



Law Centre (NI)

Law Centre (NI) and Housing Rights Service

Response to Housing Benefit Amendment Regulations (2009)

February 2009

INTRODUCTION

This submission has been compiled jointly by Law Centre (NI) and Housing Rights Service. A brief profile of each organisation is as follows:

Law Centre (NI)

Law Centre (NI) is a public interest non-governmental legal organisation. We work to promote social justice and provide specialist legal services to advice organisations and disadvantaged individuals through our advice line and our casework services from our two regional offices in Northern Ireland. The Law Centre provides a specialist legal service (advice, representation, training, information and policy comment) in five areas of law: immigration, social security, community care, mental health and employment. Our services are provided to almost 500 member agencies. Members include local Citizen Advice Bureaux, independent advice agencies, local solicitors, trade unions, social services, probation offices, constituency associations of local political parties, libraries and other civic organisations.

Housing Rights Service

Housing Rights Service is the leading provider of independent specialist housing advice services in Northern Ireland. We believe everyone has the right to a decent, safe and affordable home and have been working for over 40 years to help achieve this on behalf of people who are homeless or living in poor housing in Northern Ireland. All our services are delivered throughout Northern Ireland and focus on key areas of preventing homelessness; accessing accommodation; tackling affordability and poor housing conditions. Our services include:

- Providing a housing advice line
- Undertaking advocacy and legal representation of behalf of people with housing problems
- Providing online advice through www.housingadviceNI.org including email advice
- Providing a specialist housing advice service within the prisons
- Delivering a skills and knowledge based training programme
- Producing information resources materials
- Supporting generalist advice agencies to deliver high quality housing in their local communities
- Providing client based commitment to influence the development of relevant public policy and legislation

Housing Rights Services works to achieve positive change by protecting and promoting the rights of people who are in housing need in Northern Ireland. Our policy work is based on the experience of our clients.

Law Centre (NI) and Housing Rights Service are pleased to respond to SSAC's request for evidence relating to the DWP's proposals to cap Housing Benefit (HB) to a maximum level of the five bedroom LHA rates from April 2009. This response addresses some UK-wide issues arising from the proposals and then focuses on specific Northern Ireland issues. It also addresses equality and considers the proposed provision of 13 weeks transitional protection.

UK-WIDE ISSUES

We are concerned that these proposals appear to have been drafted primarily as a reaction to the Ealing case, where one family was found to be in receipt of £12,000 in HB per calendar month to live in a 7 bedroom property in London. Mass media coverage ensued. We do not consider this to be an appropriate basis on which to draft policy. Furthermore, the Department describes this case as an ‘exceptional circumstance’, which represents but a handful of cases. Given the exceptionality of this issue, the Department’s response is disproportionate.

Although the Department estimates that 20% of families requiring 6+ bedroom properties should be able to secure appropriate accommodation within the capped 5 bedroom LHA,¹ the majority will not. Our experience shows that families in receipt of Housing Benefit find it extremely difficult to secure additional money. Thus the affected households are likely to struggle to fund the shortfall between LHA and their rent. Equally, they will struggle to secure alternative accommodation, which often requires financing a deposit and rent in advance. These concerns are supported by the Department’s figures which indicate that more than half of 5+ bedrooms of HB households are already living under the poverty line.² Such households may well face homelessness.

The amendment may leave tenants in breach of their contract. If a tenant is forced to move out of a property due to being unable to meet the rent, the landlord is legally entitled to pursue rent for the remaining period of a fixed term contract. Our experience shows that tenants in desperate situations such as these, who cannot access credit, often turn to illegal money lenders for finance, thus compounding their insecurity and

¹ Proposed amendments, paragraph 21.

² Proposed amendments, paragraph 32.

vulnerability. A related issue is the ongoing difficulty of tenants being unable to secure the return of their previous deposit, making it difficult to secure a further deposit. Both of these issues are more acute in Northern Ireland, which does not have statutory tenancy deposit protection schemes which currently operate in England and Wales.

