



## BRIEFING PAPER

Number 7008, 13 October 2020

# Can private landlords refuse to let to Housing Benefit claimants?

By Wendy Wilson

### Inside:

1. Is it unlawful to refuse to let to Housing Benefit claimants?
2. Why do private landlords refuse to let to Housing Benefit claimants?
3. The extent of landlord/agent refusals
4. Government ban on 'No DSS' adverts?



# Contents

<b>Summary</b>	<b>3</b>
<b>1. Is it unlawful to refuse to let to Housing Benefit claimants?</b>	<b>5</b>
1.1 Background	5
1.2 Findings of indirect discrimination	6
<b>2. Why do private landlords refuse to let to Housing Benefit claimants?</b>	<b>10</b>
2.1 Housing Benefit reforms	11
Direct payment of Housing Benefit to claimants	11
The gap between rent and Housing Benefit levels	12
Other benefit restrictions	16
2.2 The housing element of Universal Credit	17
2.3 Impact of tax and other regulatory changes	23
2.4 Mortgage and insurance restrictions	24
2.5 The characteristics of benefit claimants	25
<b>3. The extent of landlord/agent refusals</b>	<b>27</b>
Other surveys of private landlords/agents	28
Claimant surveys	30
<b>4. Government ban on 'No DSS' adverts?</b>	<b>31</b>

## Summary

It is not unusual for private landlords and letting agents to advertise properties to let stating that they will not accept applications from people who rely on Housing Benefit (HB) or the housing element of Universal Credit to pay their rent. Despite the Department of Social Security not having existed since 2001, the phrase used in adverts is usually “No DSS”. This has raised 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.

### Findings of unlawful discrimination 2020

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 dated 2 July 2020](#), which was widely reported in the media on 14 July 2020, she held that the letting agent was in breach of the *Equality Act 2010*. The judgment declared that:

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.

Reacting to the judgment, Chris Norris, policy director for the National Residential Landlords Association (NRLA) [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.

This was followed by a case considered 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 that the letting agency, Paul Carr, had operated a blanket ‘No DSS’ policy which amounted to unlawful indirect discrimination against disabled people.

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

Historically, landlords were reluctant to let to HB 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 the level of LHA paid to claimants 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 were introduced; for example, LHA rates were frozen with effect from April 2016 for four years. This added to landlords’ concerns about the gap between LHA and market rent levels. Evidence of disparities between actual rent levels and LHA rates payable which were submitted to the Communities and Local Government Select Committee’s inquiry into homelessness over 2016-17 led the Committee to recommend that “Local Housing Allowances levels should also be reviewed so that they more closely reflect market rents.” At the start of the fourth year of the benefit freeze (2019/20) analysis by Shelter noted that the 2019/20 LHA rates for a two-bedroom home did not cover the full rent charged in 97% of Broad Market Rental Areas in England.

Other factors cited as reasons for landlords' reluctance to let to HB 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.

## The extent of the issue

There is no definitive information on the extent to which landlords have refused to let to benefit claimants. Reported survey evidence has suggested an increase in the practice in recent years.

Given the increase in Universal Credit claims arising from the coronavirus (Covid-19) outbreak, in June 2020 [Shelter raised](#) the potential implications of "No DSS" blanket bans for tenants:

Given the huge rise in the numbers of people receiving housing benefit and what we know about rates of discrimination, we're concerned that there will be a significant increase in the numbers of people experiencing housing benefit discrimination in the coming months.

As people in existing tenancies tell their landlords they've applied for Universal Credit, and those who need to move home begin the search for somewhere to live, renters who are now relying on housing benefit to keep their head above water will be coming up against discrimination.

The likely spike in evictions in the months that follow the lifting of the evictions ban has the potential to exacerbate this further. When the ban is lifted, there will be an upsurge in the number of renters who need to look for a new home. A significant proportion of private renters who may be evicted will likely be receiving housing benefit, especially considering the huge rise in people applying for Universal Credit during the coronavirus outbreak, and so will be met by 'No DSS' policies.

In the wake of the finding of indirect discrimination in July and September 2020, it seems likely that instances of **blanket** 'No DSS' adverts will disappear. However, affordability checks based on a tenant's individual circumstances will still be possible.

The issue had attracted an increased level of attention in recent years. 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 inquiry had not concluded before the dissolution of Parliament for the 2019 General Election. On 1 March 2019 the then Minister, Heather Wheeler, said the Government was calling for "the end of housing advertisements which specify 'No DSS' tenants."

# 1. Is it unlawful to refuse to let to Housing Benefit claimants?

## 1.1 Background

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

**Sarah Teather:** To ask the Deputy Prime Minister what (a) legislative and (b) other measures are in place to prevent private landlords discriminating against letting to tenants in receipt of housing benefit; and if he will make a statement.

