often a shortfall they are tied to the current grants' rates

This is just one example of Citizens Advice clients who are unable to get the necessary work done to their homes as they cannot afford to pay the shortfall

between the grant and the actual cost of the work. The current costing levels for specific building work being used by the Housing Executive need to be realistically reviewed as few people on a low income are in a financial position to pay the difference between their grant award and the quotes provided by builders.

Housing Rights Service and Citizens Advice highlighted this issue in their responses to the Housing Executive's consultation document on the new discretionary grants scheme. Both organisations called on the Executive to ensure that maximum grant levels reflect actual cost.

Legal Eye Update

Anti-social behaviour provisions become operational

Provisions in the Housing (NI) Order 2003 relating to anti-social behaviour are soon to take effect. Following a meeting with John Spellar MP, the Minister with responsibility for Social Development, the Housing Executive will be implementing the following from February 2004:

- determining applicants' "eligibility" for accommodation and/or assistance under the homelessness legislation on the grounds of their behaviour
- new and amended grounds for possession of secure tenancies
- injunctions against anti-social behaviour.

The Housing Executive is scheduled to implement introductory tenancies from April 2004. It is anticipated that the same date will be applied by most Registered Housing Associations.

Housing Rights Service will be holding a training course on the Housing (NI) Order 2003 in March (16th in Derry/Londonderry and 18th in Belfast). Further details are available from www.housingrights.org.uk or contact John McKenna on 9026 7916.

Statutory Rules

The following are available from www.northernireland-legislation.hmsi.gov.uk

SR 2003 No. 172 – Housing Support Services Regulations (NI) 2003 (from 01.04.03)

Prescribes the types of housing support services that may be provided for through supporting people funding.

SR 2003 No 402 – The Allocation of Housing Regulations (NI) 2003 (from 01.11.03)

SR 2003 No. 403 – The Homelessness Regulations (NI) 2003 (from 01.11.03)

Specifies class of persons from abroad who are not eligible to be allocated housing by the Housing Executive and not eligible for assistance under the homelessness legislation

SR 2003 No. 409 – Injunctions Against Anti-Social Behaviour (Prescribed Premises) Regulations (NI) 2003 (from 01.11.03)

Adds further categories of premises to which injunctions can apply and includes all private tenancies and non-secure registered housing association tenancies.

SR 2003 No. 410 – Introductory Tenants (Review) Regulations (NI) 2003 (from 01.11.03)

Makes provision about the procedure to be followed when a tenant requests a review of a decision to evict from an introductory tenancy.

SR 2003 No. 411 – Secure Tenancies (Amendment) Regulations (NI) 2003 (from 01.11.03)

Amends the prescribed form of notice to be served on a secure social rented sector tenant before a court can entertain proceedings for possession.

the debate

Anti-social behaviour: a criminal problem requiring a legal response

By April 2004, landlords in Northern Ireland will be operating new powers to deal with anti-social behaviour. Government is also proposing the introduction of further remedies such as Anti-Social Behaviour Orders to tackle the problem in communities. However, does the answer lie in punitive responses? Barry McMullan, Advice Officer with NIACRO's Resettlement Team, discusses.

NIACRO is aware, from research conducted locally in the past number of years by its Community Safety Team, that anti-social behaviour is a major concern for many communities. Anti-social behaviour in all its manifestations - car crime, graffiti, underage drinking, drug taking, violence - impacts upon individuals and communities alike and we acknowledge the often significant harm such activity has on people's quality of life.

The Northern Ireland Housing Executive (NIHE) has long been aware of the significant problems caused on its estates by a small number of individuals who show scant regard for other residents. The Housing (NI) Order 2003 includes measures designed to tackle anti-social behaviour. One of the most significant is the introduction of provisions enabling the Housing Executive to exclude applicants, including homeless people, from an allocation of social rented housing on the grounds of their behaviour (Articles 124 & 137). The legislation also gives landlords the

power to grant injunctions against anti-social behaviour (Articles 26 & 27), enables social landlords to operate Introductory Tenancies (Articles 6-12) and extends the grounds for repossession of secure tenancies (Article 22). Government believes that these measures will assist the Housing Executive and other landlords to address the incidence of anti-social behaviour.

