

Policy Bulletin 2: Welfare Reform and Housing

The Early Warning System is a framework which has been developed by CPAG in Scotland to collect case studies and wider evidence about how welfare changes are impacting on children, young people and the families and communities that support them. We are currently collecting information and anonymous case studies from 84 frontline workers including welfare rights officers, housing advisers and support workers across Scotland. We are also processing evidence from our own second tier advice line, training events and through ongoing qualitative research. Please visit our website for more information on the project.

Below is an overview of the cases collected relating to the impact that welfare changes are having on housing policy and provision in Scotland.

The benefit cap

The benefit cap is a limit on the total amount of certain benefits, including child benefit, jobseekers allowance (JSA) and employment and support allowance (ESA), that households can receive. It is set at £500 a week for couples and lone parents and £350 a week for single claimants. In practice, the benefit cap is applied by reducing the amount of housing benefit (HB), or universal credit (UC), a household is entitled to. The cap will not be applied if the claimant is working and entitled to working tax credit or in receipt of certain disability benefits.

Housing costs for people living in “specified accommodation” are not included in the calculation of benefit cap. Specified accommodation includes supported accommodation, refuges and hostels where support is provided. The majority of people in supported accommodation will therefore be exempt from the cap.

Concerns raised through early warning system

CPAG in Scotland are seeing an increasing number of cases of families with children whose housing benefit has been reduced as a result of the cap. The Scottish Government has estimated that approximately 4,600 households across Scotland will be affected, 85% of whom will be families with children¹. Cases illustrating the impact the cap is having on family life include;

- A lone parent with 5 young children who has been living in temporary accommodation, secured with the assistance of Women’s Aid, since she separated from her husband early last year due to domestic violence. She is currently on the waiting list for a permanent property. In the meantime she has had her housing benefit cut to 50p per week as a result of the benefits cap.
- A lone parent with 4 children has a £332.34 shortfall in rent due to the benefit cap. When she left her husband she was advised by the local authority to look for a private let due to the shortage of social rented properties. Discretionary housing payments (DHP) were only awarded for 3 months and she was informed it would be unlikely that she would be given a further award unless she could prove she was taking steps to find work by attending work focused interviews. The local authority also informed her that they thought her living expenses were excessive because they included counselling sessions for one child and larger than average electricity bills.

Policy recommendations

- The DWP should consider extending the definition of specified accommodation to include temporary accommodation provided to homeless families. Currently, families fleeing domestic abuse will only have their housing costs excluded from the calculation of the benefit cap if they are staying in a refuge or supported accommodation.
- Local authorities should refrain from placing unreasonable and/or overly arduous conditions on those who apply for DHP. While the fund is discretionary, every effort should be made to ensure that those in need of assistance are not denied it arbitrarily.

Question for discussion: Where an individual in temporary accommodation has limited access to housing benefit because of the benefit cap, should local authorities use their discretion to adjust charges for that accommodation? Under the Code of Guidance on Homelessness local authorities should only impose a *reasonable* charge for temporary accommodation.

The 'bedroom tax'

The 'bedroom tax' is a reduction in the amount of housing benefit (HB) a household can claim in relation to their social sector tenancy. It is applied to those who are deemed to be under occupying their homes. It has been agreed that powers will be transferred from Westminster to the Scottish Government to allow it to allocate sufficient funds to local authorities to pay discretionary housing payments (DHPs) to the majority of people affected by the 'bedroom tax'. Despite this, the bedroom tax is causing ongoing difficulties for some households.

Despite the fact that the Scottish Government has committed to ensuring that Scottish tenants are not impacted by the bedroom tax, there is some evidence that housing providers are taking the possible future application of the bedroom tax into account when allocating properties as illustrated by the following cases:

- The client's son is currently being looked after by the local authority, but both parties agree the long term aim is to reunite the family. The client is currently homeless and has recently been informed by the local authority that she is only being considered for 1 bedroom properties because otherwise she might be subject to the bedroom tax before she is reunited with her son.

Discretionary housing payments and the 'bedroom tax'

Numerous problems are also arising in relation to discretionary housing payments. One recurring problem appears to be that some housing providers are retaining discretionary housing payments that contributed to a credit in the rent account, rather than passing them onto tenants affected by the bedroom tax.