**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:

To ask the Secretary of State for Housing, Communities and Local Government, what legislation is in place to prevent discrimination against (a) housing benefit and (b) universal credit recipients in the private rented sector; and what assessment has been made of the adequacy of that legislation.

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 as 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> So; for example, if Housing Benefit claimants are predominantly female or from an ethnic minority group, a refusal to let to Housing Benefit

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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.

claimants *may* amount to indirect discrimination against these groups with protected characteristics.

Analysis by Shelter of the Department for Work and Pensions (DWP) caseload data as at 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 are 2.5 times more likely to be in receipt of disability benefits than the general population.<sup>6</sup>

Indirect discrimination can be lawful if the person discriminating can show that 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>7</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 out she was receiving Housing Benefit had “won compensation”.<sup>8</sup> Ms Keogh brought a claim against the agents for indirect sex discrimination on the basis that 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 women. Ms Keogh received £2,000 compensation from the agents but the matter was settled before it reached court and thus 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 sometimes termed a ‘No DSS’ rule are very likely to be unlawfully discriminating against prospective tenants.<sup>9</sup>

February 2020 saw reports of two further cases of single mothers who, supported by Shelter, secured out-of-court settlements from ‘No DSS’ letting agencies.<sup>10</sup>

**In what was described as a ‘landmark’ case**, District Judge Victoria Elizabeth Mark sitting in York County Court, considered the case of a

<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> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> BBC, [Landlords who say “No DSS” breaking equality laws](#), 26 February 2018

<sup>9</sup> EHRC, [Discrimination by letting agents](#) (undated)

<sup>10</sup> BBC News, [Legal victories over ‘No DSS’ letting agents](#), 27 February 2020

## 7 Can private landlords refuse to let to Housing Benefit claimants?

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](#) dated 2 July 2020 which was widely reported in the media on 14 July 2020, Judge Mark held that 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>11</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>12</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>13</sup>

Reacting to the judgment, Chris Norris, policy director for the National Residential Landlords Association (NRLA)<sup>14</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>15</sup>

While the case may have settled the position on blanket bans applied by landlords/agencies in relation to benefit claimants seeking private rented

<sup>11</sup> [York County Court judgment – Claim Number F00YO154](#), 2 July 2020 [claimant's details redacted]

<sup>12</sup> Ibid.

<sup>13</sup> Sky News, 'No DSS': [Court ruling hailed as 'nail in the coffin' for housing benefit discrimination](#), 14 July 2020 Ibid.

<sup>14</sup> The National Landlords Association (NLA) and Residential Landlords Association (RLA) merged in 2020 to form the National Residential Landlords Association (NRLA).

<sup>15</sup> *LandlordToday*, [Legal victory over 'No DSS' BTL landlords](#), 14 July 2020

housing, 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>16</sup>

The York case was followed by a further case supported by Shelter which was considered in Birmingham County Court. This case concerned Steven Tyler, a 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 (and a now High Court Judge)<sup>17</sup>, Mary Stacey, held that 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.

<sup>16</sup> Nearly Legal: Housing Law and Comment, [Discrimination and 'No DSS'](#), 14 July 2020

<sup>17</sup> Corrected 14 October 2020



## 9 Can private landlords refuse to let to Housing Benefit claimants?

[...]

...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>

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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

## 2. Why do private landlords refuse to let to Housing Benefit claimants?

There has always been a reluctance on the part of some landlords to let to Housing Benefit (HB) claimants for reasons such as administrative delays in processing claims and receiving payment, the risk of HB overpayments being reclaimed from them and the perceived risk of tenants on HB 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 benefit claimants. 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>20</sup>

The 2018 Private Landlord Survey probed *why* landlords/agents would not let to HB claimants. They largely gave the same reasons:

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>21</sup>

The following sections provide more detailed information on HB changes and other factors that influence landlords in deciding whether to let to HB claimants.

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<sup>20</sup> [Private landlords survey 2010, DCLG](#)

<sup>21</sup> *Ibid.*, paras 3.8-3.9

## 2.1 Housing Benefit reforms

### Direct payment of Housing Benefit to claimants

A key concern for landlords is the requirement, since 7 April 2008 (the date on which the Local Housing Allowance (LHA) was introduced), that HB is 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>22</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) is calculated for tenants living in the deregulated private rented sector.<sup>23</sup> It applies to new claimants after 7 April 2008, claimants who have had a break in their claim since that date, or those who have changed their address. The implementation and background to this reform is explained in Library briefing papers: [Paying Local Housing Allowance direct to tenants in private rented housing](#) and [The reform of Housing Benefit \(Local Housing Allowance\) for tenants in private rented housing](#). 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.