As an agency which is fundamentally opposed to social exclusion, NIACRO strongly objects to measures which threaten to erode existing tenant rights or which serve to exclude or further marginalize vulnerable groups. However, we do recognize the right of communities and individuals to live in peace, safe from nuisance and the fear of intimidation and violence. Any initiative which reduces offending behaviour and the fear of offending should be welcomed.

While acknowledging the problems which can be faced by individuals and families living with "anti-social" neighbours, our

experience casts doubt as to whether purely punitive measures such as exclusion from social housing represents an effective mechanism for dealing with the problem. Evicting tenants for alleged anti-social behaviour may

Anti-social behaviour is first and foremost a breakdown in neighbour relations rather than contravention of a statutory provision

merely displace the problem rather than offering a potential and lasting solution.

Anti-social behaviour is first and foremost a breakdown in neighbour relations rather than contravention of a statutory provision. As such, the most promising solution will be one which attempts to address the underlying causes of the breakdown and restore the damaged relationships.

Mechanisms which allow protagonists to examine and resolve disputes to mutual satisfaction are much more likely to prove effective than a process of displacement which may

only move the problem to another neighbourhood, district or community. A multi-agency approach which receives the support of, and is representative of, the community may prove successful in this respect. Opportunities already exist in the form of tried and tested models of floating support while the NIHE's new inter-agency multi-disciplinary team which will target a range of support services to those most at risk of homelessness will add a new dimension. Additionally social landlords could take the initiative to build in appropriate levels of support and intervention into the tenancy agreement at the outset where it is identified that the tenant has poor coping strategies or lifestyle issues which may affect his/her ability to live independently. A proactive measure like this may be more effective in the long-term.

Injunctions will offer tenants and communities a degree of protection especially where a non-tenant causes the nuisance. If processes of mediation and conflict resolution prove ineffective and the offending party does not modify his / her behaviour then the option of re-location should be given careful consideration and be used primarily as a mechanism for reducing the likelihood of repeat



behavioural problems rather than a quick fix solution. Termination of a tenancy and eviction should be used as a measure of last resort when other processes have been exhausted or irretrievably break down. The power to evict tenants from their dwelling place is an extreme sanction and its use is one which should be limited to only the most exceptional of circumstances rather than an easy way for landlords to rid themselves of unwanted tenants.

As a public authority, the test for the NIHE in applying the above legislation will be to achieve proportionality i.e. *'the fair balance between the demands of the general interests of the community and the requirements of the protection of the individual's human rights'*. Needless to say, the

NIHE's performance in administering these particular pieces of legislation will be under scrutiny from human rights and welfare rights organisations to ensure its approach is one that is consistent rather than selective.

NIACRO (the Northern Ireland Association for the Care and Resettlement of Offenders) is a voluntary organization and charity, which has been working in the criminal justice field for over 30 years. NIACRO works with prisoners, ex-prisoners, prisoners' families and those at risk of developing offending behaviour in an attempt to reduce the likelihood of offending, re-offending and anti-social behaviour with a view to reducing the incidence of victimization in the community. For further information telephone: 028 90 320157 or visit www.niacro.co.uk.

Welcome to...

Since the last issue of Housing Rights Review the Community Housing Advice Project has recruited three new members of staff. Peter McMahon, Project Manager, previously managed the Neighbourhood Development Association for thirteen years, providing advice on housing issues and homelessness. Cathy Hobson is one of our new Housing Advice Development Workers. Cathy was previously employed as a Senior Adviser/Tribunal Representative with Craigavon District Citizens' Advice Bureau for three years. *(Brian Mullan, previously Housing Advice Co-ordinator, Housing Rights Service, is also a new Housing Advice Development Worker)*. Finally, Kathryn Young has taken up the post of Administration Officer. Kathryn previously worked as Administration Officer for the Newtownabbey Local Strategy Partnership.