- One client was granted an exemption from the bedroom tax. The shortfall of housing benefit was backdated to April 2013. Because the client had been paying the shortfall from his own pocket, the backdated payment meant there was a credit on his rent account. The housing association refused to refund the credit, stating that it was their policy to hold on to any excess until it was clear that the local authority would not seek to recover any DHP that had been paid in the interim. They continued to refuse to release the credit even when they were aware that the client had not received any DHP from the local authority
- Another client was awarded a discretionary housing payment backdated to April 2013. She was told, however, that the housing provider would not reimburse the money she had paid to cover the bedroom tax herself because they could not be sure the client's DHP would be renewed in the new financial year. As such there was a possibility that the client might yet fall into arrears. The client was unsatisfied with this, which led to a protracted exchange of letters and calls.
- The client received backdated DHP leading to credit in her rent account. Despite the fact the tenant had been making up the shortfall herself by borrowing money and placing herself in financial hardship, the RSL retained the DHP, telling her it was a deposit against future contingencies.
- The client was receiving DHP to cover the bedroom tax. It subsequently emerged that she was exempt from the bedroom tax as a result of the 'pre 96 loophole'. She received a back payment of housing benefit as a result. The local authority then deducted the discretionary housing payment she had received during the period when she had been paying the bedroom tax against her current housing benefit entitlement.

Policy recommendations

- The Scottish Government and/or COSLA should issue a reminder that discretionary housing payment must be passed on to the tenant, regardless of whether the tenant has received a backdated housing benefit payment. According to DWP Guidance, discretionary housing payments can only be recovered if "*payment has been made as a result of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise or paid as a result of an error made when the application was determined. You may not recover DHPs from ongoing HB or UC.*" (DWP Guidance Manual, April 2014)
- Housing providers should ensure tenants are aware of potential future implications of the bedroom tax when allocating housing, but should not fail to allocate a property purely on the basis that the 'bedroom tax' could apply at some point in the future.

Exclusions from DHP

In some cases, application of the bedroom tax has meant families are not receiving any housing benefit at all. This excludes them from being eligible for discretionary housing payment and undermines the Scottish Government's ability to mitigate the impact of the bedroom tax. For example;

- A family with one child was on a low wage and previously in receipt of a small amount of housing benefit. Application of the bedroom tax meant that the household no longer qualified for any housing benefit at all and consequently were not entitled to DHP. They were also unable to access the Scottish welfare fund.

Debt and arrears

The Early Warning System has also highlighted ongoing problems arising as a result of bedroom tax arrears. For instance;

- The client is in socially rented accommodation. Her daughter has won a place at a college 65 miles away. The client has asked to be moved to accommodation closer to the campus to allow her daughter to take up the place (SAAS funding would not cover transport). The landlord has told her that it won't move them because they have bedroom tax rent arrears. The client is also struggling to pay food and bills and her depression is steadily getting worse due to financial concerns.
- A lone parent was living in a property with a spare room and was struggling to cover the bedroom tax. Because of this – and with very little notice - her landlord moved her to a smaller property. Unfortunately her income had also been significantly reduced due to a delay of eight weeks moving from ESA to JSA. Given her lack of income she felt she had no other option than to approach the 'local loan shark' in order to furnish her new flat. She now pays £47 a week to the 'loan shark' and all missed payments incur £25 charge.

Policy recommendations

- The Scottish Government and local authorities should consider whether alternative support can be made available to households who cannot access DHP because their underlying entitlement to housing benefit has been removed by the bedroom tax.
- Local authorities should consider whether discretionary housing payments can be made available to tenants experiencing debt or arrears as a result of past application of the bedroom tax.

Changes to the residence test

To be entitled to means tested benefits including housing benefit, an EEA national must have a right to reside in the UK and be habitually resident. Recent changes have made it harder for EEA nationals to satisfy these tests. These changes include the following:

- Since 1 January 2014 a JSA claimant cannot be 'habitually resident' until they have been living in the UK (or Common Travel Area) for 3 months. This affects all new claimants, including British citizens.
- EEA jobseekers will cease to have the right to reside as a jobseeker after 6 months, unless they can demonstrate compelling evidence that they are seeking and have a genuine chance of getting work.
- Furthermore, since 1 April 2014 EEA nationals whose only right to reside is as a jobseeker, will not be entitled to housing benefit if they submit a new claim.

Changes to these rules have resulted in confusion amongst some of those administering housing benefit. This has resulted in claimants being refused access to housing benefit despite the fact they should have been eligible.

- One client had a young baby and was also responsible for partner's child, aged 15. Her partner is currently in prison for domestic abuse against her. The client had retained worker status and should have been entitled to housing benefit. However, her HB was stopped on the basis that she is an EEA jobseeker, potentially putting the client and her children in a very vulnerable position.

These changes are not just causing problems for foreign nationals, but also for UK citizens returning after extended absences.

