

Research Briefing

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# Can private landlords refuse to let to benefit claimants and people with children?



## Summary

- 1 Is it unlawful to refuse to let to benefit claimants?
- 2 Why do private landlords refuse to let to benefit claimants?
- 3 The extent of landlord/agent refusals
- 4 Refusing to let to families
- 5 The Government response

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# Contents

<b>Summary</b>	<b>4</b>
<b>1 Is it unlawful to refuse to let to benefit claimants?</b>	<b>7</b>
1.1 Background	7
1.2 Findings of indirect discrimination	8
<b>2 Why do private landlords refuse to let to benefit claimants?</b>	<b>13</b>
2.1 Housing Benefit reforms	14
Direct payment of housing support to claimants	14
The gap between rent and housing support levels	15
2.2 The housing element of Universal Credit	21
2.3 Impact of tax and other regulatory changes	24
2.4 Mortgage and insurance restrictions	25
2.5 The characteristics of benefit claimants	27
2.6 What would change landlords' attitudes?	27
<b>3 The extent of landlord/agent refusals</b>	<b>29</b>
Other surveys of private landlords/agents	30
Claimant surveys	31
<b>4 Refusing to let to families</b>	<b>32</b>
<b>5 The Government response</b>	<b>33</b>
5.1 A ban on "no DSS" adverts 2019	33
5.2 Making blanket bans illegal	34
Renters (Reform) Bill 2022-23	34

## Summary

Over the years, it's been fairly common practice for private landlords and letting agents to advertise properties saying they won't accept applications from people reliant on Housing Benefit (HB) or the housing element of Universal Credit to pay their rent.

The Department of Social Security (DSS) hasn't existed since 2001, but the phrase generally used in adverts is "No DSS". This raises the question of whether such restrictions amount to unlawful discrimination. Although unlikely to amount to direct discrimination, as income and employment status are not protected characteristics under the Equality Act 2010, it has long been argued that it could amount to indirect discrimination in some cases.

More recently, adverts for private rented properties have specified 'no kids.'

## Findings of unlawful discrimination

In what was described as a 'landmark' case, District Judge Victoria Elizabeth Mark sitting in York County Court, considered the case of a disabled single parent whose application for private rented housing was refused by a letting agent because she received Housing Benefit. In a [judgment dated 2 July 2020](#) (PDF), which was widely reported in the media on 14 July 2020, the agent was held to be in breach of the Equality Act 2010. The judgment declared:

The Defendant's former policy of rejecting tenancy applications because the applicant is in receipt of Housing Benefit was unlawfully indirectly discriminatory on the grounds of sex and disability contrary to sections 19 and 29 of the Equality Act 2010.

This was followed by a case in Birmingham County Court in which judgment was handed down on 8 September 2020. Circuit Judge and Acting Designated Civil Judge for Birmingham (now High Court Judge), Mary Stacey, held the letting agency, Paul Carr, had operated a blanket 'No DSS' policy which amounted to unlawful indirect discrimination against disabled people.

In 2023, [the Property Ombudsman deemed a 'no kids' specification in the private rental market to be a breach of the Property Ombudsman's code of practice](#) on grounds that such a ban would breach equality rules because it would disproportionately affect women.

## Why are landlords reluctant to let to benefit claimants?

Historically, landlords were reluctant to let to benefit claimants because of delays in processing applications. Since April 2008, a key factor influencing landlords has been the introduction of the Local Housing Allowance (LHA) and the requirement that this, except in certain specified circumstances, is paid to claimants rather than landlords. Restrictions on levels of LHA payable were introduced by the Coalition Government in April 2011. These changes led various housing bodies, including representative bodies of private landlords, to argue that HB claimants were being priced out of the market.

Further restrictions have been introduced. LHA rates were frozen from April 2016 for four years. This added to landlords' concerns about the gap between LHA and market rent levels.

Although LHA rates were increased in 2020/21, they've subsequently been frozen in cash terms. Inflationary pressures over 2022/23 have led to more calls for a review and uprating. The Levelling Up, Housing and Communities Committee (February 2023) [recommended the Government should ensure housing benefit covers recipients' housing costs](#).

Other factors cited as reasons for landlords' reluctance to let to claimants include:

- uncertainly around the roll-out and implications of Universal Credit
- the payment of Housing Benefit in arrears
- restrictions in mortgage agreements and insurance requirements
- perceptions of benefit claimants as more likely to demonstrate anti-social behaviour, and
- tax changes resulting in landlords focusing on "less risky" tenants

## Why do landlords specify 'no kids'?

Shelter has been told by Mortgages for Business that there are no mortgages with 'no kids' clauses. Similarly, the British Insurance Brokers Association has said landlords should not face issues in finding suitable / affordable insurance when renting to tenants with children. This has led Shelter to conclude that the only objective justification for refusing to let to someone with children is if the property would be unsuitable from an overcrowding point of view.

## The extent of the issue

There's no definitive information on the extent to which landlords refuse to let to benefit claimants. [The English Private Landlord Survey covering the period 2021-22 found one in ten private renters who said they'd been refused a tenancy in the past 12 months because they received benefits.](#) This amounted to 10% of private renters, around 109,000 households.

After the findings of indirect discrimination in July and September 2020, it seemed likely that instances of blanket 'No DSS' adverts would disappear. However, affordability checks based on a tenant's individual circumstances are still possible.

In relation to children, [a YouGov survey conducted between 6 April and 12 May 2022 of private renters in England aged 18+, 627 of whom had children in the household, was weighted to be representative of private renters in England.](#) On this basis, Shelter calculated that 289,506 families had been affected by a 'no kids' stipulation.

## A commitment to end blanket 'no DSS' and 'no kids' requirements

On 1 March 2019 then Minister, Heather Wheeler [said the Government was calling for](#) "the end of housing advertisements which specify 'No DSS' tenants."

The housing [white paper](#) published in June 2022 said the Government "will make it illegal for landlords or agents to have blanket bans on renting to families with children or those in receipt of benefits."

[The Renters \(Reform\) Bill](#) was presented on 17 May 2023. It was expected to include measures on blanket bans in relation to benefit claimants and families with children. Those measures are not in the Bill. The Government said [it remains "fully committed" to implementing these reforms and will bring forward legislation at the "earliest opportunity" to:](#)

Make it illegal for landlords and agents to have blanket bans on renting to tenants in receipt of benefits or with children – ensuring no family is unjustly discriminated against when looking for a place to live.

# 1 Is it unlawful to refuse to let to benefit claimants?

## 1.1 Background

Where a landlord refuses to let to a prospective tenant because they are in receipt of Housing Benefit or the housing element of Universal Credit, this is unlikely to amount to direct discrimination as income and employment status are not protected characteristics:

Yvette Cooper: Anti-discrimination legislation does not extend to the practice of refusing to let to benefit claimants and it would be impracticable to do so. However landlords often refuse to let to tenants on housing benefit because of the historical delays by local authorities in administering it. In 2002 the Government implemented a comprehensive strategy to improve delivery and now the average time taken to process new claims has been cut by over two weeks, with the greatest improvements seen in the poorest performing local authorities.<sup>1</sup>

Then Minister for Housing and Homelessness, Heather Wheeler, provided the following response to a similar PQ tabled by Matt Western in April 2018:

There is no legislation that prevents private rented sector landlords and agents choosing not to let their property to an individual claiming (a) housing benefit or (b) universal credit. However, the Equalities Act 2010 exists to prohibit acts of discrimination against individuals in terms of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity.<sup>2</sup>

Although the receipt of benefits is not one of the protected characteristics set out in the Equality Act 2010,<sup>3</sup> the Act also protects against indirect discrimination. Indirect discrimination occurs where a policy, which is not discriminatory in itself, is likely to impact disproportionately on people who are protected under the 2010 Act.<sup>4</sup> For example, if Housing Benefit claimants are predominantly female or from an ethnic minority group, a refusal to let to those claimants may amount to indirect discrimination against group with protected characteristics.

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<sup>1</sup> HC Deb 7 December 2005 c1437W

<sup>2</sup> [Written question – 136185, 23 April 2018](#)

<sup>3</sup> [Equality Act 2010](#)

<sup>4</sup> The protected characteristics under the 2010 Act include: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Analysis by Shelter of Department for Work and Pensions (DWP) caseload data in March 2018 found that 59% of adults in receipt of Housing Benefit in the private rented sector (PRS) were women.<sup>5</sup> Shelter also found that people claiming Housing Benefit were 2.5 times more likely to be in receipt of disability benefits than the general population.<sup>6</sup>

In September 2021, Shelter reported on an increase in the number of private renters reliant on housing support to meet their rent payments who are, as a result, at risk of being refused housing by private landlords.<sup>7</sup>

Indirect discrimination can be lawful if the person discriminating can show it is a proportionate means of achieving a legitimate aim. A landlord whose mortgage lender has imposed a condition not to let to Housing Benefit claimants might cite this as a reasonable justification. Shelter rejects this proposition:

Section 142 of the Equality Act 2010 provides that a term of a contract that constitutes, promotes or provides for unlawful discrimination, may be unenforceable. We take the view that this may apply to both mortgage & insurance terms and conditions that are unlawfully discriminatory.<sup>8</sup>

It is for the courts to decide what factors, if any, amount to a proportionate means of achieving a legitimate aim where Housing Benefit/Universal Credit claimants are refused access to the PRS.