Left to Right: Brian Mullan, Peter McMahon, Cathy Hobson and Kathryn Young.

Discretionary grant scheme becomes operational

The new grants scheme for private sector housing came into operation on 1 December 2003. John McKenna, Training Officer with Housing Rights Service, provides a summary of the main changes.

Under the new scheme, the Housing Executive no longer has a mandatory duty to provide grant aid. Instead, all preliminary grant applications received on or after this date will be assessed under a largely discretionary scheme. The aims of the scheme are:

- To ensure the continual improvement of housing standards in the private sector in support of housing-orientated urban and rural regeneration; and
- To help vulnerable people, including people with disabilities, living in the private sector to live safely in their homes.

Two grants remain mandatory: the **Disabled Facilities Grant** (to facilitate access to and around a disabled person's home) and the **Repairs Grant** (to assist with the cost of repairs following the service of statutory notices by District Councils). In these instances, the Housing Executive will still be required to provide grant aid to applicants who meet the eligibility conditions.

The remaining grants will now be awarded on a discretionary basis i.e. **Replacement Grant** (to replace unfit properties in

rural areas) **Renovation Grant** (to render properties fit) **Houses in Multiple Occupation (HMO) Grant** (to render properties fit and bring them up to HMO standards) **Group Repair Schemes** (to improve the exterior of terraces) and the new **Home Repair Assistance Grant** (to assist with cost of moderate repairs and aimed at vulnerable and disadvantaged households). Having discretion, means that the Housing Executive will no longer be required to grant aid every applicant who meets the eligibility conditions and can therefore target grants. There are three ways in which the Housing Executive intends to do this:

House condition based targeting – based on properties in the worst condition and those in disrepair which may become unfit.

Household characteristic based targeting – aimed at those in most need including people on low incomes and people with disabilities.

Geographically based targeting – to support urban and rural regeneration strategies where improving private

sector housing is an objective. Targeted areas will be designated by the Housing Executive for a set period of time and will include rural and urban priority areas as well as areas which have a high concentration of HMOs. The affect of this change is that enhanced grant aid will be available in specific geographical areas. For example, the HMO Grant will be available for properties capable of housing 10 or more people but within HMO Action Areas the grant will be available for all HMO properties regardless of size.

There are also some changes to both the mandatory and discretionary grants, including the following:

- The maximum amount available for a Disabled Facilities Grant has risen from £20,000 to £25,000 and on an exceptional basis can be topped up by a further £25,000.
- The means test applied to parents of a disabled child will be abolished from February 2004.
- The Repairs Grant is no longer available for owner occupiers.
- The provision of central heating and insulation has been included in the Replacement and

Renovation Grants (i.e. for repairing or replacing defective systems)

- Replacement Grants are no longer confined to "isolated" rural properties and therefore small rural settlements will be eligible for the first time.

- The Renovation Grant maximum has been increased from £20,000 to £25,000 and is available for properties that are fit but in disrepair, within designated areas

- The new Home Repair Assistance Grant (HRAG) replaces Minor Works Assistance. The maximum grant is £5,000 (with a total not to exceed £5,000 in any three year period) and is available for the following purposes:

- for fit properties in disrepair and unfit properties which can be made fit with one HRAG
- to applicants aged 60 and over living in unfit accommodation for external repairs and health and safety work
- to owner occupiers and tenants on means-tested benefits who are "infirm" (i.e. weak/frail) or have a disability.

Details of the scheme are contained in the report "Grant Aid in Private Sector Housing: a

New recovery system could increase financial hardship

continued from page 8

Strategic Approach for the Use of Discretionary Grant Aid to Northern Ireland” which is available from Declan McAllister (t) 9031 8396 or email declan.mcallister@nihe.gov.uk. A booklet on the scheme is currently being prepared by the Housing Executive and should be available shortly.

