

Early days

CAB evidence on the Local Housing Allowance

Summary

Since November 2003, the Department for Work and Pensions (DWP) has been piloting reforms to the housing benefit (HB) system in nine local authority pathfinder areas. The reforms have two key elements – they change the way HB is calculated, introducing a flat rate Local Housing Allowance (LHA), and they change the way benefit is paid, with in most cases payment being made direct to the tenant rather than the landlord.

In five of the pathfinder areas, Citizens Advice Bureaux have been contracted to provide money management support to claimants to help them cope with the change. Evidence from this work indicates that early implementation has gone relatively smoothly. We believe two factors have been key to this success: firstly many claimants have benefited financially from the new rules, and secondly the funding of a dedicated money advice service for LHA claimants has helped tenants manage the transition and their new rent-paying responsibilities.

However it is still early days and this report raises a number of concerns which must be addressed before the reforms are rolled out nationally, if the needs of the most vulnerable claimants are to be protected.

In particular we argue that the lower rate of LHA for under 25s should not be taken forward in the new scheme, and that claimants should retain the right to choose whether they want their benefit paid to themselves or to their landlord.

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Key points:

- Many CAB clients have benefited from reduced shortfalls between their HB and their rent as a result of this reform. However under 25s remain disadvantaged by the lower 'shared room rate' which continues the discrimination young people have experienced under the single room rent.¹ We recommend that this lower rate should not be taken forward in the new scheme.
- The reforms have had little impact on enabling people on HB to exercise choice in the housing market.
- Some private landlords have responded to the reforms by withdrawing from letting to HB claimants. Others have increased their rent up to the LHA level so that they, rather than their tenants, have benefited from the more generous provisions.
- Opening bank accounts for the receipt of LHA has been a significant problem for CAB clients.
- The removal of claimant choice over how LHA should be paid has created the need for vulnerability assessments which introduce new levels of complexity to the HB scheme. We question whether the procedure is sufficiently robust to cope with a national roll out. There is also a danger that some vulnerable claimants will fall through the net. An approach which retains claimant choice whilst at the same time encouraging direct payments to claimants could overcome these problems.
- The provision of money advice and support services has been key to the success of these reforms. It is essential that funding for this is maintained in any national roll out.

Introduction

Nearly four million households rely on housing benefit to help them pay their rent, at an annual cost of over £12 billion. Around 20 per cent of these households are private tenants, whose HB payments average £79.67 per week.²

The HB reforms which are bringing into operation the LHA initially in the private rented sector, have been heralded by Ministers as "the single most radical reform of housing benefit since its introduction in 1988".³ Certainly the DWP has much riding on the success of this reform which has been promoted as delivering "choice, fairness and responsibility and ensuring the system works for those that use it."⁴ Over the last two years, much time and effort, together with significant resources, have been invested in the implementation of this reform in two successive waves of pathfinder local authorities, and in DWP commissioned research monitoring the impact on landlords, tenants, HB administration and the wider housing market.⁵ Although this evaluation is still ongoing, current Government plans are that the reforms should be rolled out in the private rented sector by 2008. Legislation is anticipated in the current parliamentary session in order to facilitate this and to enable piloting in the social rented sector.

The LHA reforms in fact relate only to two very specific aspects of the overall HB scheme:

- **how the rent element of the benefit is assessed.** The actual rent paid by the claimant is no longer a factor in the HB assessment. Instead, the rent element of the HB calculation is based on flat rate allowances (similar to existing local reference and single room rents) set by the Rent Officer, which vary with household size and the local area.

1 Under current rules, single claimants aged under 25 have their maximum HB limited to the rent officer's assessment of the average market rent for single room accommodation in the same locality with shared use of a toilet, kitchen, bathroom and living room.

2 DWP statistics, May 2004.

3 Former DWP Minister Chris Pond in reply to a parliamentary question (Hansard, 20 October 2003, column 367).

4 *Building choice and responsibility: a radical agenda for housing benefit*, DWP, 2003.