The new system was trialled in nine “Pathfinder” areas from November 2003 and was extended to a further nine areas from April 2005. A baseline survey to collect ‘benchmark’ information on the characteristics and attitudes of the private landlords and agents in the nine original pathfinder areas found the following results in relation to direct payments:

- A particular concern regarding the implementation of LHA is the matter of housing benefit being paid direct 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.
- 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

Since April 2008 the default position has been that Housing Benefit is paid direct to tenants in the private rented sector.

<sup>22</sup> Shelter Campaigns Briefing, *Local Housing Allowance and direct payments - giving claimants a choice. What do claimants prefer?* (undated)

<sup>23</sup> Tenancies created after Part 1 of the *Housing Act 1988* came into force.

to let to housing benefit tenants if they were no longer able to receive payments of housing benefit directly.<sup>24</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 the direct payment of LHA to claimants was “having a direct impact on levels of homelessness” and recommended:

All recipients of housing support should have the option of having their housing benefits paid directly to their landlord, reducing the likelihood of them falling into arrears and increasing landlord confidence and willingness to let to tenants at risk of homelessness.<sup>25</sup>

Termination of an assured shorthold tenancy is a significant cause of homeless acceptances by local authorities in England.

The Committee’s report referred to 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>26</sup>

The [English Private Landlord Survey 2018](#) asked landlords and agents what changes would encourage them to let to HB claimants:

Commonly selected options included if the benefit was paid directly to the agent or landlord (65%) and if the benefit was paid in advance rather than in arrears (63%). Half (50%) of agents said that if there was better processing of benefit claims by local authorities then this would encourage them to let to people on benefits.<sup>27</sup>

Over time, as claimants move on to Universal Credit, Housing Benefit/LHA is being replaced by the housing element of Universal Credit (see below).

## The gap between rent and Housing Benefit levels

One reason cited for not letting to HB claimants is related to market forces. In some areas, rents are significantly higher than the corresponding level of HB/LHA.

The LHA is a flat rate allowance for different sizes of properties within a Broad Rental Market Area (BRMA).<sup>28</sup> The Rent Officers from the Valuation Office Agency determine BRMAs in England. A BRMA comprises two or more distinct but adjoining areas of residential

<sup>24</sup> [Landlords and Agents in the nine LHA Pathfinders: summary report](#), DWP, 2006

<sup>25</sup> HC 40, [Homelessness](#), August 2016, para 34

<sup>26</sup> *Ibid.*, para 20

<sup>27</sup> [English Private Landlord Survey 2018](#), MHCLG, January 2019, paras 3.10

<sup>28</sup> The actual amount of benefit paid to an individual depends on their personal financial circumstances – HB/LHA is means tested.

### 13 Can private landlords refuse to let to Housing Benefit claimants?

accommodation, within which a person could reasonably be expected to live.

Prior to April 2011, within a BRMA the LHA for different sizes of properties 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 30th percentile of local market rents** (rather than the median). In addition, LHAs for different sizes of properties are 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>29</sup>). Housing bodies highlighted the impact of LHA rates failing to keep pace with actual rent levels over time.

The relative reduction in HB/LHA has served to reinforce the concern that claimants may struggle to pay rents in the future. The prospect of tenants accruing arrears, or the pressure to lower rents for benefit claimants, acts as a disincentive to private landlords. This is particularly the case in areas with a buoyant market and high demand for rented properties.

In 2013 the DWP reported:

Landlords thought that the high demand for private rented sector (PRS) properties meant that there was little market pressure to stabilise or reduce rent levels in the market.

Those landlords who stated that they would continue letting to tenants receiving LHA often had properties in areas with high concentrations of LHA tenants and had few alternative sources of demand, although many were now attempting to diversify. Local housing market conditions and, specifically, alternative sources of demand, were central to many landlords' calculations about whether to negotiate over rents with tenants and about whether they would be willing to let to HB claimants. However, respondents were often unable to attribute changes in their priorities and decisions solely to LHA changes.

The gap between the contracted rent and the LHA rate in higher demand areas encouraged landlords to reduce their lettings to LHA tenants.

[...]

In terms of future priorities for lettings, rent setting and property acquisition or disposal, the predominant response was to 'wait and see'. This was not true, however, of landlords in the three high value London areas, (Brent, Hackney and Westminster) where landlords were already acting to reduce the proportion of lets to LHA tenants.

[...]