Housing Rights Service will be holding a training course on the new scheme in Derry/Londonderry on 4th May and in Belfast on 6th May.

For further details contact:
Louise Togneri
(d) 9026 7915
(e) louise@housingrights.org.uk or visit www.housingrights.org.uk

Housing Benefit computer shutdown

In the next few months, the Housing Executive will be introducing a new computer system for processing Housing Benefit claims. There is, as yet, no exact date for implementation of the new system however it is anticipated that the computer shutdown will take place prior to the end of March 2004 and will last between 3- 5 weeks. The Housing Executive has advised that every effort will be made to ensure that

The Housing Executive is changing the way in which it treats Housing Benefit overpayments made to its tenants. An overpayment can occur when a claimant fails to notify the Housing Executive of a change in her/his circumstances e.g. fluctuations in income or change in family status. In such instances, the overpayment amount is debited to the tenant's rent account and recovered along with any other rent arrears. Therefore, tenants in receipt of social security benefit, who are subject to a compulsory deduction, currently repay one amount of £2.75 per week. Under the new recovery system which the Housing Executive states is “designed to help (it) deal effectively with the problem of Housing Benefit overpayments” tenants will have two accounts i.e. a rent and rates account and a Housing Benefit overpayments account. Where a Housing Benefit overpayment exists, their entitlement to Housing Benefit will be reduced automatically and charged to their rent account.

all outstanding applications for Housing Benefit will be processed prior to the shutdown and confirmed that existing claims will continue to be paid throughout the transition period. The processing of any new claims for Housing Benefit will however be suspended

Originally the Housing Executive had set the recovery amount at £4.00 per week, however it has recently informed Housing Rights Service that the amount to be recovered is under review and that “*the Housing Executive will establish the amount of clawback after taking account of legislative requirements and impact on tenants. Once the amount is established it will be applied consistently in all cases*”. In cases of fraud it will be set at £10.80 per week. At the time of writing, an implementation date for this change has not yet been agreed.

Housing Rights Service is concerned about the implications of this new recovery procedure for two reasons. Firstly, we believe it could cause undue hardship to some tenants. Tenants who are in receipt of benefit and do not voluntarily pay the revised charge will now be subject to a higher compulsory deduction (*this will be calculated as the agreed “recovery amount” plus £2.75 per week*).

Secondly, there appears to be no discretion in the amounts applied. The Housing Executive has informed Housing Rights Service that it will not accept any less than the agreed recovery amount even though it has discretion to do so.¹

In our view this new recovery procedure is most likely to have an adverse affect on vulnerable tenants including older people, those with mental health problems and people with other debts. Housing Rights Service would like to hear your views on the matter and is interested in finding out whether these changes are causing your clients financial hardship. Comments can be forwarded to Nicola McCrudden by email to nicola@housingrights.org.uk or by phoning 028 9026 7919. Further information about the new system will be available on our website.

¹ Regulation 102, Part XIII of the Housing Benefit (General) Regulations (NI) 1987.

during the shutdown period. During this period, the Housing Executive has stated that it will provide all new applicants with indicative information on the level of Housing Benefit they will be entitled to and what formal notifications will be issued to applicants as soon as

practicable when the new system goes “live”. The Housing Executive has also advised that contingency measures will be in place to produce manual cheques for new applicants living in the private rented sector who are at risk of losing their accommodation.

Websites Worth Watching

http://www

Debtline - www.debtlineni.org.uk – run by the Consumer Credit Counselling Service, the site gives free and confidential advice on a range of debt issues including legal, creditors, benefits, debt management and bankruptcy. The aim of the site is to help people help themselves to get out of debt by providing counselling on personal budgeting, advice on the wise use of credit and, where appropriate, managing achievable plans to repay debts. There is also a free telephone advice line on 0800 027 4990.

