Role of housing benefit in night shelters

The DWP and the Department for Communities and Local Government (DCLG) have issued a note to local authorities to address ‘misunderstandings’ about the role of housing benefit in night shelters.

Following a recent Upper Tribunal judgment, in CH/1563/2012, where Judge Wright held that a night shelter is not a dwelling for which housing benefit is payable, Homeless Link had reported that 11 local councils have withdrawn some or all payments to night shelters, or are insisting on modifications to services, and that ‘from council to council’ there is a wide range of interpretations of what should be paid and for what service.

However, in an update published on 27 June 2013, Homeless Link says – ‘After extensive conversations between homelessness organisations and the government, DWP and DCLG have sent a note to councils which we hope will address an issue which, arguably, should probably never have become an issue in the first place.’

The DWP/DCLG note says that in his decision the judge made it clear that this case was limited to its own particular facts and stated expressly that the case was not intended to prescribe how housing benefit claims for rough sleepers should be decided, and that – ‘There has been no sudden change in the law:

- Housing benefit rules have not been changed over this basic principle of entitlement;”

Additional WCA providers to be brought in to tackle waiting times

Additional work capability assessment (WCA) providers are to be brought in to tackle waiting times, according to the DWP.

In an announcement on 22 July 2013, the DWP said that this change in approach is to be delivered on a regional basis and is likely to be fully operational from summer 2014.

In addition, the DWP said that Employment Minister Mark Hoban has directed Atos Healthcare to put in place a quality improvement plan following a DWP audit which identified an ‘unacceptable reduction’ in the quality of written reports produced following assessments.

NB – a DWP audit of 400 cases (carried out in April/May 2013) demonstrated that, whilst the quality of the

Tribunals to give summary paragraph of reasons for decision

The DWP and Her Majesty’s Courts and Tribunals Service (HMCTS) are working on the phased introduction of a summary paragraph of reasons in all tribunal cases.

Responding to a written question in the House of Lords on 22 July 2013, Justice Minister Lord McNally said – ‘HMCTS and DWP are working closely together to improve the process for decision making and appeals. In July 2012, working with the tribunal’s judiciary, HMCTS introduced a revised decision notice… to provide feedback on reasons for overturned DWP decisions.

Building on this, we are in the process of a phased introduction of a summary paragraph of reasons in all cases. This approach is being introduced, initially for eight weeks from 10 June, in Birmingham, London (Fox Court), Glasgow and Liverpool in relation to cases involving a work capability assessment (which includes decisions made about claims for ESA).

The information provided in the summary paragraph of reasons will be analysed by the DWP over the summer to identify trends in the data and any learning to help DWP decision makers.’

Lord McNally’s written answer in the Lords is available from Hansard.”

(continued on page 4)
**High Court dismisses ‘bedroom tax’ challenge**

The High Court has dismissed a challenge to the social rented sector housing benefit under-occupancy penalty (known as the ‘bedroom tax’) that was introduced on 1 April 2013.

In *R (on the application of MA & Ors) v the Secretary of State for Work and Pensions and Birmingham City Council* [2013] EWHC (2213) (30 July 2013), a group of ten claimants sought a judicial review of the provisions introducing the ‘bedroom tax’ on the basis that –

- the measures are unlawfully discriminatory under article 14 of the European Convention on Human Rights because they fail to provide for the needs of people with disabilities;
- they involve a violation by the Secretary of State of the Public Sector Equality Duty; and
- the Secretary of State has unlawfully deployed guidance, in the shape of HB/CTB Circular U2/2013, to prescribe the means of calculating the appropriate maximum housing benefit where an extra bedroom is required for children who are unable to share due to their disabilities.

Dismissing the appeal, Lord Justice Laws rejected the claimants’ first two grounds, holding that the Public Sector Equality Duty was fulfilled by the DWP and that the provision of extra funding for discretionary housing payments (DHPs) could not be said to be a disproportionate approach to the difficulties which disabled people face as a result of the cap.

However, Lord Justice Laws went on to hold that the DWP was obliged by the Court of Appeal’s 2012 decision in *Burnip, Tengrove and Gorry* to provide guidance, that the Secretary of State has unlawfully deployed guidance, and that DHPs cannot be allowed an extra room. This is a result of their disability, and that –

‘No such regulation has yet been made; the Secretary of State is relying for compliance with the Court of Appeal’s judgment on the administration of DHPs by local authorities along the lines of what is said in Circular HB/CTB U2/2013. That state of affairs cannot be allowed to continue.’ (paragraph 91)

**Government to amend ‘bedroom tax’ legislation in autumn**

Following the High Court’s decision in *R (on the application of MA & Ors) v the Secretary of State for Work and Pensions*, the government has said that it will amend legislation in the autumn to allow extra housing benefit where children are unable to share a room due to their disabilities.