It is important to note that the issues on the horizon that shape future landlord behaviour most may not stem directly from the ripple effects of LHA measures but from one or more of three other factors: even a slight increase in interest rates would, according to many respondents, place intolerable pressure on

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<sup>29</sup> The 1% cap in 2014 and 2015 was announced in the Chancellor's Autumn Statement on 5 December 2012. 30% of the savings arising from this measure was used to pay for higher increases in more expensive areas.

margins and force some out of the market if increasing rent levels was not an option; the perceived shift towards HB being paid direct to the tenant rather than the landlord was seen as introducing further uncertainty into the reliability of future income streams; and many landlords were very nervous about the introduction of Universal Credit from autumn 2013 onwards, and what they saw as the end of a discrete benefit to pay for the rent.<sup>30</sup>

The Work and Pensions Select Committee's 2013-14 inquiry into [Support for housing costs in the reformed welfare system](#) concluded:

Reforms to Local Housing Allowance (LHA), paid to Housing Benefit claimants in the private rented sector, have led to a growing discrepancy between the average area rents and the amount of LHA that households can claim. As a result, there is evidence that private sector landlords are becoming increasingly reluctant to rent to LHA recipients and evictions and non-renewal of tenancies are increasing, leading to an increased risk of homelessness among Housing Benefit recipients. Private sector properties which remain affordable to LHA recipients are increasingly of poor quality.<sup>31</sup>

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

As part of the [Summer Budget 2015](#) the Chancellor announced that 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>32</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:

Many witnesses pointed to the disparity between LHA rates and the actual rents charged by landlords. South Cambridgeshire District Council for example highlighted that "A significant barrier to accessing the private rented sector is the difference between LHA rates and typical rent levels. Typically rents are at least £250pcm more than the LHA rates across all property sizes, making the private rented sector unaffordable for those on a low income." Westminster City Council has the largest private rented sector in England with very high rents, and there is a £536.54 disparity between the average weekly rent of a three bedroom home and the capped LHA rate.<sup>33</sup>

<sup>30</sup> [Monitoring the impact of changes to the Local Housing Allowance system of Housing Benefit](#), Interim Report – summary, DWP 2013

<sup>31</sup> [Support for housing costs in the reformed welfare system](#), 2 April 2014, HC 720, 2013–14, Summary

<sup>32</sup> [Summer Budget 2015](#), July 2015, para 1.137

<sup>33</sup> HC 40, [Homelessness](#), August 2016, para 17

## 15 Can private landlords refuse to let to Housing Benefit claimants?

The Committee recommended that “Local Housing Allowances levels should also be reviewed so that they more closely reflect market rents.”<sup>34</sup> The Residential Landlord Association (RLA) 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 the proposal is therefore worrying for landlords, particularly as there is no automatic review mechanism written into the regulations.<sup>35</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:

The ongoing LHA freeze means housing benefit does not cover the cost of renting across the vast majority of the country. For the upcoming LHA rate for 2019-2020 our analysis shows that for a modest 2-bedroom home, there is a shortfall between LHA rates and rents in 97% of areas in England.

In 2019-2020, in one in five areas of England (21%), a family with one or two children living in a two-bedroom home will need an extra £100pcm, on top of their LHA, to cover their rent.

In more than half (51%) of the BRMAs in England, families are seeing a shortfall of more than £50 a month between the maximum amount of LHA that they can receive for a 2-bedroom home and the actual rental cost of such a home at the 30th percentile.

In almost a quarter (23%) of the BRMAs, families are seeing a shortfall of more than £100 a month between the actual cost of renting a two-bedroom home at the 30th percentile and the maximum LHA they can receive.

Charities working with people in debt have reported that the shortfalls are affecting their clients. StepChange, the UK’s largest specialist debt advice charity, recently found that almost three-quarters (72%) of their clients claiming housing benefit said that it did not cover the full cost of their rent and this was a particular problem for those renting in the private sector (90%).<sup>36</sup>

Shelter’s submission acknowledged affordability issues for HB claimants but pointed out that a blanket ban on considering claimants as prospective tenants was not justified:

Despite the problems with the benefits system, the clients we have supported with legal challenges could afford the advertised rent, had guarantors and sometimes savings too. The possibility that a tenant may be able access to savings or other voluntary income means that it is never possible to conclude *a priori* that a

The CLG Select Committee recommended that LHA rates should be reviewed.

<sup>34</sup> Ibid., para 21

<sup>35</sup> [Residential Landlords Association - written evidence](#), 22 February 2016

<sup>36</sup> Shelter’s submission to the Work and Pension Select Committee’s inquiry “No DSS: discrimination against benefit claimants in the housing sector”, 2019

tenant on housing benefit will be unable to afford a given rent. This conclusion should only be made after assessing their individual circumstances, judging their application on its own merits. To do otherwise treats income from the welfare state as a second class form of income and those receiving help through the welfare state as a second class form of consumer. We do not believe this is the intention of the welfare state or an acceptable outcome.<sup>37</sup>

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

The Government announced that 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>38</sup>

This announcement was described as reversing the four years of the freeze. [Revised LHA rates for 2020/21](#) were published by the Department for Work and Pensions. 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>39</sup>

There have been several calls for at least a temporary increase in LHA rates to cover median rents and for the national cap on LHA rates to be lifted so that people renting in high cost areas are not penalised.<sup>40</sup>

### Other benefit restrictions

In addition to the freezing of 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>41</sup> for a household and can result in a claimant facing a reduced level of Housing Benefit where their total weekly benefits exceed the cap. The lowering of the threshold was expected to 'bite' in areas with higher housing costs.