## 1.2

## Findings of indirect discrimination

In February 2018, the [BBC reported](#) that a woman denied a home in Birmingham after the lettings agent found she was receiving Housing Benefit had “won compensation”.<sup>9</sup> Ms Keogh brought a claim against the agents for indirect sex discrimination. She argued women were more likely to work part-time and claim Housing Benefit, such that a blanket ban on benefit recipients would have a disproportionate effect on them. Ms Keogh received £2,000 compensation from the agents, but the matter was settled before it reached court and did not form a precedent.

The Equality and Human Rights Commission (EHRC) commented:

Although this claim did not produce a judicial decision, the outcome reflects the Commission’s position that landlords and letting agents operating what is

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<sup>5</sup> Shelter’s submission to the Work and Pension Select Committee’s inquiry “No DSS: discrimination against benefit claimants in the housing sector”, 2019

<sup>6</sup> As above.

<sup>7</sup> Shelter, [Two million private renters now at risk of ‘No DSS’ discrimination](#), 9 September 2021

<sup>8</sup> Shelter’s submission to the Work and Pension Select Committee’s inquiry “No DSS: discrimination against benefit claimants in the housing sector”, 2019

<sup>9</sup> BBC, [Landlords who say “No DSS” breaking equality laws](#), 26 February 2018

sometimes termed a 'No DSS' rule are very likely to be unlawfully discriminating against prospective tenants.<sup>10</sup>

February 2020 saw reports of two further cases of single mothers who, with support from Shelter, secured out-of-court settlements from 'No DSS' letting agencies.<sup>11</sup>

In what was described as a 'landmark' case, District Judge Victoria Elizabeth Mark sitting in York County Court, considered the case of a disabled single parent who had an application for private rented housing refused by a letting agent based on her receipt of Housing Benefit.

In a [judgment](#) (PDF) dated 2 July 2020 which was widely reported in the media on 14 July 2020, Judge Mark held the letting agent was in breach of the Equality Act 2010. The refusal to consider applicants on benefits amounted to indirect discrimination on grounds of sex and disability. The letting agency was ordered to pay the applicant £3,500. Judge Mark's ruling noted:

...a No DSS policy puts or would put women at a particular disadvantage. 53.1% of female single-adult households renting privately claim Housing Benefit compared to 34% of male single- adult households. When households with couples are included, 18.8% of women renting privately claim Housing Benefit compared to 12.4% of men. This means that, in the private rented sector, using whichever of the two analyses set out above, women are more than 1.5 times as likely to rely on Housing Benefit, and thus be excluded by a No DSS policy, than men.<sup>12</sup>

And:

...a No DSS policy puts or would put persons who are disabled at a particular disadvantage. 44.6% of households who claim DLA or SDA claim Housing Benefit compared to 15.1% of households who do not claim DLA or SDA. This means that, in the private rented sector, disabled households are almost three times as likely to rely on Housing Benefit, and thus be excluded by a No DSS policy, than non- disabled households.<sup>13</sup>

The case was supported by Shelter and the EHRC. Polly Neate, Shelter chief executive, reportedly said:

This momentous ruling should be the nail in the coffin for 'No DSS' discrimination.

It will help give security and stability to people who unfairly struggle to find a place to live just because they receive housing benefit.<sup>14</sup>

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<sup>10</sup> EHRC, [Discrimination by letting agents](#) (PDF, undated)

<sup>11</sup> BBC News, [Legal victories over 'No DSS' letting agents](#), 27 February 2020

<sup>12</sup> [York County Court judgment – Claim Number F0QYO154](#), (PDF) 2 July 2020 [claimant's details redacted]

<sup>13</sup> As above.

<sup>14</sup> Sky News, 'No DSS': [Court ruling hailed as 'nail in the coffin' for housing benefit discrimination](#), 14 July 2020

Reacting to the judgment, Chris Norris, policy director for the National Residential Landlords Association (NRLA)<sup>15</sup> reportedly said:

No landlord should discriminate against tenants because they are in receipt of benefits. Every tenant's circumstance is different and so they should be treated on a case by case basis based on their ability to sustain a tenancy.

More broadly, the government can also support this work by ensuring benefits cover rents entirely. It should also convert the loans to cover the five week wait for the first payment of Universal Credit into grants.<sup>16</sup>

While the case may have settled the position on blanket bans applied by landlords/agencies in relation to benefit claimants, affordability checks applied to applicants' individual circumstances may still be carried out. Giles Peaker, Partner with Anthony Gold Solicitors and key contributor to the [Nearly Legal: Housing Law and Comment website](#) commented on the implications of Judge Mark's ruling:

Well, it is a declaration by a court that a 'No DSS' policy is unlawful as it is indirectly discriminatory. This is a first.

It is, we must note, a county court judgment, and so not binding on other courts. However, in the absence of a defence under s.19(2)(d) Equality Act 2010, that the discriminatory practice is "a proportionate means of achieving a legitimate aim", it would seem likely that other courts would reach the same conclusion. No such defence was maintained in this claim (and for letting agents at least, it is hard to imagine what one might look like). I do not think it would be a defence for a letting agent to say the policy was at the request of the landlord(s).

What it means is that a blanket policy of refusing potential tenants who claim housing benefit is unlawful. What it does not mean is that potential tenants who claim housing benefit can't be refused.

In principle, the same should apply to landlords, as well as letting agents. However, it may be that some landlords may have a s.19(2)(d) defence, for example, that their mortgage agreement has a condition of no letting to housing benefit claimants. Most of the bigger lenders have changed their policies on this, but there will still be some lenders and historic mortgages with those conditions.

What this doesn't mean, alas, is that housing will be any more affordable. It should mean that housing benefit claimants have the opportunity to be considered for a tenancy on their own circumstances, rather than rejected straight away under a blanket policy.<sup>17</sup>

The York case was followed by a further case supported by Shelter which was considered in Birmingham County Court. The case concerned Steven Tyler, a

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<sup>15</sup> The National Landlords Association (NLA) and Residential Landlords Association (RLA) merged in 2020 to form the National Residential Landlords Association (NRLA).

<sup>16</sup> LandlordToday, [Legal victory over 'No DSS' BTL landlords](#), 14 July 2020

<sup>17</sup> Nearly Legal: Housing Law and Comment, [Discrimination and 'No DSS'](#), 14 July 2020

disabled man who was prevented from viewing properties by the Paul Carr letting agency because he was in receipt of Housing Benefit.

Judgment was handed down on 8 September 2020. Circuit Judge and Acting Designated Civil Judge for Birmingham (now High Court Judge), Mary Stacey, held the letting agency had operated a blanket ‘No DSS’ policy which amounted to unlawful indirect discrimination against disabled people. Judge Stacey reportedly ruled:

There is no doubt that there was a blanket policy that no one in receipt of housing benefit would be considered for the three properties. It put the claimant and other disabled people at a particular disadvantage when compared to others.

To be told simply, because of his benefit status, that he could not apply for three properties which were perfectly located for his children’s school, his GP and health needs, and extended family support, [...] would be distressing.

[...]

...we make a declaration that the defendant has unlawfully indirectly discriminated against the claimant by imposing a PCP [Provision, Criteria or Practice] that those in receipt of housing benefit could not apply to those three properties.<sup>18</sup>

Commenting on the case, Giles Peaker said:

This is significant for several reasons. [The first decision on this issue was by concession](#), whereas this was a fully contested trial. This is a Circuit Judge decision, so of generally persuasive value, if not binding, and also it was not just any Circuit Judge, but the acting DCJ for Birmingham and I understand a contributor to the Judicial College Equal Treatment Bench Book, so a judge with considerable knowledge in the area of discrimination.

[...]

