

Policy Document

Housing Benefit strategy

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Shelter

Housing Benefit strategy

Time and again we are contacted by clients from the most vulnerable sections of society who have been made homeless or are threatened with homelessness because of rent arrears caused by the bureaucracy and complexity of the Housing Benefit (HB) system. The current system particularly puts off those who do not read or write, or who speak English as a second language. The people who have most difficulty claiming HB are often those who need its help the most. Housing Benefit has moved too far away from its original intention, which was to ensure people can afford a decent home without living in poverty, and has become dominated by bureaucracy, means testing and anti-fraud measures designed to control access and expenditure.

Recent simplifications and improvements in administration should improve the system for claimants. However, more radical simplifications are required if the system is really going to deliver for the people who need it.

An internal working group was set up with membership drawn mainly from Shelter's housing advice Services, but also from Policy and Research. We sought to identify the key problems with the current Housing Benefit system and to develop a set of practical proposals to address them. The final strategy summarised here is based on our direct knowledge and experience of problems faced by our clients. Some of these proposals would cost more in direct payments to claimants, but could lead to savings in administration.

Claiming and verification

Claimants, especially those who are vulnerable, typically have the following difficulties:

- Meeting the bureaucratic requirements of the scheme, including submitting a 30-page application form and supplying numerous pieces of information and evidence. This often leads to Housing Benefit ceasing entirely, and to rent arrears.
- Not understanding which changes of circumstances they are required report to the local authority. These often trigger a change in entitlement and lead to overpayments of Housing Benefit.

Problem 1: Different benefits, different applications

People who receive benefits such as Income Support, Jobseeker's Allowance or Incapacity Benefit have to provide all their details once to the Department of Work and Pensions (DWP), including a claim for Housing Benefit in the pack, and then complete another application form and verification process to claim Housing Benefit and Council

Tax Benefit from their local authority. The problem also applies to applicants who are working but on a low income and claiming tax credits from the Inland Revenue.

Solutions:

- Provide a single national Housing Benefit and Council Tax Benefit claim form, which can be downloaded and translated into the main community languages. This has essentially been done for those receiving Income Support, Incapacity Benefit, Jobseeker's Allowance and Pension Credit who fill in the HBCT1 form for Housing Benefit and Council Tax Benefit when they claim their initial main income benefit. However, the system does not work since nearly all local authorities require claimants to fill in the local authority's own Housing Benefit application form in addition to this.
- Further work should be done to integrate benefit forms so that the claimant does not have to state information twice. The obstacle to this is that the complexity of the scheme requires large amounts of information to be provided for the authority to assess entitlement. There is a need for simplification of the regulations and measures to overcome data protection and compatibility of IT systems.
- Introduce nationally recognised certified training in Housing Benefit and other welfare benefits as a basic requirement for Housing Benefit assessment and interview officers. The Institute of Revenues Rating and Valuation (IRRV) now offers a comprehensive range of qualifications at all levels, so this is achievable.
- Provide a single point of access to the benefits system. Job Centre Plus is moving towards this by introducing Customer Management Service (CMS). However, previous pilots, such as the ONE service, show that integrating Housing Benefit into the system can be particularly problematic, because of its complexity. None of the previous pilots that tried to integrate Housing Benefit into the system has worked, and claimants have waited longer than if they had filled in a second form. No pilot has tried the reverse, i.e. the local authority collecting all the information and passing it to the DWP. This makes the most sense – the Housing Benefit and Council Tax Benefit schemes require the most information, and local authorities offer a local service. The new integrated service should be developed in partnership with local authority Housing Benefit departments.

Problem 2: Verification Framework

The Verification Framework is designed to prevent fraudulent claims. However, rather than achieving this aim efficiently, it has had the unintended consequence of creating barriers to vulnerable people claiming and receiving Housing Benefit:

People often do not have the pieces of evidence they need to verify their claim. For example, people in temporary or casual work may not be able to get the required number

of payslips over a period of time, while others cannot get tenancy agreements or rent statements from private landlords. Shelter recently helped a 17-year-old single parent who couldn't get her landlord to produce the tenancy agreement. With Shelter's intervention, it took the landlord a further 29 days to produce the information. By this time, the authority had disallowed the Housing Benefit claim and Shelter helped the claimant to review the decision.

The Verification Framework is often applied rigidly and crudely. Standard letters often do not simply state what is required and what a person's entitlement is. They often contain irrelevant information and are complicated to understand. Some local authorities also use the Verification Framework as a reason not to make interim payments and to delay processing claims. For example, a young person using Shelter's advice services submitted multiple bank statements, as requested. Despite the fact that he was already in receipt of means-tested benefits, the Housing Benefit department picked up on other accounts in those statements and wanted details of them. Upon receiving these, they requested further information, which again delayed his claim.