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.

<sup>37</sup> Ibid.

<sup>38</sup> [HM Treasury Press Release](#), 20 March 2020

<sup>39</sup> See for example, Chartered Institute of Housing (CIH), [Ok for 2020 – but what about four years of freeze?](#) 21 January 2020

<sup>40</sup> See for example: JRF, [Coronavirus – it's unthinkable that anyone should be made homeless now](#), 27 March 2020

<sup>41</sup> Some benefits are excluded, see: [GOV.UK](#)



## 17 Can private landlords refuse to let to Housing Benefit claimants?

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>42</sup>

[\*The Housing Benefit \(Abolition of the Family Premium and limiting backdating\) \(Amendment\) Regulations 2015\*](#) (SI 2015/1857) 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 that 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 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>43</sup>

Entitlement to the housing element of Universal Credit was withdrawn, with certain exceptions, from 18-21-year-olds from April 2017. The RLA commented:

A recent survey conducted by the RLA found that 76% of over 800 Landlords agreed that these changes make them generally more reluctant to rent to the 18 – 21 age group altogether. This could have serious implications on supply of housing to this age group given how much Local Authorities rely on the PRS to house their homeless service users.<sup>44</sup>

However, in a Written Statement on 29 March 2018 the Government announced a reversal of this policy<sup>45</sup> – **housing costs entitlement was restored for 18-21-year-olds from 31 December 2018.**

## 2.2 The housing element of Universal Credit

As a rule, Universal Credit 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:

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<sup>42</sup> [HC 264](#), July 2015, paras 1.146-7.

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

<sup>44</sup> *Ibid.*

<sup>45</sup> [Written Statement – HCWS611, 29 March 2018](#)

... many landlords were very nervous about the introduction of Universal Credit from autumn 2013 onwards, and what they saw as the end of a discrete benefit to pay for the rent.<sup>46</sup>

The Work and Pensions Select Committee's 2013-14 inquiry found:

Both private and social sector landlords are concerned about how tenants will manage direct payments of housing costs under Universal Credit. There was particular concern that vulnerable tenants may not receive help until they have accrued unmanageable levels of rent arrears.<sup>47</sup>

The NLA said:

"Change spells uncertainty," said the NLA's policy spokesman, Chris Norris. "Many landlords have adjusted to LHA and are now happy – but ongoing welfare reform and doubts about universal credit introduce too much risk for some."<sup>48</sup>

Carolyn Uphill, Chairman of the NLA, commented: "Benefit payments simply haven't kept up with rents over the past few years as the Universal Credit programme has progressed and cuts to welfare payments have been made. This has led to concern among many landlords that tenants will fall behind on rent as their finances become increasingly squeezed. "If tenants don't fully understand what Universal Credit is or haven't even heard of it, more and more landlords will lose confidence that letting to this market is financially viable, especially with the high demand and availability from other types of tenants. "Our findings show a significant number of tenants would prefer their housing support to be paid directly to their landlord. If this was an option from the beginning of the tenancy it would avoid the build-up of arrears in the first place, give landlords the confidence that rent would be paid on time and lead to fewer tenancies ending prematurely."<sup>49</sup>

According to the latest research\* from the National Landlords Association (NLA), landlords remain concerned over the impact of Universal Credit on the private-rented sector. 70 per cent of landlords who let to tenants in receipt of Local Housing Allowance (LHA) are worried about the implications of the welfare changes. In addition, nearly half (43 per cent) of all landlords are concerned about the changes.

\*712 online interviews. Fieldwork took place 22nd March – 10th April 2013.<sup>50</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

<sup>46</sup> [Monitoring the impact of changes to the Local Housing Allowance system of Housing Benefit](#), Interim report, DWP, 2013

<sup>47</sup> [Support for housing costs in the reformed welfare system](#), 2 April 2014, HC 720, 2013–1, Summary

<sup>48</sup> ["Why landlords are shunning profitable benefit tenants"](#), Daily Telegraph, 11 January 2014

<sup>49</sup> [Universal credit continues to confuse, NLA, 3 February 2014](#)

<sup>50</sup> [Landlords wary of Universal Credit, 12 June 2013](#)

## 19 Can private landlords refuse to let to Housing Benefit claimants?

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>51</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 evidence 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
- 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>52</sup>

The RLA's submission called on the Government to:

- Introduce Tenant Choice – the right for a tenant to elect to have UC paid direct to their landlord.
- Permit arrears to follow a tenant so that if a tenant receiving UC leaves a property owing rent arrears then these can be recouped from subsequent benefit payments.
- Improve data sharing between DWP and landlords where the tenant consents or without the need for consent where it is in the claimant's interests. This includes information about the progress of applications for direct payment to the landlord. Standing consents should be permitted for the duration of a claim for housing costs for a particular property; not just for "a particular piece of business".
- DWP should send landlords proper written notifications of their decisions which affect the landlord.
- Improve the arrangements when a claimant's housing benefits is switched to UC.
- Provide a standardised script for Job Centre interviews around rental payment issues, and improve work coaches' knowledge and training relating to housing costs issues.
- Improve the availability of advance payments of UC.