As before, the issue was having a blanket policy not to accept tenancy applications from anyone who is or would be in receipt of benefits, rather than considering tenant suitability on a case by case basis (taking into account history, potential referees, guarantors etc.).<sup>19</sup>

On 16 April 2021, Shelter reported on a third declaration of unlawful discrimination involving benefit claimants. Single mother and freelance writer Hayley Pearce was told by an agency “people in receipt of benefits would not be acceptable” to the landlord. Because the claimant is a woman, this constituted unlawful indirect discrimination on the grounds of

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<sup>18</sup> Shelter, [No DSS: Second Shelter court case confirms disabled dad-of-four was discriminated against for receiving housing benefit](#), 9 September 2020

<sup>19</sup> Nearly Legal: Housing Law and Comment, [Forthcoming... ‘No DSS’ judgment and no evictions over Christmas](#), 10 September 2020

sex under the Equality Act 2010.<sup>20</sup> An agreement was reached by consent on the day of the trial.

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<sup>20</sup> [Third court declaration in a year for Shelter over unlawful 'No DSS' policies | Shelter](#), 16 April 2021

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## 2 Why do private landlords refuse to let to benefit claimants?

There's long been a reluctance on the part of some landlords to let to Housing Benefit (HB) claimants due to administrative delays in processing claims and receiving payment, the risk of having to repay benefit overpayments, and the perceived risk of claimants being more likely to accrue rent arrears.

Landlords also associate anti-social behaviour and damage to property with HB claimants and often cite these factors as reasons for not accepting them. Landlords have referred to mortgage agreement/insurance terms which prohibit them from letting to HB claimants.

A 2010 Department for Communities and Local Government (DCLG) Private Landlord Survey found:

The most cited reasons for not letting to HB or LHA recipients were disturbance or anti-social behaviour (19%), expected delays in payment (17%), unpaid rent and damage to property or furnishings (both 16%).<sup>21</sup>

The 2018 Private Landlord Survey probed why landlords/agents would not let to HB claimants, similar reasons were cited:

The most commonly selected reason was a perceived greater risk of delays in payment or unpaid rent. This was selected by 68% of landlords and 78% of agents. Many landlords and agents also reported a perceived risk that the benefits would not cover all of the rent (reported by 62% of landlords and 70% of agents).

Landlords and agents also reported being unwilling to let to people on benefits because these benefits are paid directly to the tenant and not to the landlord or agent. This was more of a concern for agents than landlords (selected by 64% of agents, compared to 55% of landlords). A similar proportion of landlords and agents reported a perceived greater risk of disturbance or antisocial behaviour or damage to property or furnishings, although this was more of a concern for landlords (56%) than agents (50%).<sup>22</sup>

The following sections provide more detailed information on HB changes and other factors which influence landlords' decisions on whether to let to HB claimants.

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<sup>21</sup> DCLG, [Private Landlords Survey 2010](#), 18 October 2011

<sup>22</sup> DCLG, [English Private Landlord Survey 2018: main report](#), 31 January 2019, paras 3.8-3.9

## 2.1

# Housing Benefit reforms

## Direct payment of housing support to claimants

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Since April 2008 the default position is for Housing Benefit to be paid direct to tenants in the PRS

A key concern for landlords is the requirement, since 7 April 2008 (the date on which the Local Housing Allowance (LHA) was introduced), for HB to be paid to claimants rather than landlords. Survey evidence gathered by Shelter indicated that claimants would prefer their HB to be paid direct to their landlords to help them manage their finances and reduce the temptation to spend LHA on other bills.<sup>23</sup>

LHA was introduced in part to simplify the Housing Benefit system and to empower recipients to take responsibility for their finances. LHA is not a benefit in its own right – it is the way in which the rent element of Housing Benefit (HB) or the housing element of Universal Credit is calculated for tenants living in the deregulated private rented sector.<sup>24</sup>

For HB claimants the only circumstances in which LHA can be paid direct to a private landlord are:

- where the claimant is in arrears of 8 weeks or more; or
- where the claimant is unlikely to pay their rent; or
- where the claimant is deemed unable to manage their own affairs.

For those in receipt of the housing element of Universal Credit, [private landlords can request a ‘managed payment’ or deduction for rent arrears](#).<sup>25</sup>

The LHA and direct payments were trialled in nine “pathfinder” areas from November 2003. The pilot was extended to a further nine areas from April 2005. A baseline survey to collect benchmark information on the characteristics and attitudes of private landlords and agents in the nine original pathfinder areas found concerns about direct payments to tenants:

More than eight in ten of the survey respondents said that they preferred housing benefit to be paid directly to themselves rather than to their tenants, and amongst the small minority of landlords who preferred to let to housing benefit tenants this was most commonly because they could receive the benefit directly.

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<sup>23</sup> Shelter Campaigns Briefing, Local Housing Allowance and direct payments - giving claimants a choice. What do claimants prefer? (undated)

<sup>24</sup> Tenancies created after Part 1 of the Housing Act 1988 came into force on 15 January 1989. For more information on the LHA see: [Local Housing Allowance \(LHA\): help with rent for private tenants - House of Commons Library](#)

<sup>25</sup> A managed payment can take the form of direct payment to the landlord.

Almost one half of respondents who had let to housing benefit tenants within the past two years had in fact made payment of the benefit directly to themselves a condition of a tenancy.

Not surprisingly, therefore, almost two thirds of landlords and agents thought that they would be less likely to want to let to housing benefit tenants if they were no longer able to receive payments of housing benefit directly.<sup>26</sup>

The Communities and Local Government Select Committee conducted an inquiry into homelessness (2016) during which the increase in homeless applications arising from the termination of private sector tenancies (assured shorthold tenancies) attracted attention. The Committee was concerned that direct payment of LHA to claimants was “having a direct impact on levels of homelessness.” They recommended all recipients of housing support should have the option of having their housing support paid directly to their landlord to reduce the likelihood of arrears and increase landlords’ confidence in letting to those at risk of homelessness.<sup>27</sup>

The Committee’s report referred to evidence demonstrating landlords’ reluctance to let to HB claimants:

Reports suggest that many landlords are unwilling to let properties to tenants in receipt of housing benefit, and even fewer to those who are homeless. A report by Crisis, *Home: No less will do*, found that only 45 per cent of landlords were willing to let to tenants in receipt of housing benefit, and 18 per cent to homeless households. Of those who were willing to let to homeless households, 75 per cent were currently letting less than 10 per cent of their stock to homeless people and 27 per cent said that they were letting fewer properties to homeless people than they had two years previously.<sup>28</sup>

The English Private Landlord Survey covering the period 2021-22 found one in ten private renters who said they’d been refused a tenancy in the past 12 months because they received benefits. This amounted to 10% of private renters, around 109,000 households.<sup>29</sup>

The white paper, [A Fairer Private Rented Sector](#) (June 2022), referred to evidence of some landlords and agents actively discouraging or preventing people in receipt of benefits or with children from renting their properties.<sup>30</sup>

## The gap between rent and housing support levels

One reason given for not letting to claimants is related to market forces. In many areas, rents are significantly higher than the corresponding level of LHA. The two main reasons cited by landlords for not accepting benefit

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<sup>26</sup> DWP, [Landlords and Agents in the nine LHA Pathfinder: summary report](#), (PDF), 2006

<sup>27</sup> Communities and Local Government Select Committee, [Homelessness](#), (PDF) 18 August 2016, HC 40 2016-17, para 34

<sup>28</sup> As above, para 20

<sup>29</sup> DLUHC, [English Housing Survey 2021 to 2022: private rented sector](#), July 2023

<sup>30</sup> DLUHC, [A fairer private rented sector](#), June 2022, p55

claimants in the [English Private Landlord Survey 2021](#) (May 2022) were “the risk of late or unpaid rent” and “the risk of benefit not covering the rent.”<sup>31</sup>

[The more recent survey covering 2021-22](#) found private renters in receipt of housing support were more likely than those not receiving housing support to be currently in arrears “(5% vs 2%) and to have been in arrears in the past year (9% vs 3%).”<sup>32</sup>

The LHA is a flat rate allowance for different sizes of properties within a Broad Rental Market Area (BRMA).<sup>33</sup> Rent Officers at the Valuation Office Agency determine BRMAs in England. A BRMA comprises two or more distinct but adjoining areas of residential accommodation, within which a person could reasonably be expected to live.

Prior to April 2011, within a BRMA the LHA for different property sizes was calculated by reference to the median rent (where half the rents are lower and half higher). Since April 2011, LHA rates within BRMAs have been based on the 30<sup>th</sup> percentile of local market rents (rather than the median). LHAs for different sizes of properties are also subject to national caps.

In 2012 it was announced that increases to LHA rates would be capped at 1% in 2014 and 2015 (with an exemption for areas with the highest rent increases<sup>34</sup>). Housing bodies highlighted the impact of LHA rates failing to keep pace with actual rent levels over time.

The relative reduction in the LHA has reinforced landlords’ concerns about claimants struggling to pay their rent. The prospect of tenants accruing arrears, or pressure to lower rents for benefit claimants, acts as a disincentive to private landlords. This is particularly true in areas with a buoyant market and high demand for rented properties.