At the moment, the local authority Housing Benefit department, the DWP and the Inland Revenue all operate their own verification procedures and all require original documents from claimants. Often, claimants have to provide the same piece of information and original document to all three agencies. This can cause long delays to claims being processed and put into payment.

Solutions:

- Radically reduce and simplify the evidence requirements of the Verification Framework to be consistent with the DWP's and Inland Revenue's verification requirements for claiming income benefits and tax credits. From 2005, local authorities will be able to take a less rigid approach, with simplified and reduced evidence requirements and greater potential sharing of information between the DWP and local authorities. These changes should be built on, including financial incentives to local authorities to implement them.
- Allow flexibility to use copies of original documents when this is appropriate.
- Encourage the use of tailored rather than standard letters.
- Rather than blanket requirements, the focus should be on intelligence-based approaches to tackling large-scale, deliberate fraud. For example, through investment in trained teams of investigation officers dedicated to stopping those people who obtain benefit by fraudulent means.

Problem 3: Change of circumstances

When people have experienced relationship breakdown or bereavement, depression or worsening of health, they often do not immediately contact and engage with the Housing Benefit department about their change of circumstances. What they need is a simplified interface with the system. Time and again people fail to respond to what are simple demands from the Housing Benefit department to provide information. It is a simple demand of someone under normal circumstances, but for someone in the midst of an emotional upheaval or an illness, it can be difficult, or quickly forgotten. These people require quick, clear and simple contact about the decisions made, and less information asked from them to support claims.

People often receive overpayments of Housing Benefit because they have not immediately informed the local authority of a change in their circumstances. For example, people whose pay or working hours change or who have family members moving in. Although there is local authority discretion within the system to allow late reporting of changes to be taken into account, the DWP has issued local authority Housing Benefit departments with a set of performance standards that discourage this. The only overpayments that *cannot* be recovered are those caused solely by official error. Recovery may still go ahead where the local authority makes the mistake (official error), but where the claimant has made any contribution to the cause of the overpayment or is expected to have known, even if they did not know, that they were being overpaid. This is far too stiff a burden for many claimants, especially those who are vulnerable.

Recovery of overpaid benefit, often at extortionate rates, typically results in large rent arrears or severe hardship for claimants, putting their home at risk. We have recently helped a young single parent on benefits who had possession action taken against her for rent arrears. These were caused by overpayments being recovered at the top rate of £8.40 a week from her current benefits.

The system also works very badly for people who experience frequent changes to their work patterns and have a fluctuating income. This applies to many people on low incomes doing shift work, such as those working in cleaning or catering. The interaction with tax credits also causes problems since tax credits are assessed on an annual basis and benefits, including Housing Benefit, are calculated on a weekly basis. So, for example, if a household is overpaid tax credits, not only do they have to repay that money, but they are also unable to claim Housing Benefit for the period that tax credit was overpaid.

Solutions:

- Narrow the range of events that constitute a change of circumstance. These should be confined to simple and obvious things, including major increases to income (by a

- specified amount) and starting paid work. Fluctuations in income within a set range should not affect entitlement. Also, changes to household composition should not change entitlement.
- Other benefits and the main tax credits are looking at the bigger picture. For example, a customer who has a wage increase must tell the Housing Benefit service instantly, but need only inform the Inland Revenue within that financial year, and an increase of less than £2,500 a year would not reduce their tax credit entitlement. Housing Benefit should work on a similar principle, with Housing Benefit departments contacting claimants whose incomes fluctuate on a quarterly basis to check for changes to their income and circumstances. Their claim should be adjusted in line with the new information, but should not be adjusted retrospectively. This would mean that problems of overpayments would not arise.
 - Reform the regulations on recovery of overpaid Housing Benefit:
 - Local authorities should not be able to recover any overpayments resulting from any error on their part (official error).
 - Local authorities should only be able to recover overpaid Housing Benefit at a level that the claimant can afford. The current maximum recovery rates are too high for people on means-tested benefit and their application forces them further into poverty and debt. Councils have discretion to apply lower recovery rates but in practice this has to be asked for by the claimant.
 - Claimants should be able to have rent shortfalls arising from recovering of overpaid Housing Benefit directly deducted from their Income Support and paid to their landlord, as it can be with other arrears.

Benefit shortfalls

The amount of Housing Benefit that a person receives is often less than the actual rent that they have to pay. Three main causes of shortfalls are:

- Non-dependant deductions, which are deductions based on expected contributions from the non-claimant adult members of a household.
- Restrictions on the amount of rent that will be covered for claimants renting from a private landlord.
- Deductions for claimants whose incomes are above the 'applicable amount', in particular people who receive Incapacity Benefit, which is slightly higher than Income Support levels.