- In one case a UK national returned from Denmark after becoming homeless there. He was advised that he was not entitled to JSA for 3 months and was turned away without being allowed to make an application. He was also incorrectly advised that he was not entitled to HB and his application to the SWF was refused on the basis that he was not in receipt of a qualifying benefit.

As well as impacting families that are new to the UK, changes to the residence test are affecting families that have recently broken down. There is a concern that in many cases, women who came to the UK as part of a couple will not be entitled to housing benefit when they try to claim in their own right. There is a particular concern that this will create barriers to individuals' trying to leave abusive relationships. For example:

- The client had 5 children, 2 of whom were school age when her husband left her. She is now having difficulty establishing a right to reside that would entitle her to benefits as it is not clear if her husband's employment was genuine and effective. If the client's only right to reside is as a jobseeker, she will no longer be entitled to housing benefit.

Policy recommendations

- The DWP should reconsider its policy given the impact that changes to the residence tests will have on families fleeing domestic abuse.
- All housing benefit staff should receive training on the new residence rules to ensure all those entitled to housing benefit can receive it.

Impact of sanctions and delays on housing benefit

Local authorities' administration of housing benefit (HB) has also been complicated by wider changes to the social security system such as the introduction of mandatory reconsideration for certain DWP decisions (not including housing benefit), the increased use of sanctions and extended delays. These developments appear to be having a negative impact on the quality of local HB decision making.

- In one case the claimant's housing benefit was terminated because the individual concerned had had their ESA suspended (due to a suspicion that they were over the capital limit). The client put in a new claim for housing benefit on the basis of nil income. This was wrongly refused on the basis that the individual is not in receipt of a qualifying benefit.
- In another similar case, housing benefit was stopped during mandatory reconsideration of an Employment Support Allowance (ESA) decision. This was because - despite having put in a claim for JSA – the client was not classed as being in receipt of a qualifying benefit.

Policy recommendations

- There is a need for all staff administering housing benefit and council tax to be aware that sanctions should not affect eligibility for HB/CTR or non-dependent deductions. Failures in this area can exacerbate the impact of sanctions; threaten the stability of housing arrangements and put further pressure on homelessness services, registered social landlords and private landlords.
- The DWP has recently indicated in [HB Bulletin G8/2014](#) that '*Jobcentre Plus agents will signpost claimants to the local authority if they are in receipt of housing benefit when a sanction is imposed so that they can explain the situation and avoid their claims being cancelled in error.*' However, the local authority should also be proactive about contacting claimants where they suspect that a sanction has been applied.

Impact on child wellbeing

Advisors who submitted the cases above through the Early Warning System were asked to comment on whether welfare reform had had any impact on a child or children. Reported impacts on wellbeing (as defined using the Scottish Government's indicators of Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included), encompassed:

Safe There is a concern that children will be put at risk as a result of the barriers which current policy creates for families fleeing domestic violence. The charges attached to temporary accommodation can trigger the benefit cap, making it difficult for the family to establish a settled way of life. Furthermore, the fact that EU nationals who flee domestic violence may not be eligible for housing benefit could jeopardise their ability to escape from potentially dangerous situations.

Achieving Families who continue to be affected by the bedroom tax, the benefit cap and/or resultant arrears are likely to experience insecurity in relation to their housing situation. This could result in them having got move home unexpectedly and/or during term time, disrupting the academic and social lives of children.

Further considerations for policy makers and front line services

There is a clear need for consideration to be given to how devolved services can react to and mitigate the negative effects of welfare reform, particularly on children. Questions to be addressed include:

- **How can Scottish services maximise the information and support available to families?** Given that many of the cases submitted through the EWS involve misapplication of the law and/or poor understanding of claimant's entitlements, how can access to information and advice be maximised?
- **How can local services mitigate the impact of welfare reform on children and families?** Do service providers including local authorities, health boards and schools have a role to play in ensuring that child wellbeing is not affected by housing problems?

Information resources relating to welfare reform and housing benefit

- Factsheet on [welfare reform and the impact on children and families](#)
- Factsheet on [council tax reduction and housing benefit, similarities and differences](#)
- Factsheet on [sanctions for lone parents](#)
- Factsheet on [supporting clients with no money](#)
- EWS information on [welfare reform and the impact on housing and homelessness](#)
- Information on CPAG training on [housing benefit problem areas](#)
- Information on CPAG training on [housing benefit rent arrears](#)

Please contact hmcculloch@cpagscotland.org.uk or 0141 611 7090 for more information

ⁱ <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/supply-demand/chma/Benefitchanges/Thebenefitcap> Scottish Government Impact Assessment 2013