A 2013 report from the Department of Work and Pensions found landlords in areas with few alternative sources of demand were more likely to continue to let to LHA recipients. The gap between the contracted rent and the LHA rate in higher demand areas “encouraged landlords to reduce their lettings to LHA tenants.”<sup>35</sup>

The Work and Pensions Select Committee’s 2013-14 inquiry into support for housing costs in the reformed welfare system concluded that reforms to the LHA had led to “a growing discrepancy between the average area rents and

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<sup>31</sup> DLUHC, [English Private Landlord Survey 2021](#), May 2022, figure 3.2 p35

<sup>32</sup> DLUHC, [English Housing Survey 2021 to 2022: private rented sector](#), July 2023

<sup>33</sup> The actual amount of benefit paid to an individual depends on their personal financial circumstances – HB/LHA is means tested.

<sup>34</sup> The 1% cap in 2014 and 2015 was announced in the Chancellor’s Autumn Statement on 5 December 2012. 30% of savings arising from this measure were used to pay for higher increases in more expensive areas.

<sup>35</sup> DWP, [Monitoring the impact of changes to the Local Housing Allowance system of Housing Benefit](#), (PDF) Interim Report – summary, 2013

the amount of LHA that households can claim.”<sup>36</sup>As a consequence there was evidence of private landlords becoming “increasingly reluctant” to rent to LHA recipients and “evictions and non-renewal of tenancies” which was “leading to an increased risk of homelessness among Housing Benefit recipients.”<sup>37</sup> In addition, those properties that remained affordable were “increasingly of poor quality.”<sup>38</sup>

### Freezing LHA rates for four years up to April 2020

As part of the [Summer Budget 2015](#) (PDF) the Chancellor announced LHA rates would be frozen for four years from April 2016:

Since the financial crisis began in 2008, average earnings have risen by 11%, whereas most benefits, such as Jobseeker’s Allowance, have risen by 21%. To ensure that it always pays to work, and that earnings growth overtakes the growth in benefits, the government will legislate to freeze working-age benefits, including tax credits and the Local Housing Allowances, for 4 years from 2016-17 to 2019-20. This is forecast to save £4 billion a year by 2019-20.<sup>39</sup>

The freeze added to landlords’ concerns about the gap between LHA and market rent levels. The Communities and Local Government Select Committee’s inquiry into homelessness (2016-17) highlighted evidence of the gap between LHA rates and actual rent levels in the private rented sector in certain areas. South Cambridgeshire District Council submitted evidence showing a typical gap between LHA rates and rents of £250 per month. Westminster City Council identified a disparity of £536.54 between the average weekly rent of a three-bed home and the capped LHA rate.<sup>40</sup>

The Committee recommended a review of LHA levels “so that they more closely reflect market rents.”<sup>41</sup> The Residential Landlord Association<sup>42</sup> submitted evidence to the inquiry describing how landlords in high demand areas would react to the freezing of LHA rates:

Unfortunately, the reality is that in areas where there is high employment there is no need for landlords to rent to claimants. The high demand generally for PRS properties means that in some areas landlords can be more selective. The Government cannot realistically expect Landlords to freeze rents for 4 years if inflation increases and interest rates rise alongside upward pressures. The freezing of allowances means a real term reduction. The long term nature of

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<sup>36</sup> Work and Pensions Select Committee, [Support for housing costs in the reformed welfare system](#), (PDF) 2 April 2014, HC 720 2013–14, Summary

<sup>37</sup> Work and Pensions Select Committee, [Support for housing costs in the reformed welfare system](#), (PDF) 2 April 2014, HC 720 2013–14, Summary

<sup>38</sup> As above.

<sup>39</sup> HM Treasury, [Summer Budget 2015](#), (PDF) July 2015, para 1.137

<sup>40</sup> Communities and Local Government Select Committee, [Homelessness](#), (PDF) 18 August 2016, HC 40 2016-17, para 17

<sup>41</sup> As above, para 21

<sup>42</sup> Following a merger with the National Landlords Association the RLA is now the National Residential Landlords Association (NLRA).

the proposal is therefore worrying for landlords, particularly as there is no automatic review mechanism written into the regulations.<sup>43</sup>

Shelter's submission to the Work and Pension Committee's inquiry into 'No DSS' (launched in February 2019) contained an analysis of the impact of the 2019/20 LHA rates. They found that in 51% of BRMAs in England families were seeing a shortfall of more than £50 a month between their maximum LHA and the rent due for a two-bed home.<sup>44</sup> The submission, though acknowledging affordability issues for claimants, went on to say a blanket ban on claimants by landlords was not justified as many clients they'd supported could afford the advertised rent, for example by accessing savings or help from family members.<sup>45</sup>

### The end of the freeze and Covid-19

The Government announced the freeze on LHA rates would end in April 2020 with an uprating of 1.7% in line with the Consumer Price Index. Subsequently, on 20 March 2020, the Chancellor announced a package of assistance in response to the Covid-19 pandemic which included an increase in support through Local Housing Allowance:

As well as keeping people in work, and supporting those who lose their jobs or work for themselves, our plan for jobs and incomes will help keep a roof over your head.

I'm announcing today nearly £1bn pounds of support for renters by increasing the generosity of housing benefit and Universal Credit, so that the local housing allowance will cover at least 30% of market rents in your area.<sup>46</sup>

This announcement was described as reversing the four years of the freeze. [Revised LHA rates for 2020/21](#) were published by the DWP. The end of the freeze was welcomed but the point was made that LHA rates remained well below the 30<sup>th</sup> percentile of market rents in areas of high housing demand.<sup>47</sup>

### LHA rates frozen in cash terms since April 2021

The [Office for Budgetary Responsibility](#) (OBR) said LHA rates would be frozen in cash terms from 2021-22:

This means the £1 billion cost of the measure in 2020-21 declines to £0.3 billion by 2025-26 (and that LHA rates will fall back below the 30th percentile of local rents over time).<sup>48</sup>

Following this announcement, a coalition of bodies representing private landlords, homeless charities and financial institutions, issued a joint call for

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<sup>43</sup> [Residential Landlords Association - written evidence](#), 22 February 2016

<sup>44</sup> Shelter's submission to the Work and Pension Select Committee's inquiry "No DSS: discrimination against benefit claimants in the housing sector", 2019

<sup>45</sup> As above.

<sup>46</sup> [HM Treasury Press Release](#), 20 March 2020

<sup>47</sup> For example, Chartered Institute of Housing (CIH), *Ok for 2020 – but what about four years of freeze?* 21 January 2020

<sup>48</sup> OBR, [Economic and Fiscal Outlook, CP 318](#), November 2020, p179

the Government to publish an assessment of the impact on renters' ability to meet their housing costs.<sup>49</sup>

Concerns about the shortfall between LHA rates and actual rents have grown in light of inflationary increases over 2022/23.<sup>50</sup> The Levelling Up, Housing and Communities Committee (February 2023) concluded the failure of LHA rates to keep pace with market rents is “quite obviously making the private rented sector even less affordable for many people who are only there because the social housing sector has been cut back and can no longer accommodate them.”<sup>51</sup> The Committee recommended the Government should ensure housing benefit covers recipients' housing costs:

If the Government believes the PRS is the right place for those on the lowest incomes, it should at least make sure housing benefit does what it was designed to do and covers benefit recipients' housing costs. For this reason, it should increase LHA rates to realign them with the 30th percentile in each broad rental market area, and commit to conducting a review as soon as possible into whether they should once more be aligned with the 50th percentile.<sup>52</sup>

The Government response was published on 20 October 2023. On LHA rates the recommended increase and review was not accepted:

In April 2020, we boosted investment in LHA rates by nearly £1 billion providing 1.5 million recipients of Housing Benefit or the housing element of Universal Credit with around £600 more housing support in 2020/21 than they would otherwise have received.

We have maintained LHA rates at this same cash level so that everyone who benefitted from the increase will continue to do so. However, LHA rates are not intended to cover all rents in all areas.

Support is available for those who face a shortfall in meeting their housing costs. Discretionary Housing Payments are available from local authorities. Since 2011 the government has provided nearly £1.6 billion in Discretionary Housing Payments funding to local authorities. Local authorities have broad discretion to spend in line with their local priorities, supported by non-statutory guidance, which provides a list of priority groups to assist with their decision making.

At Autumn Statement 2022 the government took the difficult decisions needed on tax and spending to restore economic stability, support public services and lay the foundations for long-term growth. It is vital the government sticks to its plan and maintains economic stability.