5 A number of reports have already been published and more are due over coming months – see www.dwp.gov.uk/lha/evaluation for further details.

- **how HB is paid.** The regulations remove from claimants the choice over whether to have their HB paid to themselves or direct to their landlords. Under the LHA, with certain exceptions, HB is paid direct to the tenant. This change links to the government's wider financial inclusion strategy, and is intended to encourage claimants to take personal responsibility for budgeting and paying their rent, which is seen as increasing their readiness for work.

The DWP sees the reform as delivering substantial benefits for landlords and tenants in terms of:

- **fairness**, as tenants with similar circumstances in the same areas will be paid the same amount of HB, regardless of the rent they actually pay
- **choice**, as tenants on HB, like other tenants, will be able to trade between quality and price of accommodation
- **transparency**, as LHA rates will be public knowledge, providing tenants and landlords with clear information on the "going rate"
- **increased personal responsibility** for tenants in paying their rent
- **faster and simpler claims processing** as individual referrals to the Rent Officer are no longer necessary.

Concerns

From the outset, however, these proposals have proved highly controversial. In its report on consultation on the regulations, the Social Security Advisory Committee raised a number of concerns and recommended that the direct payment proposals should in fact be piloted separately from the flat rate allowance.⁶ DWP did not accept this recommendation.

A key potential benefit of this reform is that it addresses one of the major inadequacies of the current HB scheme – the extent to which private tenants face crippling shortfalls between their HB and the rent charged. Under current rules, a majority of private tenants face shortfalls which average £23 per week⁷ as a result of complex rent restriction rules. The impact of these shortfalls has been well documented⁸. Bureaux regularly report clients forced to choose between living well below income support levels or getting into rent arrears and threatened with homelessness because of benefit restrictions.

The reforms should ease this problem by stripping out a layer of restrictions and even allowing tenants to keep the difference where the LHA exceeds their actual rent. **However this will depend on how generous the final scheme is and how far landlords increase rents.**

But there are significant risks:

- **Increased rent arrears.** Many CAB clients have multiple debts and are constantly faced with competing pressures from non-priority creditors⁹. Paying HB direct to landlords helps tenants ensure that their rent is prioritised. Without it, there is a risk that rent arrears, possession action and homelessness will increase. Certainly where there are delays in processing claims, procedures for prompt payment on account in every case in accordance with the regulations, will become even more important.
- **Difficulties accessing bank accounts.** If HB is paid direct to tenants then prompt and easy access to bank accounts is crucial to enabling tenants to exercise their new rent paying responsibilities. CAB evidence has for some time indicated that opening bank accounts is problematic for many clients.¹⁰ As payment into post office card

6 The Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003, SSAC, CM 5995

7 Hansard, Written Answer, column 922, 1 November 2005

8 See for example *Falling short – the CAB case for housing benefit reform*, NACAB (1999)

9 Priority debts are those where non-payment can result in loss of home, liberty, fuel supply or essential goods on hire purchase. All other debts are non-priority.

10 These issues are discussed in more detail in *Banking benefits*, Citizens Advice (2006)

accounts (POCAs) is not an option for HB as it is for other benefits, it is essential that these problems are resolved before LHA is rolled out nationally.

- **Reduction in properties to rent.** From a housing policy perspective, there is a critical need to encourage more private landlords to let, particularly to people on low incomes who face few choices in the housing market. There is therefore a need to look for ways of making the HB system more rather than less attractive to private landlords. Yet removing the option of direct payments takes away what many landlords perceive as one of the few advantages of letting to tenants on HB. It will be crucial that the reforms do not result in existing tenants facing eviction or the non-renewal of tenancies, and more generally a further reduction in the amount of private rented accommodation available to people on benefit.

- **Increased rent levels.** A further concern is whether private landlords will respond to the publication of the LHA by increasing rents to that level, so that any gains for tenants will be short lived.