HOMESWAP - www.availablehomes.org.uk – people wanting to move from social rented housing in Northern Ireland to social rented housing elsewhere in the UK can register for free and search this site for one of approximately 1,000 properties advertised.

Housing Today – www.housing-today.co.uk - keep up to date with the latest housing case law by reading the 'Case of the Week' as reported by Jan Luba QC, a housing law specialist.

Human Rights Update - www.humanrights.org.uk – access over 600 reports and commentaries on human rights cases, practical guidance on the Human Rights Act and the Convention on Human Rights, articles and a forum for discussing human rights issues.



The future of legal services in Northern Ireland

On the 1st September 2003 Sir Kenneth Bloomfield KCB was appointed as the Chair of the new Northern Ireland Legal Services Commission which took over responsibility for the administration of legal aid from the Law Society of Northern Ireland on the 1st November 2003.

The Commission was established by the Access to Justice (NI) Order 2003 with the aim of modernising publicly funded legal services in Northern Ireland in order to make justice accessible to all. This development has implications for the voluntary advice sector in that it will decide what, if any, role it may have in the future delivery of legal services.

Housing Rights Service was delighted to welcome Sir Kenneth Bloomfield KCB to its offices in



Sir Kenneth Bloomfield KCB (right) delivering his keynote address with Mr John Gartland, Chair Housing Rights Service

November 2003, where he gave a keynote address on the subject of 'Promoting Access to Justice: The Future Role of the Voluntary Sector in the Delivery of Legal Services in Northern Ireland'. At the event Sir Kenneth said that "...while the new Legal Services Commission will no doubt continue to enable those without adequate means to employ lawyers for legal advice or representation, we are determined to recognise the great potential

importance of the role of the not-for-profit sector in that reform of publicly-funded legal services..." He went on to say how valuable the capacity of Housing Rights Service was "to deliver advice, training and information on housing legislation, policy and practice, and how useful its role is in providing advocacy and representation."

To find out more about the Northern Ireland Legal Services Commission please telephone 028 9024 6441 or view their website at:-

www.nilsc.org.uk.

Supporting People - What's it all about?

Supporting People which was launched on the 1st April 2003 is a UK wide initiative designed to improve the planning, delivery, funding and monitoring of housing support services for vulnerable people living in the community. In Northern Ireland the Department for Social Development has overall responsibility for Supporting People, but it is the Housing Executive who administers the fund, which is capped.

Supporting People aims to help a range of people including older people, people with learning difficulties, people with mental health problems, people with physical disabilities, people fleeing domestic violence, homeless people, people struggling to meet their tenancy conditions, people leaving institutional care and young care leavers to live independently.

It will pay for services such as certain types of community alarms, wardens, life skills training, help with applying for social security benefits and general counselling; all with the aim of enabling vulnerable people to sustain tenancies and remain in their own home. The needs of the

user will be matched to the services provided during the process of allocating accommodation.

Paying for Support Services

Up until the 1st April 2003 Housing Benefit covered rent and rates and the cost of providing support services. This is no longer the case. Under Supporting People the cost of services are now paid directly to the service provider by the Housing Executive and not through transitional Housing Benefit, as was previously the case.

Two types of service provision apply: short-term and long-term. Where the support service is intended to be for a period of 2 years or less, this is considered to be a short-term service e.g. a Women's Aid hostel, homeless hostel or floating support service. All short-term support services are now fully funded under Supporting People. This means that all service users availing of short-term support services have nothing to pay for the support they receive, even if they are working.

Any support for 2 years or more is considered as long-term service e.g. sheltered housing or some learning disability

schemes. In this case, if the service user is receiving Housing Benefit, no matter how small the amount, Supporting People will fund all of the support costs. If the service user is not in receipt of Housing Benefit, he/she will pay for the cost of the support service they receive (in this case they should consider making an application for Housing Benefit).