The challenging fiscal environment means that difficult decisions have to be made to ensure support is targeted effectively. We must continue to take a responsible and disciplined approach to public spending, while supporting vulnerable people and protecting vital public services. A substantial package

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<sup>49</sup> [Warning issued over impact of benefit cuts on renters | NRLA](#), 17 August 2021

<sup>50</sup> See: [Housing and the cost of living - House of Commons Library](#)

<sup>51</sup> Levelling Up, Housing and Communities Committee, [Reforming the private rented sector](#), 9 February 2023, HC 624 2022-23, para 117

<sup>52</sup> As above.

of targeted support was announced at last year's Autumn Statement for those on low incomes. In the Spring Budget the Chancellor announced further support to households with the cost of living and the Secretary of State for Work and Pensions has committed to reviewing LHA rates annually.<sup>53</sup>

### Other benefit restrictions

In addition to freezing LHA rates, the Government reduced the benefit cap threshold with effect from 7 November 2016 to £23,000 in London and £20,000 outside of London. The cap limits total benefit entitlement<sup>54</sup> for a household and can result in a claimant facing a reduced level of housing support where their total weekly benefits exceed the cap. The lowering of the threshold was expected to 'bite' in areas with higher housing costs.

From April 2023, benefit cap thresholds were increased for the first time since its introduction – by 10.1%, the same percentage increase as for social security benefits linked to inflation.<sup>55</sup>

The Government also restricted support provided to families with more than two children through tax credits with equivalent changes to Housing Benefit:

...so that any subsequent children born after April 2017 will not be eligible for further support. An equivalent change will be made in Housing Benefit to ensure consistency between both benefits. This will also apply in Universal Credit to families who make a new claim from April 2017.

In addition, those starting a family after April 2017 will no longer be eligible for the Family Element in tax credits. The equivalent in Universal Credit, known as the first child premium, will also not be available for new claims after April 2017. In Housing Benefit, the family premium will be withdrawn for new claims from April 2016, to ensure fairness between those who receive Housing Benefit and those who do not.<sup>56</sup>

[The Housing Benefit \(Abolition of the Family Premium and limiting backdating\) \(Amendment\) Regulations 2015](#) abolished the family premium for all new Housing Benefit entitlements after 30 April 2016 and for those who cease to have responsibility for any children or young people after 30 April 2016.

Commenting on the impact of these wider changes, the RLA said they represented "big disincentives" for landlords to let to low income and benefit claimants:

Landlords have to assess the risk of their return on investment against massive benefit changes including Universal Credit allowances limited to support for two children for new claims after April 2017, with the 'family element' also removed from tax credit and Universal Credit allowances for all new families after that date; income thresholds for Universal Credit reduced by cuts to the

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<sup>53</sup> [Reforming the Private Rented Sector: Government's response to the Committee's Fifth Report of Session 2022-23 - Levelling Up, Housing and Communities Committee](#), 20 October 2023

<sup>54</sup> Some benefits are excluded, see: [GOV.UK](#)

<sup>55</sup> See: [Benefit Cap \(parliament.uk\)](#)

<sup>56</sup> HM Treasury, [Summer Budget 2015](#) (PDF), July 2015, paras 1.146-7

levels of the ‘work allowance’, alongside the lowering of the benefit caps noted above; and, crucially, benefit rates (including Local Housing Allowance rates) frozen for four years from 2016/17.<sup>57</sup>

## 2.2

## The housing element of Universal Credit

As a rule, Universal Credit (UC) is paid as a single monthly lump sum to claimants, including any housing element that might apply.

The DWP’s 2013 interim report on the impact of changes to the LHA reported that landlords were “nervous” about UC’s introduction and what they saw as the end of “a discrete benefit to pay for the rent.”<sup>58</sup>

The Work and Pensions Select Committee’s 2013-14 inquiry found landlords in both the social and private rented sectors were concerned about how tenants would manage direct payments under UC. There was concern that vulnerable tenants wouldn’t receive help until substantial arrears had accrued.<sup>59</sup>

The RLA’s evidence to the Communities and Local Government Select Committee’s inquiry into homelessness (2016) highlighted some difficulties landlords had faced when letting to tenants in receipt of UC:

The roll out of Universal Credit to families is also more complex than the payment of single claimants and is very much in its infancy which causes concern amongst landlords. We are finding that due to other reasons explored in more detail later in this report, Landlords are more reluctant to rent to tenants in receipt of benefits and do not have positive experiences when working with DWP requesting help if their tenants have fallen into arrears. Our survey found that 32% of respondents whose tenants are receiving Universal Credit, described DWP as ‘not very helpful at all’ when processing applications for direct payments to be made to them.<sup>60</sup>

The RLA submitted [updated written evidence](#) to the Work and Pensions Select Committee inquiry into the roll-out of UC in September 2017. This contained the headline results of a survey of RLA members conducted in August 2017, the findings in relation to welfare reform were described as “stark”. Of those landlords who let to tenants on UC or Housing Benefit:

38% of landlords reported that they have experienced universal credit tenants going into rent arrears in the past 12 months

This is especially concerning with the finding that on average, landlords were owed £1600.88 in rent arrears

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<sup>57</sup> [Residential Landlords Association - written evidence](#), 22 February 2016

<sup>58</sup> DWP, [Monitoring the impact of changes to the Local Housing Allowance system of Housing Benefit](#), (PDF) Interim report, 2013

<sup>59</sup> Work and Pensions Select Committee, [Support for housing costs in the reformed welfare system](#), (PDF) 2 April 2014, HC 720 2013-14, Summary

<sup>60</sup> [Residential Landlords Association - written evidence](#), 22 February 2016

53% of landlords successfully requested an Alternative Payment Arrangement

45% of landlords reported that the DWP were unhelpful when contacted

The issue of rent arrears for universal credit tenants, is also one of the leading reasons for a landlord attempting to regain possession of the property (64% of landlords).<sup>61</sup>

The RLA's submission called on the Government to make a series of detailed changes to increase landlords' confidence in UC. These changes included allowing tenants to choose to have their UC paid direct to the landlord and improved data sharing. More information can be found in the RLA's report, [Welfare Reform and Universal Credit - The impact on the private rented sector](#), August 2017.

The Autumn Budget in November 2017 announced several measures aimed at supporting UC claimants:

- from January 2018 those who need it, and who have an underlying entitlement to Universal Credit, will be able to access up to a month's worth of Universal Credit within five days via an interest-free advance. The government will extend the period of recovery from six months to twelve months, making it easier for claimants to manage their finances. New claimants in December will be able to receive an advance of 50% of their monthly entitlement at the beginning of their claim and a second advance to take it up to 100% in the new year, before their first payment date
- from February 2018 the government will remove the seven-day waiting period so that entitlement to Universal Credit starts on the first day of application
- from April 2018 those already on Housing Benefit will continue to receive their award for the first two weeks of their Universal Credit claim
- the government will also make it easier for claimants to have the housing element of their award paid directly to their landlord<sup>62</sup>

The Budget included an announcement on Targeted Affordability Funding:

To support Housing Benefit and Universal Credit claimants living in areas where private rents have been rising fastest, the government will increase some Local Housing Allowance rates by increasing Targeted Affordability Funding by £40 million in 2018-19 and £85 million in 2019-20. This will increase the housing benefit awards of approximately 140,000 claimants in 2018-19, by an average of £280, in areas where affordability pressures are greatest.<sup>63</sup>

Research conducted by Dr Tom Simcock for the RLA, [Investigating the impact of Welfare Reform on Private Renting](#) (PDF), was published in October 2018. The following issues were identified:

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<sup>61</sup> RLA, [Written Evidence to the Work and Pensions Select Committee](#), September 2017, UCR0028

<sup>62</sup> HM Treasury, Autumn Budget 2017, [HC 587](#), 23 November 2017, para 6.14

<sup>63</sup> As above, para 5.37

1. We found that 61% of landlords that let to tenants on Universal Credit have experienced their UC tenants going into rent arrears in the past 12 months. This is over double from 27% of landlords in 2016, and a significant increase from the previous year where it was 38% of landlords.
2. We found that the amount owed by Universal Credit tenants in rent arrears has increased by 49% in comparison to the previous 12 months. This has increased from £1,600.88 in 2017 to £2,390.19.
3. Rent arrears for Universal Credit tenants are likely to be driving homelessness, with 28% of landlords regaining possession of their property from a UC tenant and the primary reason being rent arrears (77% of landlords).
4. The significant increase in rent arrears for both UC tenants and 'legacy' Housing Benefit tenants also points to much broader issues than just the implementation of Universal Credit. The findings suggest that the freeze to LHA rates since 2016 and that LHA rates had not increased with market rents between 2010 and 2016.<sup>64</sup>

The Minister, Will Quince, provided the following response to a PQ asking what meaningful changes had been made to UC in relation to the private rented sector on 15 April 2019:

The Government has begun the process of engaging with the sector to tackle the problems faced by people renting in the private rented sector. We have seen positive changes from property sites who have committed to removing adverts with 'No DSS' wording and from lenders who have committed to removing mortgage restrictions that would prevent landlords from renting to tenants in receipt of housing support. This work is ongoing and we will continue to bring the sector together to tackle such practices.