The pathfinder areas

The LHA has been introduced in eighteen local authorities since 2003, making up 10 per cent of the private rented sector case load. Nine pathfinder local authorities¹¹ began the pilot between November 2003 and February 2004. The effect of LHA in these areas is being carefully evaluated by the DWP, who will use the experience to inform the national roll out. A further nine “second wave group” local authorities¹² adopted the new arrangements over the summer of 2005.

In recognition of the fact that some tenants will face difficulties in taking on their new responsibilities for rent payment, and that the ending of direct payment on request inevitably

increases the risk of rent arrears, all participating local authorities were provided with funds to provide a money advice service to help tenants cope with their new responsibilities.

In five of the original pathfinder areas – Blackpool, Brighton and Hove, Conwy, Leeds and Lewisham – Citizens Advice Bureaux were awarded the contract to provide these services. These bureaux have therefore been able to work closely with their local authorities in seeking to ensure that tenants and landlords experience a smooth delivery of the LHA. Local authorities have set up referral arrangements with bureaux for tenants who may be vulnerable due to difficulties in managing their financial affairs, or who need help in opening and managing bank accounts. In addition, bureaux have been pro-active in seeking out claimants in the local community who may need advice and support with the LHA.

These bureaux have therefore been in a key position to monitor the extent to which these reforms have created problems for tenants. This evidence is very different from that being collected through the DWP evaluation, as it does not set out to be representative of the experience of all HB claimants. Rather it is focussed on those claimants who have experienced problems with the new system and have therefore sought, or been referred by the local authority for help and advice. As such, the evidence is of particular value to policy development in that it shows up where things are going wrong, often for clients who are socially and financially excluded because of their vulnerability or challenging circumstances. As providers of generalist advice, bureaux are in a position to help clients with a wide range of problems including benefits, housing, debt and access to financial services, all of which can be thrown up by the LHA reforms.

¹¹ Blackpool, Brighton and Hove, Conwy, Coventry, Edinburgh, North-East Lincolnshire, Leeds, Lewisham and Teignbridge

¹² Argyll and Bute, East Riding of Yorkshire, Guildford, Norwich, Pembroke District, Salford, South Norfolk, St Helens and Wandsworth

By the end of September 2005 the five bureaux with LHA contracts had advised around 2,500 clients with concerns relating to the LHA. These included general advice and information about the LHA, problems with accessing and managing bank accounts, support with vulnerability assessments and help with rent arrears and other debt problems.

This report is based on case evidence from this advice work. In addition during June and July 2005 detailed interviews were undertaken with 24 CAB clients who were receiving LHA in excess of their rent, to find out whether this excess was enabling them to exercise choice in the housing market. The report is structured around the main issues which have emerged from the CAB experience. These are:

- the impact of the LHA on benefit shortfalls
- tenancy issues and the response of private landlords
- direct payments and difficulties in accessing bank accounts
- vulnerability assessments
- the role of advice.

In examining this evidence, the report also seeks to assess the extent to which the DWP objectives for the reforms outlined above, are being delivered for tenants.

Impact on benefit shortfalls

The shortfalls which private tenants face between their HB entitlement and their rent due to the rent restriction rules applied by Rent Officers, has long been a major cause for concern. Rent Officer statistics show that 55 per cent of HB claimants faced HB shortfalls for these reasons, with an average shortfall of £23 per week.¹³ Under 25s subjected to the harsher single room rent rules fared even worse, with 87 per cent facing shortfalls

averaging £44 for those affected.¹⁴ CAB evidence has repeatedly demonstrated the impact of these restrictions in terms of rent arrears and poverty, and Citizens Advice, along with many other organisations, has long called for reform.

Although not a specific policy intention, one of the main benefits of the LHA has been to significantly reduce the impact of these restrictions. By removing the property specific rent restrictions many claimants have benefited financially. In addition, transitional protection ensured no-one was worse off at the point of change. The DWP evaluation¹⁵ found that on average in the pathfinder areas, the percentage of claimants with a shortfall fell from 58 per cent to 39 per cent and the size of the shortfall fell from £24 to £17 per week.