In *HB Bulletin U5/2013*, published on 5 August 2013, the DWP says that –

‘In its judgment, the Court found in favour of the Department in relation to disabled adults and held that the policy did not breach their ECHR rights and that the duty to have due regard to the impact of the policy on disabled claimants had been complied with.

In relation to disabled children who are unable to share a bedroom as a result of their disability, the Court has instructed that the legislation be amended to reflect the Court of Appeal’s decision in *Gorry v Wiltshire Council and Secretary of State for Work and Pensions* [2012] EWCA Civ 629.

The Secretary of State and the Prime Minister have already stated that families within this category are to be allowed an extra room. This is set out in guidance (circular HB U2/2013). The legislation will be amended in the autumn to reflect this. In the meantime, local authorities should continue to apply that guidance until the new legislation is in force.’

In addition, the DWP says that, whilst the High Court did not give the claimants permission to appeal further, they have indicated that they will apply to the Court of Appeal directly for permission. *HB Bulletin U5/2013* is available at www.gov.uk/government/uploads/system/uploads/attachment_data/file/226868/u5-2013.pdf

**DWP announces further £35m in DHPs for those affected by ‘bedroom tax’**

The DWP has announced a further £35m in discretionary housing payments for those affected by the ‘bedroom tax’.

Setting out details of the extra funding on 30 July 2013, the DWP said that –

- £10m transitional payments will provide flexible funding for local authorities and will be distributed to councils based on working-age social sector caseload, rent levels and regional levels of under-occupation;
- £20m additional funding will be available for councils if they can demonstrate that they are managing their discretionary housing payment allocation in a ‘robust, fair and appropriate manner’; and
- £5m funding to rural areas will be provided to the 21 most sparsely populated areas in the country.

Welcoming the announcement, Work and Pensions Minister Lord Freud said –

‘ Reform of housing benefit is essential. The removal of the spare room subsidy means proper support for the household remains, but the taxpayer does not pay for people’s extra bedrooms.

We are strengthening the support already in place as a part of our commitment to closely monitor this reform. The new funding will help councils offer greater help to vulnerable tenants and recognises special circumstances of claimants living… in rural areas.’

For more information, see ‘Spare room subsidy: funding update’ at www.gov.uk/government/news/spare-room-subsidy-funding-update
Universal credit to expand to six more jobcentres in October 2013

On 10 July 2013, the DWP announced details of the next stage of the roll-out of universal credit.

Following the launch of claims for universal credit for single jobseekers in the jobcentres in Ashton-Under-Lyne in April 2013, and in Wigan, Oldham and Warrington in July 2013, the DWP says that new claims for the benefit will expand to the following six jobcentres starting from October 2013 —

- Hammersmith
- Rugby
- Inverness

The DWP also says that, from October 2013 —

- ‘… the Claimant Commitment, and enhanced jobsearch support will roll out across the country… [and] ten in-work conditionality pilots will test how to best encourage claimants to progress in work.’

Access to digital services will also be improved, the DWP adds, with 6,000 new computers to be installed in jobcentres for claimants to use when claiming their benefit online.

Commenting on the roll-out, Work and Pensions Secretary Iain Duncan Smith said —

‘Today we’ve announced the next stage of delivery for universal credit, following the successful start of the early roll out in April…

I’m determined to get this right and will not follow the old ways of governing – launching with a big bang and having to clear up the mess afterwards. I will bring in this radical reform safely, and I’m committed to doing it by 2017 and to budget.’

NB – the DWP also provided an update on the development of the IT infrastructure to support the delivery of universal credit and reported that —

‘… after asking major projects expert David Pitchford to review it earlier this year, ministers have accepted his recommendation that they should explore enhancing the IT for Universal Credit working with the Government Digital Service. Advancements in technology since the current system was developed have meant that a more responsive system that is more flexible and secure could potentially be built.

This would marry with the best of the existing system – which has proved viable during Pathfinder testing. Any enhanced IT solution will need to be both cost effective and deliverable to original timescales.’

For more information see www.gov.uk/government/news/universal-credit-roll-out-from-october-2013

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National roll-out of benefit cap begins

The national roll-out of the benefit cap began on 15 July 2013.

In a news release to accompany the roll out, the DWP highlighted that the cap – which started in the London boroughs of Enfield, Haringey, Bromley and Croydon in April this year – will now roll out to the end of September, with 40,000 households expected to have their benefits capped, saving £110m this year and £185m next year.

Welcoming the roll-out of the cap, Secretary of State for Work and Pensions Iain Duncan Smith said —

‘Returning fairness to the welfare state in this country is long overdue.

We will always be there to support those who need help, but the days of blank cheque benefits are over and the benefit cap is a key part of this.