Quality of Support Services

Supporting People has changed the way in which housing support services are monitored. Although not in place at the time of writing, service providers such as landlords, managers of accommodation and other agencies e.g. Health and Social Services Trusts will have a formal contract with the Housing Executive to provide specific kinds of support. All contracts will be reviewed between April 2003 and April 2006 (except sheltered housing which will be reviewed by April 2008) to ensure that the support being offered is high quality, reasonably priced and best suited to the needs of the recipients.

Floating Support

Floating Support is managed by the Housing Executive in association with voluntary organisations throughout Northern Ireland. It provides support services for a limited period of time to tenants in their own home with the aim of maintaining independent living. It aims to assist people to continue living in ordinary housing, avoid tenancy breakdown and prevent homelessness and the support follows the individual across tenures e.g. from temporary accommodation into the community. Providing that the service required by Floating Support is an eligible service it will be paid for in the same way as Supporting People. Although Floating Support existed before the introduction of Supporting People, it is anticipated that Supporting People will promote Floating Support much more than when it was paid for by transitional Housing Benefit.

Further information on Supporting People and Floating Support can be obtained from the NIHE 'Supporting People' Team, Tel: 028 9031 8413 or visit www.nihe.gov.uk/supportingpeople or email supportingpeople@nihe.gov.uk

focus on

Homeless support team

The Homeless Support Team based in Belfast provides a specialist support service for homeless people with mental health issues. Kim Kerr, Senior Mental Health Worker with the team, explains further.

In October 1994 an interagency steering group was set up to examine and co-ordinate a response to the needs of homeless people in Belfast who experienced mental health problems. The group consisted of representatives from EH&SSB, S&E & N&W Belfast Health and Social Services Trusts, the Housing Executive, Council for the Homeless NI, Extern and a service user.

Following research commissioned by the steering group, the Homeless Support Team was set up in January 1998 as a two year pilot scheme. The research, carried out by the Health and Health care research unit at Queens,¹ recommended that there should be a specific team set up to work with homeless people who had mental health problems.

At the end of the pilot, the project was independently evaluated and it was recommended that work carried out by the team should continue.² Following this, mainstream funding was secured through South & East and North & West Belfast Health Care Trusts and the Housing Executive.

Located in the Ormeau Centre in Belfast, the Homeless Support Team is managed by Tom McCann MBE and includes Senior Mental Health Worker - Kim Kerr, Mental Health Worker - Joanne Reilly, Addiction Worker - Mal Byrne and Support Worker - Sean Conlon.

The team works from an Assertive Outreach Model of intervention which was designed as a way of working with mentally ill

people, who were difficult to engage in services **SCMH (2000)**. It enables the worker to engage clients, in their own environment, and focuses on multi disciplinary working. It operates an open referral system where clients can refer themselves or be referred from any other source. Services on offer include:

- assessment;
- advice and information;
- liaison and networking;
- practical assistance;
- training;
- links with mainstream services;
- advocacy; and
- individual work with clients in their own environment.

Various strategies have highlighted the importance of the work within the Homeless Support Team and the necessity to expand the model.³

As such, an interagency forum consisting of representatives from the Housing Executive, EH&SSB, S&E Belfast Trust, North & West

Belfast Trust, Probation and Extern have met to discuss the development of a multi-disciplinary homeless needs assessment team. It has been agreed to build on the current structures and experience of the Homeless Support Team. A “one stop shop” incorporating the team, has also been agreed to provide a single entry point into the range of services for the homeless in Belfast. It is anticipated that this service will become operational later this year. *The Homeless Support Team can be contacted on 028 9023 809.*

¹ “Don’t look away”, Homelessness and mental health in Belfast (McGilloway and Donnelly 1996).

² Joan McCrum (2000)

³ NIHE Homelessness Strategy & Services Review-Implementation Plan 2002, NIHE Belfast Area Homeless Action Plan 2002 and the Eastern Board Draft Strategy for Adult Mental Health Services 2003.