However the DWP research also shows that the impact has varied significantly between the different pathfinder areas. At one extreme, in Leeds, the percentage of claimants experiencing shortfalls fell from 64 per cent to 32 per cent, whilst at the other extreme in Conwy the percentage dropped only four points – from 61 per cent to 57 per cent. This is one of a number of ways in which the introduction of the LHA in Conwy appears to have had a less benign effect than in other areas, raising questions as to the extent to which the regulations to which the Rent Officers work are adequate to deliver the **fairness** which is one of the key DWP objectives. Interestingly the DWP research also highlights Conwy as being the pathfinder area where the percentage of claimants considering they had a good choice of accommodation when they moved fell most sharply – from 24 per cent before to eight per cent after LHA was introduced. In contrast, taking all nine pathfinder areas together, there was virtually no difference between pre (30 per cent) and post (31 per cent) LHA movers

¹³ These figures exclude those affected by the single room rent.

¹⁴ Hansard, Written Answer, column 922, 1 Nov 2005; *Research into the single room rent regulations*, Harvey J and Houston D, DWP research report no.243, 2005

¹⁵ LHA Evaluation 6: *Receiving the LHA – Claimants' early experiences of the LHA in the nine Pathfinder areas*, DWP, 2005, (page 62)

in their perceptions of there being good choice available.¹⁶

One of the factors which will determine the extent to which claimants will experience shortfalls is how the rent officer decides on the boundaries of the Broad Market Rent Area (BMRA)¹⁷ within which each set of LHAs will apply. The wider the spread of rents within a BMRA, the more likely it is that individual claimants will experience shortfalls. Particular problems can occur where a BMRA is drawn very widely and includes within it smaller communities where most rents are well above the LHA. Local authorities, despite their strategic housing roles and specific responsibilities with regard to homelessness, have no say in how these boundaries are set although the consequences can be key to determining the extent to which there is affordable accommodation available in the local area.

There has also been a **lack of fairness** in the way the changes have benefited different claimant groups. Whilst many CAB clients have benefited from reduced shortfalls and even excesses of benefit over rent, under 25s have fared less well. This is because the LHA rules have continued, albeit in modified form, the principle of the single room rate (SRR).¹⁸ Bureaux have reported that most of their clients who continue to face significant shortfalls under LHA have been single people aged under 25.

One CAB reported the case of an under 25 year old who was renting a two room property at exactly the two room LHA rate of £130. She could afford the rent when she moved in because she was able to work long hours. However she then became pregnant and could not work as much. She claimed LHA but this was restricted to the shared room rate of £70.

Another client was a 23 year old who had just finished her degree and was claiming JSA until she started her PGCE the following year. She had continued to live in the house she was in as a student but faced a £13 per week shortfall between the shared room rate and the rent.

Another CAB reported that there was great difficulty in finding any accommodation within the shared room rate in their area. Their client had got into arrears because of the benefit shortfall and the landlord was taking possession proceedings.

This evidence is consistent with that of the recently published DWP research on the SRR¹⁹, which found that, despite the slightly more generous definition introduced in 2001, the SRR continues to prevent many young people from finding any private rented sector accommodation within their means. Many are ending up in informal lettings or on friends' floors, which also has the effect of making job seeking more difficult. The research found that most SRR claimants live in self contained accommodation, because either they do not want or cannot find shared accommodation. Indeed the proportion living in non-self contained accommodation which meets the SRR definition has continued to fall since the July 2001 regulation change. The researchers conclude "this represents a substantial challenge for the long term practicability of the SRR policy". They estimated that at December 2003, there were around 10,000 SRR cases.

Citizens Advice believes that there is now an overwhelming case for removing age-related rent restrictions from the LHA altogether. Young people are already disadvantaged by lower personal allowances in the benefits system, a lower minimum

¹⁶ LHA Evaluation 6: *Receiving the LHA – Claimants' early experiences of the LHA in the nine Pathfinder areas*, DWP, 2005 (page 44)

¹⁷ BMRA's are geographical areas determined by Rent Officers, within which a particular rate of LHA will apply.