The RLA's evidence to the Work and Pensions Select Committee highlighted landlords' concerns about the impact of UC.

<sup>51</sup> [Residential Landlords Association - written evidence](#), 22 February 2016

<sup>52</sup> RLA, [Written Evidence to the Work and Pensions Select Committee](#), September 2017, UCR0028

- Change the rules so that a history of rent arrears becomes a Tier 1 reason for direct payment of housing costs to landlords.
- Improve the arrangements for dealing with landlords' applications for alternative payment arrangements, i.e. for housing costs to be paid direct to the landlord where there are arrears (APAs). This includes improving and streamlining procedures for landlords when they submit applications.
- Suspend paying UC housing costs pending investigations of claims by landlords for direct payment to them when there are arrears. This should be done automatically as soon as the application form itself is received, even though DWP may be waiting for further information.
- Make sure that landlords are always told if direct payment to the landlord is to cease for any reason.
- Introduce a trusted person scheme for private landlords.
- Improve ways in which landlords can communicate direct with DWP.
- Continue to allow the landlords to pursue complaints about DWP service under the DWP Complaints Procedure. Compensation should be payable where landlords suffer financial losses as a result of mal-administration by DWP. DWP should not hide behind the argument that this is a simple contract dispute; nor expect landlords to waste money pursuing fruitless claims against tenants for rent arrears in this situation.
- Set up a specific UC complaints procedure, including appropriate provisions for landlords to complain. Set up a specific UC complaints procedure, including appropriate provisions for landlords to complain.
- Vitaly, there is a need to ensure that DWP's staff follow the correct procedures and that sufficient resources are in place to process APA claims in particular.

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 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

## 21 Can private landlords refuse to let to Housing Benefit claimants?

- 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>53</sup>

The Budget also 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>54</sup>

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

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>55</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

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<sup>53</sup> [HC 587](#), 23 November 2017, para 6.14

<sup>54</sup> *Ibid.*, para 5.37

<sup>55</sup> PEARL, Dr Tom Simcock, [Investigating the impact of Welfare Reform on Private Renting](#), October 2018

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>56</sup>

In response to the Covid-19 outbreak the NRLA 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>57</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:

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>58</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>59</sup>

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<sup>56</sup> [Written question – 243334, 15 April 2019](#)

<sup>57</sup> NRLA, Supporting tenants and landlords through the Covid crisis, April 2020

<sup>58</sup> [Written question – 95063, 29 September 2020](#)

<sup>59</sup> *LandlordToday*, [Legal victory over 'No DSS' BTL landlords](#), 14 July 2020

## 2.3 Impact of tax and other regulatory changes

The Summer Budget 2015 announced changes to the tax regime for residential landlords. The relief on finance costs that these landlords can get is being restricted to the basic rate of income tax. The restriction has been phased in over 4 years, starting from April 2017. Landlords have also faced changes to Stamp Duty Land Tax – see Library briefing paper 07050: [Stamp duty land tax on residential property](#) for more information.

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

According to the latest research from the National Landlords Association (NLA), six in ten (60 per cent) landlords report that the Chancellor’s decision to remove mortgage interest relief from 2017 – announced in George Osborne’s July 2015 Budget – will reduce their profitability.

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>60</sup>

The RLA’s evidence to the CLG Committee’s inquiry into homelessness echoed concerns about the 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>61</sup>

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<sup>60</sup> [NLA Press Release](#), 26 May 2016

<sup>61</sup> [Residential Landlords Association - written evidence](#), 22 February 2016

In March 2018, the RLA published [The Impact of Taxation Reform on Private Landlords](#) which found:

...that a majority of landlords (70%) surveyed reported that the changes to mortgage interest relief would reduce their profitability as a business, with 62% of landlords reporting this would reduce their profitability by at least 20%. To mitigate the impact of these changes, the majority of landlords (67%) described that they would increase rents.

[...]