Moving to alternative accommodation presents greater difficulties for large households given the scarcity of suitable properties.³ If a household is forced to move to another area to find a similar sized property, education and caring arrangements could be adversely affected. Alternatively, a larger household may choose to break up into smaller units, which could again affect caring arrangements and family cohesion.

Some households may choose to move into smaller accommodation within the capped limit, which would exceed their assessed room entitlement and could lead to overcrowding. This highlights a further area which causes concern given its potential for heralding in a 'slippery slope' in terms of room entitlement. Although we accept that many people make private arrangements that result in more people living in a room than envisaged by the regulations, we believe that the regulations should be treated as a minimum standard and should not be 'diluted' in any circumstance. Unfortunately, this amendment sends out a message that room entitlement is a flexible concept, which may have knock-on effects in other aspects of housing. We would argue that room entitlement is central to the government's housing obligations and should not be seen as a periphery add-on. Any amendment that weakens the commitment to room entitlement seems inconsistent with provisions to reduce statutory overcrowding.

³ Proposed amendment, paragraph 14, " The rent services believe [dearth of evidence on lettings for 6 or more bedrooms] is due to less availability of properties of this size for rent as well as slower turnover of these properties in the market".

IMPACT OF REPOSSESSIONS

Rates of repossession actions across the UK have risen dramatically and Northern Ireland has witnessed a 93% increase in such actions in the last quarter of 2008 compared to the same period in 2007. This would also suggest that HB applications will rise and that there will be an increased demand on private sector accommodation to meet future housing needs. In uncertain economic times, the Department should be seeking to strengthen HB not weaken it so that it continues to play a key role in helping safeguard families against poverty.

THIRTEEN WEEK TRANSITION PERIOD

We feel that thirteen weeks is insufficient time for large households to relocate, especially given the scarcity of suitable accommodation.⁴ If the Department does proceed with the proposals, we would therefore propose a period of transition whereby the new rules apply only to new claimants. A phased approach would be more desirable. Households containing extended family members will be particularly affected. This is likely to disproportionately affect certain ethnic minority groups (for example, Asian families) disproportionately without sufficient rationale for the adverse impact.

NORTHERN IRELAND

Housing Benefit arrangements in Northern Ireland are different from those in the rest of GB. There is no equivalent to Rent Officers but instead all arrangements are made by the Northern Ireland Housing Executive (NIHE). LHA is also administered differently in Northern Ireland, with the continuation of direct benefit payments to landlords in the

⁴*Op. cit.* 4

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majority of cases. The Housing Executive currently has a caseload of 140,000 cases, of which 45,000 cases fall within the private rental sector. Of these, the Local Housing Allowance provisions apply to 16,000 cases; existing cases prior to 07/04/2008 remain under the old provisions.

The proposed amendment will disproportionately affect Northern Ireland, which is estimated to have the UK's largest number of people per household (2.7 compared to the average 2.4).⁵

NIHE figures show there are currently 15 households receiving Local Housing Allowance for properties with more than five bedrooms. These proposals will therefore only affect a small number of people in Northern Ireland. Indeed, the Department estimates that 0.01% of claimants in the UK will be affected.⁶ This notwithstanding, we envisage that the demand for larger property Local Housing Allowance claims will increase in Northern Ireland, despite the fact that the number of larger households is set to decrease slightly.⁷ This is because only 36% of private rental cases are currently under the LHA scheme; however, we anticipate a gradual shift from non-LHA to LHA claims. If, at some point in the future, all 45,000 private rental cases are subject to LHA, by extrapolating current figures, we believe that approximately 450 larger households (i.e. a minimum of 2800 people⁸) will be impacted by these proposals. Given the potential implications of the proposals, we believe they should be accorded due consideration and should not be written off as insignificant.

⁵ DSD HBAI 2004-5. Cited in Save the Children, 'Annual Child Poverty Report 2007'

⁶ See paragraph 17, 28, 32

⁷ Northern Ireland Statistics & Research Agency, '2006 Household Projections for Northern Ireland' show that 5+ persons will decrease from 47,900 (2009) to 47,100 (2019); 6+ persons will decrease from 20,700 (2009) to 20,300 (2019); 7+ persons will decrease from 7,500 (2009) to 7,400 (2019).