Problem 4: Non-dependant deductions

Apart from the claimant, each adult member of the claimant's household (non-dependant) is expected to make a contribution to the rent. A minimum deduction of £7.40 for each

non-dependant is applied. The maximum deduction is £47.75. This is applied automatically if the household does not provide proof of the non-dependant's low income. Often, it is automatically applied when a child in a household turns eighteen, even if they are in full-time education. Further, in practice, some claimants find it difficult to get contributions from adult children or from family members staying on a temporary basis. Again, this can result in rent arrears and the threat of eviction and homelessness.

Solutions:

- Reduce the rates of non-dependant deduction. These should be capped at a maximum of 50 per cent of the rent due, and applied only to working household members earning a reasonable net wage.
- The following household members should be exempt: claiming income or health-related benefits; claiming support from the National Asylum Support Service; subject to immigration controls; and those without a bedroom or staying on a temporary basis. Households with any household member (not just the claimant) claiming Disability Living Allowance or Attendance Allowance should also be exempt. At the moment, it is only if the claimant is claiming DLA that non non-dependant deduction is applied.

Problem 5: Private sector rent-related restrictions

Restrictions on the amount of rent that Housing Benefit will cover for private tenants is a major cause of hardship and reduced access to housing:

- 70 per cent of private sector claimants make up shortfalls between their Housing Benefit and their rent.¹ This is because claimants renting from a private landlord are entitled to a *maximum* of the midpoint rent across a large market area – the Local Reference Rent.
- In many areas, very few properties are available at or below the Local Reference Rent. Shelter found that between only 10 per cent of properties were advertised at or below the level of the Local Reference Rent in one local areas.²
- Recent Government research has found that the Single Room Rent restrictions continue to prevent young claimants from obtaining accommodation in the private rented sector.³

Solutions:

- Single Room Rent restrictions for people under the age of 25 should be abolished.
- The formula for setting the Local Reference Rent (or the new Local Housing Allowance) should be reviewed so that a fair share of the market is accessible to people on Housing Benefit in each local area.

- Rent officer decision-making should be made transparent and accountable. The Rent Service should publish localities and reference rents for all areas.
- Rent officers should consult and have regard to the advice of local authorities in determining localities and reference rents, because their strategic housing and homelessness responsibilities should influence access to the private rented sector.
- These changes could be fully introduced in the final design and introduction of the Local Housing Allowance (LHA) scheme for private tenants.

Problem 6: Shortfalls for people in receipt of Incapacity Benefit

People who are in receipt of Incapacity Benefit due to a long-term disability or illness often face a shortfall between their rent and Housing Benefit. For example, the short-term higher rate for a single person is £68.20 a week. This is £12 more than the 'applicable amount' at which full Housing Benefit is paid. Although the deduction from Housing Benefit is often small, it can cause problems for people suffering from illness, depression or misuse of alcohol or drugs. It is also a major cause of overpayment where benefit recipients assume that because they are on a benefit they will get their full rent paid and so do not report a minor increase in their Incapacity Benefit.

Solution:

- Introduce linked eligibility schemes for Incapacity Benefit claimants similar to the passporting arrangements for those in receipt of benefits such as Income Support and income-based Jobseeker's Allowance. Where a claimant's only income is Incapacity Benefit, this should trigger full eligibility for Housing Benefit. This could be achieved by amending the premiums for disabled people.

Lack of accountability

Problem 7: Non-appealable decisions

It is very difficult for claimants to challenge bad administration. Certain practices are not appealable because they are not official decisions. For example, claimants cannot ask the local authority to review their failure to make an interim payment (payment on account in 14 days if claim is not processed). This failure can only be challenged through complaint to the local ombudsman, which can take a long time, or judicial review, which is not a practical option given the cost and need for legal representation. In practice, local authorities typically fail to make interim payments, acting illegally, without fear of challenge. This puts many tenants at risk of eviction, since eight weeks' rent arrears is grounds for possession under an assured or assured shorthold tenancy.

Solution:

- Make all Housing Benefit decisions appealable. At the moment, most decisions are appealable, but certain key decisions are not. For example, decisions relating to interim payments and the method of recovering overpaid Housing Benefit.

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* Note that the final recommendations are Shelter’s recommendations and may not necessarily reflect the views of external advisers.

¹ Kemp, P., Wilcox, S. & Rhodes, D. (2002) *Housing Benefit reform next steps*, York: JRF

² Reynolds, L. (2005) *On the Right Path? Shelter’s research on Housing Benefit Pathfinders – Interim Findings*, London: Shelter

³ Department of Work and Pensions (2005) *Research into the Single Room Rent*, London HMSO