Furthermore, as stated by the Secretary of State on 11 January 2019, the Department has also committed to increasing the support available to private landlords. An on-line system for private landlords will be introduced so they can request, where necessary, that their tenants' rent is paid directly to them.<sup>65</sup>

In response to the Covid-19 outbreak, the NRLA<sup>66</sup> called for a temporary suspension of the five-week wait for the first payment of UC; the conversion of advance payments of UC into grants; an increase in LHA rates to the 50<sup>th</sup> percentile; and at least a temporary period where the housing element of UC is automatically paid direct to the landlord.<sup>67</sup>

On 29 September 2020, Will Quince responded to a PQ on improvements to communication and partnership working between the UC system and landlords/agents where there are concerns about a claimant's tenancy:

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<sup>64</sup> PEARL, Dr Tom Simcock, [Investigating the impact of Welfare Reform on Private Renting](#), October 2018

<sup>65</sup> [Written question - 243334, 15 April 2019](#)

<sup>66</sup> Created following a merger of the RLA and NLA.

<sup>67</sup> NRLA, [Supporting tenants and landlords through the Covid crisis](#), April 2020

In May 2020 we introduced a new online system for private landlords to enable better interaction with Universal Credit. Private landlords are now able to request a Universal Credit tenant's rent is paid directly to them online, which helps claimants who struggle with managing their money to pay their rent. This system replaces the arrangement of completing a form and submitting it via email or post.

This approach mirrors that used by Social Rented Sector (SRS) landlords, who have been able to request direct payment of housing support using the Social Rented Sector Landlord Portal since December 2019. The portal continues to be used by over 700 Social landlords to support the administration of SRS housing costs, and has been vital in helping landlords respond to the challenges of COVID-19. We are continuing to work with landlords to develop improvements to the portal and use their feedback to influence the features we release for the Portal.

Alternative Payment Arrangements (APAs) are available for those claimants who cannot manage their single monthly payment and there is a risk of financial harm to the claimant and/or their family. APAs may be considered at the outset of a claim by a work coach or case manager, or at any time during the claim, such as if the claimant is struggling with the single monthly payment. They can also be triggered by information received from the claimant, their representative or their landlord.<sup>68</sup>

Commenting on the July 2020 court case (see section 1.2), Chris Norris of the NRLA said, in addition to noting that no landlord should discriminate against someone in receipt of benefits:

More broadly, the government can also support this work by ensuring benefits cover rents entirely. It should also convert the loans to cover the five week wait for the first payment of Universal Credit into grants.<sup>69</sup>

## 2.3 Impact of tax and other regulatory changes

Summer Budget 2015 announced changes to the tax regime for residential landlords. The relief on finance costs that landlords can get is now restricted to the basic rate of income tax. The restriction was phased in over four years from April 2017. Landlords have also experienced changes to Stamp Duty Land Tax – see Library briefing paper 07050: [Stamp duty land tax on residential property](#) for more information.

The NLA said these changes would prompt more landlords to minimise risks by letting to tenants “less prone to missing rental payments”. Tenants in receipt of benefits are identified as falling into the “riskier” category:

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<sup>68</sup> [Written question – 95063, 29 September 2020](#)

<sup>69</sup> LandlordToday, [Legal victory over 'No DSS' BTL landlords](#), 14 July 2020

In order to recover costs, one in five (20 per cent) of those landlords say they will need to prioritise other tenant types over those perceived to be ‘riskier’ – such as tenants in receipt of housing benefit.

Tenants on housing benefit are typically viewed as riskier because of high incidences of missing rental payments, caused in part by the widening gap between market rents and the amount of benefit available to claimants. In the last year, two thirds (64 per cent) of landlords with tenants in receipt of housing benefit experienced rent arrears.

Furthermore, over the past four years, the proportion of landlords who let to tenants in receipt of housing benefit has almost halved, with the trend looking certain to continue.

The findings are worrying news for tenants who are increasingly unable to access social housing and rely on the private sector for a home.<sup>70</sup>

The RLA’s evidence to the CLG Committee’s inquiry into homelessness echoed concerns about tax changes and referred to the impact of other regulatory burdens on the sector:

Landlords are facing more regulatory burdens such as the roll out of immigration checks, extensive property licensing schemes with high fees, restrictions on gaining possession, compulsory improvements and minimum energy efficiency regulations from 2018. We are not necessarily opposed to all these measures, but nevertheless they inevitable come at a cost to the landlord.

We would encourage therefore that the Government considers the impact of these wider implications on the supply of PRS housing at a time when demand for this tenure of housing is at an all-time high, especially when concerned with the increased risk of homelessness.<sup>71</sup>

## 2.4

## Mortgage and insurance restrictions

Some lenders have included restrictions in buy-to-let mortgage agreements which prohibit lettings to benefit claimants. In addition, landlords have claimed it can be more difficult to obtain insurance at competitive rates when letting to claimants. As noted in section 1, Shelter argues contractual provisions of this nature could be unlawful:

Section 142 of the Equality Act 2010 provides that a term of a contract that constitutes, promotes or provides for unlawful discrimination, may be unenforceable. We take the view that this may apply to both mortgage & insurance terms and conditions that are unlawfully discriminatory.<sup>72</sup>

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<sup>70</sup> NLA Press Release, 26 May 2016

<sup>71</sup> [Residential Landlords Association - written evidence](#), 22 February 2016

<sup>72</sup> Shelter’s submission to the Work and Pension Select Committee’s inquiry “No DSS: discrimination against benefit claimants in the housing sector”, 2019

A survey conducted by the RLA's mortgage consultants in 2017 found "Two thirds of the largest buy-to-let mortgage lenders do not allow landlords to rent property to tenants receiving housing benefit."<sup>73</sup>

In [The Impact of Taxation Reform on Private Landlords](#), (March 2018) the RLA reported on landlords' responses to a question on mortgage conditions:

While not directly related to landlord investment behaviours and attitudes, we asked landlords if they had mortgages on properties that had conditions that stipulate the maximum length of tenancy and whether the landlord can let to certain types of tenants such as benefit tenants. A surprising finding is that over 1 in 2 landlords reported mortgage conditions that prevented them from letting to certain types of tenants, such as those on benefits.<sup>74</sup>

This finding led the RLA to conclude that the Government should explore mortgage conditions with lenders if they want to encourage private landlords to let to benefit claimants.<sup>75</sup>

On 21 February 2019, the Work and Pensions Select Committee launched an inquiry into [No DSS: discrimination against benefit claimants in the housing sector](#). The Committee wrote to several bodies, including lenders, to probe how their policies affect claimants trying to access the sector. [The Committee's correspondence is on its website](#):

- [Correspondence from Committee to mortgage lenders regarding restrictions on benefit recipients in the private rental sector- dated February 2019 \(PDF\)](#).
- [Correspondence from Committee to companies that insure landlords and their representative ABI on restrictions on benefit recipients in the private rental sector - dated February 2019 \(PDF\)](#).

In March 2019, NatWest announced it would end restrictions in its buy-to-let mortgages preventing the letting of homes to benefit claimants.<sup>76</sup> On 15 March 2019, Zoopla announced it would "remove 'No DSS' wording in rental adverts".<sup>77</sup>

The Committee's inquiry did not conclude before the dissolution of Parliament for the December 2019 General Election.

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<sup>73</sup> RLA, "Two thirds of mortgage lenders ban benefit claimants", 1 May 2017

<sup>74</sup> Simcock, T.J., (2018). [The Impact of Taxation Reform on Private Landlords](#). Manchester: UK. Residential Landlords Association. <https://research.rla.org.uk/wp-content/uploads/impact-taxation-reform-landlords-2018.pdf>, p20

<sup>75</sup> As above.

<sup>76</sup> RLA Press Release, 1 March 2019

<sup>77</sup> ["Zoopla to end 'No DSS' wording in rental adverts"](#), 15 March 2019

## 2.5

# The characteristics of benefit claimants

The [English Private Landlord Survey 2021](#) found around half of landlords reported “a perceived greater risk of disturbance or anti-social behaviour or damage to property or furnishings (49%)” as a reason for not letting to benefit claimants. The Government’s intention to remove section 21 “no fault” evictions was also seen as a reason not to let to this group.<sup>78</sup>

Research carried out by YouGov on behalf of Shelter in 2017 also identified preconceptions about benefit claimants:

In 2017, we commissioned YouGov to survey more than 1,000 private landlords, including questions about motivations behind ‘No DSS’ policies. 18% of landlords said that they had heard stories from other landlords or in the media, which suggested that renting to people receiving benefits was a bad idea.<sup>79</sup>

Shelter’s submission to the Work and Pensions Select Committee’s inquiry into “No DSS” commented on these preconceptions:

...drawing conclusions about a tenant’s character based solely on the fact that they receive Housing Benefit or Universal Credit is plain prejudice. We understand that some landlords will have had bad experiences with tenants who happened to claim Housing Benefit or Universal Credit, but assuming that all tenants on benefits will act the same is both lazy and the definition of prejudicial stereotyping.