Overall, these findings indicate that these changes will negatively impact tenants through either increased rents or through the loss of supply of privately rented homes.<sup>62</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 that it can be more difficult to obtain insurance at competitive rates when letting to claimants. As noted in section 1, Shelter argues that 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>63</sup>

A survey conducted by the RLA's mortgage consultants in 2017 found that "Two thirds of the largest buy-to-let mortgage lenders do not allow landlords to rent property to tenants receiving housing benefit."<sup>64</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>65</sup>

A survey of landlords showed that 1 in 2 had mortgage conditions preventing them from letting to tenants in receipt of benefits.

This finding led the RLA to conclude:

If the Government would like to encourage private landlords to house tenants on benefits or provide longer term tenancies, it

<sup>62</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>, p49

<sup>63</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>64</sup> RLA, [Two thirds of mortgage lenders ban benefit claimants](#), 1 May 2017

<sup>65</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



## 25 Can private landlords refuse to let to Housing Benefit claimants?

would be worthwhile the government exploring the conditions imposed by mortgage companies.<sup>66</sup>

The [English Private Landlord Survey 2018](#) found that almost 40% of agents and around 25% of landlords surveyed cited mortgage/insurance restrictions as a reason for not letting to households on benefits.<sup>67</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 a number of bodies, including lenders, to probe how their policies affect claimants who are 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.](#)
- [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.](#)

In March 2019, NatWest announced that it would end restrictions in its buy-to-let mortgages which prevent the letting of homes to benefits claimants.<sup>68</sup> On 15 March 2019, Zoopla announced that it would "remove 'No DSS' wording in rental adverts".<sup>69</sup>

The Committee's inquiry had not concluded by the dissolution of Parliament for the December 2019 General Election.

## 2.5 The characteristics of benefit claimants

The [English Private Landlord Survey 2018](#) found that around 50% of agents and 55% of landlords surveyed cited "disturbance or anti-social behaviour" as a reason for not letting to HB claimants.<sup>70</sup>

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

Preconceptions about tenants' characters were also identified in independent research for Shelter by YouGov. 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>71</sup>

Shelter's submission to the Work and Pensions Select Committee's inquiry 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

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<sup>66</sup> Ibid.

<sup>67</sup> [English Private Landlord Survey 2018](#), MHCLG, January 2019, figure 3.2

<sup>68</sup> [RLA Press Release](#), 1 March 2019

<sup>69</sup> "[Zoopla to end 'No DSS' wording in rental adverts](#)", 15 March 2019

<sup>70</sup> [English Private Landlord Survey 2018](#), MHCLG, January 2019, figure 3.2

<sup>71</sup> Shelter's submission to the Work and Pension Select Committee's inquiry "No DSS: discrimination against benefit claimants in the housing sector", 2019

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>72</sup>

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<sup>72</sup> Ibid.

### 3. The extent of landlord/agent refusals

There is no definitive information on the extent to which landlords refuse to let to HB/LHA claimants. There *is* evidence to suggest that it is not a recent phenomenon; for example, a Shelter report in 2006 found:

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>73</sup>

The 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 (PRS) were in receipt of full or partial Housing Benefit/LHA in 2013. He argued that this represented proof that benefit claimants were able to access the sector:

**Andrew Rosindell:** To ask the Secretary of State for Communities and Local Government what steps he is taking to encourage landlords to accept benefit claimants as tenants.

**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>74</sup>

The 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>75</sup>

The Government commissioned NatCen to undertake a national survey of private landlords and letting agents in England the aim of which was "to provide information to help the government monitor progress

<sup>73</sup> [The path to success? Shelter's research on Housing Benefit reform: the final report](#), Shelter, 2006, pp15-18

<sup>74</sup> HC Deb 4 June 2013 c1061W

<sup>75</sup> [Support for housing costs in the reformed welfare system](#), 2 April 2014, HC 720, 2013-14

towards its policy aims and develop initiatives that meet the needs of landlords and tenants.”<sup>76</sup> As noted in section 2, the [English Private Landlord Survey 2018](#) found:

Around half of landlords and agents were also unwilling to let to other types of tenants receiving benefits. This included people receiving Housing Benefit (52% of landlords unwilling, compared to 37% of agents), people receiving Universal Credit (47% of landlords unwilling, compared to 33% of agents) and single occupants aged under 35 receiving Housing Benefit (50% of landlords unwilling, compared to 34% of agents).<sup>77</sup>

## Other surveys of private landlords/agents

Reported landlord survey evidence suggests that there has been a fall in the proportion of private landlords willing to let to HB 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>78</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>79</sup>

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

### **Impact of LHA reforms on private sector landlords**

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>80</sup>

<sup>76</sup> NatCen Social Research, [The English Private Landlord Survey](#).