We need a system that no longer traps people in a cycle of dependency and is fair for the hardworking taxpayers who fund it.

Seventy years after Beveridge helped establish Britain’s welfare state, we are restoring public trust in it. We are ensuring it is there as a safety net for those who need it but that no-one can claim more than the average household earns in work.’

For more information, see ‘National introduction of benefit cap begins’ at www.gov.uk/government/news/national-introduction-of-benefit-cap-begins

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Payments to landlords to be triggered after two months’ rent arrears under universal credit

Work and Pensions Minister Lord Freud has announced that direct payments to landlords are to be triggered after two months’ rent arrears under universal credit.

In a press release on 27 June 2013, the DWP set out the three levels of protection that will exist —

- decisions about whether tenants should receive direct payments will be made in collaboration with social landlords;
- if arrears build up to the equivalent of one month’s rent the decision to make direct payments will be reviewed; and
- if arrears reach the equivalent of two months’ rent, the claimant will have housing payments switched to the landlord, or managed payments.

The DWP said that once the arrears have been cleared, it will work with landlords to return tenants to direct payments, and that in most cases – following the tenant being offered budgeting support – they will return to direct payments within six months.

The DWP says that these safeguards were developed following findings from the Direct Payment Demonstration Projects currently running in six areas across Great Britain.

Lord Freud added that whilst —

‘Letting claimants pay their own rent is an important way of breaking down barriers to help people into work…. The key to making direct payments work will be our on-going collaboration with landlords.’

For more information, see Freud: Universal Credit protection for tenants and landlords at www.gov.uk/government/news/freud-universal-credit-protection-for-tenants-and-landlords
Lasa and the Legal Action Group announce new strategic partnership

We’re excited to announce that Lasa and the Legal Action Group (LAG) have formed a new strategic partnership for the benefit of the legal and advice sector.

The new partnership will build on the work of both organisations. LAG’s strength in legal publishing, and Lasa’s in technical innovation for advice support, will enable us to share experience and learning, enhancing the positive impact of our work on organisations across the UK.

The partnership will also provide a platform for us to increase our efficiency and effectiveness by improving back office support, and by exploring new technological solutions in our common interest.

Announcing the new partnership, Lasa’s CEO Terry Stokes said –

‘These are very challenging times for the organisations providing legal and social welfare advice. The changes to legal aid, welfare reform and reductions in funding place considerable pressure on front line advice providers. We believe that by working together Lasa and LAG can continue to be best placed to support advisers in the vital work they do.’

For more information about our work, see www.lasa.org.uk and www.lag.org.uk

Role of housing benefit in night shelters (continued from page 1, column 1)

- The government have no plans to change the current rules for housing benefit and universal credit.

That means that just as it was never true that all users of night shelters were automatically entitled to housing benefit, neither is it true that all users of night shelters are now excluded.’

Indeed, the note goes on to say –

‘Whatever the name given to the temporary accommodation in question – night shelter, hostel, refuge, even bed and breakfast – in making a housing benefit decision the local authority must continue to take account of all the relevant factors.’

In response, Homeless Link says –

‘It is our view that if a property had received housing benefit prior to the judgement, there is no logic to its housing benefit being suspended following the judgement. Local authorities will have checked that the property met the criteria when they made an initial decision to pay. There is no reason why an isolated judgement, based on very specific local circumstances, should change that.

And where change has already happened and funding has been withdrawn, we encourage councils to reconsider, and re-instate the emergency accommodation that people facing homelessness rely on for help.’

For more information, see ‘Nightshelter update: the law hasn’t changed’ from the Homeless Link website.

Additional WCA providers to be brought in to tackle waiting times

(continued from page 1, column 3)

reports produced by Atos following an assessment are graded A–C, the number of C grade reports was around 41 per cent between October 2012 and March 2013. However, the DWP says that a C grade report does not mean the assessment was wrong, and that claimants whose reports did not meet the DWP’s quality standard have been no more likely to be found fit for work or to appeal against their decision than other claimants.

The DWP also announced that it has engaged PricewaterhouseCoopers to provide independent advice in relation to strengthening quality assurance processes across all its health and disability assessments, and that Atos has brought in a third party to assess the quality of its audit and make recommendations for improvements.

Commenting on the changes, Mark Hoban said –

‘I am committed to ensuring the WCA process is as fair and accurate as possible, with the right checks and balances to ensure the right decision is reached. Where our audits identify any drop in quality, we act decisively to ensure providers meet our exacting quality standards.

Since 2010 we have made considerable improvements to the system we inherited from the previous government. However, it’s vital we continue to improve the service to claimants, which is why we are introducing new providers to increase capacity.’

For more information, see www.gov.uk/government/news/hoban-taking-action-to-improve-the-work-capability-assessment