Landlords and agents will have processes in place to reassure themselves about the character of any prospective tenant. As long as they are not themselves discriminatory, these same processes should simply be equally applied to tenants on Housing Benefit.<sup>80</sup>

## 2.6

# What would change landlords’ attitudes?

The Centre for Homelessness Impact, the Behavioural Insights Team and the NRLA undertook research into what measures would increase the willingness of landlords to rent to recipients of Universal Credit. [Encouraging landlords to let to people receiving benefits](#) (PDF) was published in April 2021. The main conclusions are summarised below:

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<sup>78</sup> DLUHC, [English Private Landlord Survey 2021: main report](#), 26 May 2022, para 3.9. Measures to abolish assured shorthold tenancies and with them section 21 evictions are contained in the Renters (Reform) Bill 2022-23, see: [Renters \(Reform\) Bill 2022-23 - House of Commons Library](#)

<sup>79</sup> Shelter’s submission to the Work and Pension Select Committee’s inquiry “No DSS: discrimination against benefit claimants in the housing sector”, 2019

<sup>80</sup> As above.

- Landlord incentives were more effective when the gap between LHA rates and the market rent is smaller.
- Securing on-time rent payments is important. Landlords were more positive about an offer of a rent guarantee. Landlords were not reassured by Alternative Payment Arrangements within Universal Credit.
- Landlords were not persuaded by tenants completing pre-tenancy training or completing a budget planner. Offering a damage deposit bond or a single point of contact for landlords only slightly increased willingness to rent compared to no incentive.
- Offering landlords £1,000 in cash upfront or offering a rent guarantee were most effective at increasing landlord willingness to rent at the LHA rate.<sup>81</sup>

They made the following recommendations:

- Ensure LHA rates track market rents.
- Offer UC recipients a choice of having the housing benefit portion of their UC payment transferred directly to their landlord.
- Combine financial incentives and behavioural interventions.<sup>82</sup>

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<sup>81</sup> Centre for Homelessness Impact, NRLA, Behavioural Insights Team, [Encouraging landlords to let to people receiving benefits](#) (PDF), April 2021

<sup>82</sup> As above.

### 3

## The extent of landlord/agent refusals

There's no definitive information on the extent to which landlords refuse to let to benefit claimants. There is evidence to suggest that it's not a recent phenomenon; for example, a Shelter report in 2006 found evidence of landlords barring claimants:

One-third of advertisements for private rented properties barred HB claimants. This has increased over the past two years in Pathfinder and control areas alike. When landlords advertising properties that appeared to be affordable and open to HB claimants were contacted by phone, as few as one in six said they would accept a claimant. Around one-third were unsure – mostly citing a lack of experience of letting to this group, or fear of the HB system. The rest refused outright.<sup>83</sup>

Then Minister for Housing, Mark Prisk, told the Work and Pensions Select Committee that around one third of households living in the private rented sector were in receipt of full or partial Housing Benefit/LHA in 2013. He argued this was proof that benefit claimants were able to access the sector:

**Mr Prisk:** The Government estimate that, at any point in time, around one third of households privately renting are in receipt of housing benefit. This suggests that it continues to be possible for claimants to access the sector. However, private landlords and letting agents operate on a commercial basis and, as for any business, it is reasonable for them to make independent decisions about who they let to.<sup>84</sup>

The Work and Pensions Committee questioned the Government's estimate:

The Government argued that private sector landlords were still willing to rent to people in receipt of Housing Benefit and pointed out that 30% of people renting in the private sector were in receipt of Housing Benefit. We queried this figure with Lord Freud as in our 2010 inquiry he had told us that the figure was 40%. In subsequent written evidence, the Government acknowledged that "there are different sources of information on the proportion of the PRS that is in receipt of housing benefit. None of these gives a definitively accurate figure". At the time of the 2011 census, it is estimated that "there were potentially 34% of households in the PRS in receipt of housing benefit" but this was likely to be "a small overestimate because a household may include more than one benefit unit in receipt of housing benefit".<sup>85</sup>

The English Private Landlord Survey covering the period 2021-22 found one in ten private renters who said they'd been refused a tenancy in the past

<sup>83</sup> Shelter, [The path to success? Shelter's research on Housing Benefit reform: the final report](#), 2006, pp15-18

<sup>84</sup> HC Deb 4 June 2013 c1061W

<sup>85</sup> Work and Pensions Select Committee, [Support for housing costs in the reformed welfare system](#), (PDF), 2 April 2014, HC 720 2013-14

12 months because they received benefits. This amounted to 10% of private renters, around 109,000 households.<sup>86</sup>

## Other surveys of private landlords/agents

Reported landlord survey evidence suggests a fall in the proportion of private landlords willing to let to benefit claimants.

A 2016 survey for Crisis found that 55% of landlords said they were unwilling to let to tenants in receipt of Housing Benefit.<sup>87</sup>

The Residential Landlord Association conducted a Welfare Survey in February 2016, the results of which were reported in the RLA's written evidence to the CLG Committee's inquiry into homelessness (2016):

In our most recent Welfare Survey (February 2016) 66% of 883 respondents answered that they are more reluctant to let properties to tenants who are of working age and on benefits because of the benefit cap. Our members are also more reluctant to rent to benefit tenants for reasons such as well as Caps on Local Housing Allowance rates (47%) and 4 year freeze on HB payments to working age claimants (47%). We feel that this paints a worrying picture for the Government to consider as this could indicate a substantial loss of PRS accommodation due to these changes.<sup>88</sup>

The Work and Pensions Select Committee report (April 2014) concluded:

There is evidence that increasing numbers of private sector landlords are no longer willing to rent to Housing Benefit recipients. Several witnesses reported that the number of evictions of Housing Benefit recipients in the private rental sector (PRS) has increased since 2010 as a result of landlords ending shorthold tenancies with a view to re-renting properties at higher prices to tenants not in receipt of Housing Benefit. Homeless Link referred to reports from an agency which places homeless people in the private sector, which had lost 20% of the landlords with whom it had worked within the last year "specifically on the grounds that they think they can get higher rents paid by people who are not on benefits."<sup>89</sup>

Carolyn Uphill of the National Landlords Association told the Committee:

[...] in the last three years there has been a 50% drop in the number of landlords taking people who are on benefits. It is now down to only one fifth; 22% of our landlord members whom we surveyed say they have LHA tenants, and 52% of those surveyed said they would not look at taking on benefits tenants.<sup>90</sup>

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<sup>86</sup> DLUHC, [English Housing Survey 2021 to 2022: private rented sector](#), July 2023

<sup>87</sup> Crisis, [Home. No less will do: Homeless peoples' access into the private rented sector](#), February 2016

<sup>88</sup> [Residential Landlords Association - written evidence](#), 22 February 2016

<sup>89</sup> Work and Pensions Select Committee, [Support for housing costs in the reformed welfare system](#), (PDF), 2 April 2014, HC 720 2013-14, para 21

<sup>90</sup> As above, para 22

In *The Impact of Taxation Reform on Private Landlords*, (March 2018) the RLA reported:

A majority of landlords reported letting to tenants who were in full time employment (87%), while just over 1-in-4 landlords reported to letting to tenant son benefits.<sup>91</sup>

The National Housing Federation (NHF), in partnership with Shelter, conducted a review of private rental property listings on Zoopla in 2018 and found that “10.1% of advertised properties in England explicitly exclude anyone who is claiming benefits” – this percentage rose to 60% in some areas.<sup>92</sup>

As part of the work with the NHF, Shelter conducted a mystery shopping exercise which found:

Applicants who mentioned they were claiming benefits were more than twice as likely to get negative responses as those who did not.