<sup>77</sup> [English Private Landlord Survey 2018](#), MHCLG, January 2019, paras 3.4-3.5

<sup>78</sup> [Home. No less will do: Homeless peoples’ access into the private rented sector](#), February 2016

<sup>79</sup> [Residential Landlords Association - written evidence](#), 22 February 2016

<sup>80</sup> [Support for housing costs in the reformed welfare system](#), 2 April 2014, HC 720, 2013–14, para 21

## 29 Can private landlords refuse to let to Housing Benefit claimants?

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>81</sup>

In July 2013 the **National Landlords Association reported on a particular reluctance to let to HB claimants amongst smaller landlords:**

According to the latest research\* from the National Landlords Association (NLA), the number of landlords letting to tenants in receipt of Local Housing Allowance (LHA) has fallen to 27 per cent, a seven per cent reduction since quarter one.

38 per cent of ALL landlords are worried about the impact of Universal Credit and **over half (51%) of landlords actively choose not to let to LHA recipients or other benefit claimants**. The reluctance to let to this market is strongest amongst the smaller landlords, with six in ten ruling out letting to this tenant type.

\*1066 online interviews with NLA members carried out between 14th and 28th June 2013.<sup>82</sup>

However, DWP research (July 2014) on the impact of reforms to the LHA introduced by the Coalition Government found that higher proportions of private landlords let to HB claimants and intended to continue:

Summary findings

In wave 2, 73 per cent of landlords said they let to out-of-work benefit claimants, down from 79 per cent in wave 1. Among Inner London landlords, it was 54 per cent, down from 66 per cent.

In terms of future plans, 74 per cent of all landlords in wave 2 (the same as in wave 1) and 64 per cent in the Inner London sub-sample (62 per cent in wave 1) said they intended to continue letting to Local Housing Allowance (LHA) tenants in the coming year. When asked in a more general way whether they were 'considering' or 'planning' to exit the market for LHA properties in the following 12 months, 35 per cent of landlords in wave 2 (compared to 31 per cent in wave 1) said they were. It is likely that a much smaller proportion than this will actually exit the market in the next 12 months.

[...]

Thirty-seven per cent of landlords had taken action to evict, not renew or end tenancies of LHA tenants since April 2011, compared to 27 per cent who had taken action against non-LHA tenants.

Thirty per cent of landlords in wave 2 said HB was paid direct to them for all their tenants and a further 17 per cent for the majority of their tenants.

[...]

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<sup>81</sup> Ibid, para 22

<sup>82</sup> "[Landlords exit Local Housing Allowance market.](#)" NLA Press Release, 30 July 2013

In many areas outside London, especially where the gap between the contracted rent and the LHA rate was relatively small, landlords said they had adapted quickly to the new regime. In LHA Dominant case study areas, a higher proportion of landlords than in other areas said that the reductions in LHA rates had placed particular pressure on landlords' margins due to the lack of other sources of demand outside the LHA market. As a result many landlords said they had little option but to reduce their rents in line with the reduced LHA rate, and/or to reduce maintenance expenditure.<sup>83</sup>

Research from the [National Landlords Association's Quarterly Landlord Panel](#) (780 respondents, second quarter of 2017) found that **"just two in 10 landlords say they are willing to let to tenants in receipt of housing benefit or universal credit."** The NLA research also found that the proportion of landlords who said they were willing to let property to housing benefit claimants had fallen to just 20%, down from 34% at the start of 2013.

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>84</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>85</sup>

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

- 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>86</sup>

## Claimant surveys

A YouGov poll commissioned by *Who Benefits?* (2014) found that 16% of claimants had been turned away by landlords or letting agents when seeking to rent a property.<sup>87</sup>

<sup>83</sup> [The impact of recent reforms to Local Housing Allowances: Summary of key findings](#), DWP, July 2014

<sup>84</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>85</sup> NHF Briefing, '[DSS need not apply' – The accessibility of private rental properties to benefit claimants](#), 8 November 2018

<sup>86</sup> Ibid.

<sup>87</sup> ["Second class citizens"? The personal impact of the public debate on benefits](#), July 2014

## 31 Can private landlords refuse to let to Housing Benefit claimants?

According to a Shelter survey (undated), 60% of respondents found it difficult to find landlords who were willing to let to LHA claimants.<sup>88</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>89</sup>

## 4. Government ban on 'No DSS' adverts?

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>90</sup>

On 19 March 2020, Will Quince responded to a PQ on action being taken to tackle housing advertisements which specify 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>91</sup>

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<sup>88</sup> [Campaigns Briefing. Local Housing Allowance and direct payments - giving claimants a choice](#), Shelter (undated)

<sup>89</sup> [Monitoring the impact of changes to the Local Housing Allowance system of housing benefit: Summary of early findings](#). Research Report 798 (2012)

<sup>90</sup> [MHCLG Press Release](#), 1 March 2019

<sup>91</sup> [Private Rented Housing: Social Security Benefits: Written question – 29998](#), 19 March 2020

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