⁸ Assuming that each household has at least 6 members; in reality, the figures will be higher.

We note that Northern Ireland is not referred to in the Department's proposal and therefore assume that the circumstances in Northern Ireland have not informed these proposals.⁹ Moreover, NIHE data clearly demonstrates that there is no evidence of high contractual rents for larger properties.¹⁰ What is more, there is no evidence of larger properties being aimed at the luxury end of the market.

The LHA scheme only came into force in April 2008 and so far there has not been a formal assessment of the scheme. However, a provisional assessment of the LHA scheme illustrated that the scheme is working. In a recent briefing session to the Social Development Committee, Housing Rights Service advised that the overall experience of LHA has generally been positive, particularly in light of the NI Executive decision not to introduce direct payments to tenants. The positive indications of the current system, combined with the lack of evidence and the lack of reference to Northern Ireland in the Department's proposals, lead us to conclude that there is no evidential basis for the proposals, which are, in any event, disproportionate for Northern Ireland given their potential impact.

MINISTER ASSURANCES

When implementing the LHA system, Minister Margaret Ritchie gave an assurance to the Social Development Committee that no person would be financially worse off during

⁹ Section 13 states: This proposal has arisen following concerns raised by the three national rent services in England, Scotland and Wales who have reported difficulties in determining LHA rates for larger properties.

¹⁰ Weekly rents for Northern Ireland properties with more than 5 bedrooms range from £83.15 – £296.00 per week. Indeed, the highest value of £296 is comparable to the lowest value in London for this property size - £277. NIHE data sent to DSD, received by Law Centre (NI) on 21/01/2009.

the pilot period than they were under the old system for at least one year.¹¹ The Minister explained that the new arrangements would be piloted during the financial year 2008-2009 and that they would not continue after that period without consultation with the Committee. Clearly, this assurance could not be kept if these proposals were adopted. Any failure on the part of a Minister to maintain her assurance could significantly reduce public faith in the political system.

CHILD POVERTY

This amendment risks increasing child poverty in Northern Ireland. One in four children experiencing poverty in Northern Ireland lives in families with four or more children. The child poverty rate for children in large families (4 or more children) is considerably higher (at 40%) than the general child poverty rates for NI (24%).¹² There is no doubt that this amendment will make it more difficult for the Office of the First Minister and Deputy First Minister (OFMDFM) to achieve its target of reducing child poverty by 50% by 2010 and eliminating it by 2020.

EQUALITY IMPACT ASSESSMENT

The current Equality Impact Assessment does not meet the requirements specified by section 75 of the Northern Ireland Act 1998 in that it does not include a community assessment. However, evidence demonstrates that the Catholic community will be disproportionately affected as 5% of Catholics live in households with 6 or more persons compared to 1% of Protestants.¹³ Furthermore, the household consensual measure of

¹¹ Committee for Social Development, Minutes of Evidence, Thursday 6 March 2008

¹² Save the Children. Pg 8

¹³ Northern Ireland Statistics and Research Agency (NISRA) Continuous Household Survey, 2007/08.

child poverty identifies a higher incidence of child poverty in Catholic households (57%) than in Protestant households (38%).¹⁴

ALTERNATIVES

It is also clear that the Department could undertake alternative measures to tackle the exceptional abuse of the scheme and the difficulties associated with establishing rents for properties with more than 5 bedrooms. We do not think it is appropriate that the option chosen is the one with the most draconian impact.

CONCLUSION

These current proposals were clearly drafted in a London-specific context and there is no evidence that Northern Ireland's particular circumstances were considered. We can see no desirability in implementing similar regulations in Northern Ireland and would argue that Northern Ireland should retain the current 'uncapped' LHA system. In addition, as outlined above, we have general concerns in principle about this policy shift.

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¹⁴ McLaughlin, Eithne & Monteith, Marina, 'Child and Family Poverty in Northern Ireland' *Quality and Social Inclusion in Ireland*, 2006. Section 3.4