¹⁸ The single room rate is defined as a single room with shared use of living room, kitchen, bathroom and WC, whereas the LHA shared room rate allows for "all or some" of these facilities to be shared.

¹⁹ Harvey J and Houston D, *Research into the single room rent regulations*, June 2005, DWP

wage rate and no entitlement to working tax credit. In addition the HB tapers which reduce entitlement as income rises, ensure that no one is better off out of work, however low their earned income. All the evidence is that the SRR only undermines efforts to support young people into work, and has been ineffective in forcing them into shared accommodation. Instead it has significantly increased the risk that young people will face poverty, debt and homelessness, so making it more difficult to find and sustain employment. YMCA England has found that 35 per cent of the young people in their accommodation are ready to move but cannot find anything available, and 63 per cent of YMCAs say the SRR regularly increases the possibility of young people being refused accommodation by private landlords.²⁰

It is regrettable that the DWP research evaluating the impact of the LHA has to date been silent on the impact on under 25s. **It will be crucial that this is fully evaluated before any decisions are made on the legislation.**

Choosing to move?

In some areas bureaux have reported that a few clients have gained significantly from the change. These have been households living in severely overcrowded conditions which are unsuitable for their needs. Such clients have expressed an urgent desire to move to more suitable accommodation and were hoping to use their excess LHA to help them with the costs of moving, such as the rent deposit and rent in advance. In this respect the LHA can be seen to be having a positive effect in helping families in the poorest housing circumstances to improve their situation.

One CAB reported the case of a Hungarian national, a widower with indefinite leave to remain who was living with his 15 year old daughter and his

mother in a single room flat. The single room includes the kitchen, and there are separate bathroom facilities. The rent is £80 per week. The family qualify for a four room LHA rate of £235 per week, which after the non-dependant deduction is applied, would give an excess LHA of £147.60 per week. The client confided that the current conditions were driving him mad, and the CAB was able to advise him that he could move to more suitable sized accommodation without it affecting his LHA.

Another CAB client was a single parent with one child who had been the victim of domestic violence. She was living with her younger brother and sister and the sister's child in a two bed flat. The rent is £167.30 per week. They would be entitled to the six room rate of LHA of £335 per week, minus two non-dependant deductions totalling £14.80. They were finding the overcrowding very stressful, and were desperate to move.

However for the vast majority of 'gainers', the excess is more modest and CAB evidence indicates that this has not resulted in tenants using their surplus to exercise choice to move within the local housing market, in line with the DWP's policy intention. This is hardly surprising given the very real constraints which claimants face.

Firstly there are the significant costs of moving, not least of which is the need to pay a deposit, typically one month's rent, along with a month's rent in advance. Interestingly, the DWP research²¹ found that more claimants reported being charged a deposit since the introduction of the LHA – up from 66 per cent to 75 per cent – probably because landlords feel greater need to protect themselves from non-payment of rent due to the removal of direct payments. Indeed bureaux have commented that one

²⁰ *Let me in! – young people and housing benefit reform*, YMCA England, 2005

²¹ LHA Evaluation 6: *Receiving the LHA – Claimants' early experiences of the LHA in the nine Pathfinder areas*, DWP, 2005

consequence of the LHA is that there is now an increased need for local deposit guarantee schemes, to help people unable to afford deposits access any accommodation. Given the well-documented problem of landlords unreasonably withholding deposits at the end of the tenancy²², **it will be important that the legislation to protect deposits due to come into effect from October 2006 for new tenancies, is well embedded before the LHA is rolled out.**

In addition bureaux report that many of the tenants with excess LHA have outstanding debts, particularly rent arrears due to earlier benefit shortfalls, and are therefore using the excess to pay off these debts.

In order to shed more light on whether the LHA reforms are encouraging people to 'shop around' for alternative accommodation, five bureaux completed questionnaires over a two month period with clients whose LHA payment exceeded their rent, and who were therefore particularly well placed to consider moving. Twenty four forms were completed. Not surprisingly, no single people under the age of 25 were receiving an excess payment; 14 were single people and 10 were single parents.