Landlords were nearly twice as likely to respond positively to approaches from non-claiming applicants than they were to those from applicants claiming benefits.<sup>93</sup>

## Claimant surveys

According to a Shelter survey (2009), 60% of respondents found it difficult to find landlords who were willing to let to LHA claimants.<sup>94</sup>

A YouGov poll commissioned by Who Benefits? (2014) found 16% of claimants had been turned away by landlords or letting agents when seeking to rent a property.<sup>95</sup>

Early DWP research on the impact of the Coalition’s LHA reforms found:

62 per cent of claimants living in London, compared with 47 per cent of those living in other parts of the country, reported that landlords were generally unwilling to let their accommodation to tenants in receipt of HB.<sup>96</sup>

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<sup>91</sup> Simcock, T.J., (2018). *The Impact of Taxation Reform on Private Landlords*. Manchester: UK. Residential Landlords Association. Retrieved from: <https://research.rla.org.uk/wp-content/uploads/impact-taxation-reform-landlords-2018.pdf>, p39

<sup>92</sup> NHF Briefing, ‘[DSS need not apply](#)’ – [The accessibility of private rental properties to benefit claimants](#), (PDF), 8 November 2018

<sup>93</sup> As above.

<sup>94</sup> [Campaigns Briefing. Local Housing Allowance and direct payments - giving claimants a choice](#), Shelter, October 2009

<sup>95</sup> “Second class citizens”? The personal impact of the public debate on benefits, July 2014

<sup>96</sup> DWP, [Monitoring the impact of changes to the Local Housing Allowance system of housing benefit: Summary of early findings](#). Research Report 798 (2012)

## 4

# Refusing to let to families

In addition to their work on ‘no DSS’ bans, Shelter has found evidence of landlords and agents refusing to let to families with children. A YouGov survey conducted between 6 April and 12 May 2022 of private renters in England aged 18+, 627 of whom had children in the household, was weighted to be representative of private renters in England. On this basis, Shelter calculated that 289,506 families had been affected.<sup>97</sup>

Shelter also successfully supported a mother of four in a case considered by the Property Ombudsman. The Ombudsman deemed a ‘no kids’ specification in the private rental market to be a breach of the Property Ombudsman’s code of practice on the grounds that such a ban would breach equality rules because it would disproportionately affect women.<sup>98</sup>

Shelter welcomed the finding:

The Ombudsman’s decision will provide welcome relief to the thousands of private renting families in England impacted by ‘no kids’ discrimination. Shelter’s newly published data shows one in five (19%) parents – equating to almost 300,000 families in England - have been unable to rent somewhere they wanted in the last five years because they have children.

Going forward, any letting agent who is a member of The Property Ombudsman will not be able to include blanket bans in property listings – or follow a landlord’s orders to – without reasonable evidence or justification. If they do, they will be in breach of the body’s Code of Practice and may be required to pay compensation to anyone discriminated against.<sup>99</sup>

Shelter has been told by Mortgages for Business that there are no mortgages with ‘no kids’ clauses. Similarly, the British Insurance Brokers Association has said landlords should not face issues in finding suitable / affordable insurance when renting to tenants with children. This has led Shelter to conclude that the only objective justification for refusing to let to someone with children is if the property would be unsuitable from an overcrowding point of view.

<sup>97</sup> [Landmark case finds ‘no children’ policies breach letting agent Code of Practice - Shelter England](#), March 2023

<sup>98</sup> As above.

<sup>99</sup> As above.

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## 5 The Government response

### 5.1 A ban on “no DSS” adverts 2019

On 1 March 2019, alongside an announcement on successful bids for the PRS Access Fund, then Minister Heather Wheeler said the Government was calling for “the end of housing advertisements which specify ‘No DSS’ tenants.” She said:

Out of 4.5 million households living in private rental accommodation, 889,000 receive housing benefit to help pay their rent.

Yet the latest figures show around half of landlords said they would not be willing to let to tenants on Housing Benefit – ruling out thousands of vulnerable people and families.

In the coming months, ministers will meet leading industry representatives, including mortgage providers, landlord associations, tenant groups, and property websites to clamp down on blanket exclusions in adverts – with a view to stopping them altogether.

This builds on ongoing government action to create a fairer housing market that works for everyone.<sup>100</sup>

On 19 March 2020, Will Quince responded to a PQ on action being taken to tackle housing advertisements specifying No DSS tenants:

Everyone should have the same opportunity when looking for a home, regardless of whether they are in receipt of benefits. Blanket bans that do not take account of the individual and their circumstances are unhelpful and should be discouraged.

Last year, I met industry representatives including property advertising platforms, to determine what action can be taken to end this practice. We have since seen positive changes with platforms committing to removing adverts with ‘No DSS’ wording.

Officials also met the Competition and Marketing Authority to discuss their guidance for lettings professionals which, in October 2019 was updated to state that landlords should not exclude people on the grounds that they are receiving benefits. We will monitor this situation and continue to engage with stakeholders where necessary.<sup>101</sup>

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<sup>100</sup> [MHCLG Press Release](#), 1 March 2019

<sup>101</sup> [PQ 29998 \[Private Rented Housing: Social Security Benefits\]](#), 19 March 2020

## 5.2

# Making blanket bans illegal

The [white paper](#) published in June 2022 said the Government “will make it illegal for landlords or agents to have blanket bans on renting to families with children or those in receipt of benefits.”<sup>102</sup>

The white paper outlined other actions the Government intended to take in this area:

We will also support landlords to take informed decisions on individual circumstances rather than relying on blanket bans. We will work with the insurance industry to address landlord and agent misconceptions that it is difficult to arrange insurance for properties where tenants are in receipt of benefits. We will also explore improvements to welfare support information for both tenants and landlords and help ensure that those who are unable to manage their rent payments can arrange direct payments of housing costs to their landlord through their Universal Credit (Managed Payments). So that tenants can access the support they need and can secure accommodation in the Private Rented Sector, we will boost awareness of the range of local services available to help people who are living on a low wage or are receiving benefits.<sup>103</sup>

The Levelling Up, Housing and Communities Committee considered the Government commitment as part of its inquiry into reforming the private rented sector (February 2023). The Committee emphasised the need to address LHA rates as a solution to the issue:

If this is a commitment to preventing landlords from discriminating against benefit recipients, it is unrealistic. If it is a commitment to preventing landlords from stating explicitly that they will not consider letting to benefit recipients, it is unambitious. Landlords who do not want to let to benefit recipients will simply choose not to do so. The real issue is twofold: there are not enough homes for rent; and local housing allowance rates have not kept pace with the market in recent years. We call on the government to explain in response to this report how it intends to prevent landlords from refusing to let to benefit recipients, and we again recommend that it uprate local housing allowance rates so that housing benefit better covers the cost of renting in the private rented sector.<sup>104</sup>

## Renters (Reform) Bill 2022-23

The Bill was presented on 17 May 2023. It was expected to include measures on blanket bans in relation to benefit claimants and families with children. Those measures are not in the Bill. The Government said:

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<sup>102</sup> DLUHC, [A Fairer Private Rented Sector](#), CP 693, June 2022, p56

<sup>103</sup> As above.

<sup>104</sup> Levelling Up, Housing and Communities Committee, [Reforming the private rented sector](#), 9 February 2023, HC 624 2022-23, para 143

We remain fully committed to implementing these reforms and will bring forward legislation at the earliest opportunity to:

- Make it illegal for landlords and agents to have blanket bans on renting to tenants in receipt of benefits or with children – ensuring no family is unjustly discriminated against when looking for a place to live<sup>105</sup>

The Government response to the Levelling Up Committee was published on 20 October 2023:

Landlords and agents will have the ability to make a final decision on who to let their property to and carry out referencing checks within the law to ensure a sustainable tenancy for both parties. This policy is not designed to force landlords to prioritise renting to prospective tenants in receipt of benefits ahead of other applicants. However, they will not be able to use blanket bans as part of the letting process and we will support landlords to take informed decisions on prospective tenants' individual circumstances.

The proposed ban will help prevent blanket discriminatory practices and provide a route for action if not adhered to. If a prospective tenant believes that they have been discriminated against, they will be able to seek enforcement action through the relevant local council or a resolution through the new Ombudsman and existing letting agents redress schemes.

We are working closely with local councils to ensure the policy is deliverable on the ground. We will provide clear guidance for landlords, letting agents, tenants, and enforcement authorities to make all partners aware of the new legislation and how to update their practice.

There is more work to do to ensure low-income tenants and families can fully participate in the private rented sector. We will:

- work with the insurance sector to ensure landlords and letting agents are not prohibited from letting their properties to tenants in receipt of benefits or with children as part of their terms and conditions;
- explore improvements to welfare support information for both tenants and landlords; and
- raise awareness of the range of services provided by local councils and partner agencies to help people living on a low wage or in receipt of benefits agree and sustain a private rented sector tenancy.<sup>106</sup>

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<sup>105</sup> [Guide to the Renters \(Reform\) Bill - GOV.UK](#) [accessed 30 October 2023]

<sup>106</sup> [Reforming the Private Rented Sector: Government response to the Committee's Fifth Report of Session 2022-23](#) (PDF), 20 October 2023, pp22-23

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