Only four clients were considering using the LHA to find alternative accommodation, all of whom were significant 'gainers'. Two were single pensioners with an excess of £45 per week each, and two were very overcrowded families with LHA excesses of £129.60 and £140.20 per week. This suggests that the number of people who are able to exercise choice over their accommodation as a result of the introduction of the new policy is very limited. It also indicates that any moves by Government to cap the level of excesses which claimants can receive may limit the exercise of such choice still further.

In contrast, the average amount of excess LHA being received by those who were **not**

considering moving house was £17.64. This suggests that the LHA will only prompt households to look for different accommodation when there is a large amount of excess LHA and/or the need for new housing is particularly pressing.

The responses also suggest that the high cost of moving home, especially paying for a deposit, acts to inhibit choice. When asked why they were not considering moving, seven clients said they could not afford a deposit and six said they could not afford the other costs of moving. Others stated that they were not looking for alternative accommodation because they were happy with their present home or because it was convenient, or because the amount of excess LHA they received was too small to make this a viable option.

Instead of considering moving, most respondents were using their excess to cope with the every day financial pressures of living on means tested benefits. Fourteen of the 20 clients not considering moving were spending their excess on day to day living expenses, three were using the money to pay off housing debt, four were paying off other debts, and two were saving the money for a "rainy day".

The response of private landlords

Many landlords and agents already refuse to rent to people on HB, thus severely restricting the housing choices of people on low incomes. However the private rented sector continues to play a key role for tenants on low incomes. Clearly therefore the response of private landlords to the LHA will be key to its success. Private tenants are always in a vulnerable position: in the absence of security of tenure, any negotiation with a landlord over the tenant's rights, for example over a rent increase or outstanding repairs, is always conducted from a position of weakness. Key

concerns raised by the LHA were therefore either that any benefits to tenants in terms of increased HB would be instantly wiped out by landlords simply putting up the rent, or alternatively that the withdrawal of direct payments would lead to some landlords evicting their tenants or ceasing to rent to benefit claimants altogether.

These concerns were recognised by DWP and local authorities, and work was undertaken to communicate with landlords locally about the policy intentions of LHA and the safeguards being put in place to help prevent tenants falling into arrears. Bureaux in the pathfinder areas have also been actively involved in this work. Despite this, some bureaux have noted a decline in the number of landlords letting to claimants. One bureau reported a landlord with 92 tenants who told them that she was planning not to let to any tenants on HB in future. Leeds CAB attempted to contact 78 local lettings agents in March 2005 to ask them whether they let properties to tenants in receipt of LHA. Fifty two responded and of these, 24 said they did not let to benefit claimants at all and eight said they let exclusively to students. Eight said they had stopped letting to HB claimants due to the LHA. The remaining 12 said it depended on the property and the wishes of the property owner.

It is of considerable concern that the latest findings from the DWP evaluation²³ indicate that the LHA has indeed had a negative effect on landlords' willingness to let to claimants. Overall there was drop of 10 per cent in the number of landlords or agents letting to claimants since the LHA had been introduced. Twenty eight per cent of respondents said that they had declined to let any new tenancies to HB tenants, 23 per cent had decided not to renew existing tenancies and 56 per cent said they were less likely to let to HB tenants in future. Reasons given by landlords were the ending of direct payments and increased incidence of rent arrears.

It will be crucial for the DWP evaluation to monitor the longer term trends in this area. **If access for new tenants continues to be reduced, this must call into question the viability of the direct payment provisions of the LHA reform, as the private sector plays a key role for households on low income.**

Where landlords have continued to rent, some bureaux have commented that they are now seeing fewer *new* claimants with excesses than they did in the early days, indicating perhaps that landlords are setting rents at the LHA level on re-let.

Bureaux have also reported cases where *existing* tenants' rents have been increased to the level of the LHA; in effect therefore it is the landlord rather than the tenant who is benefiting from any excess payment of LHA.

One CAB reported that a landlord with some 30 properties in the area has explicitly linked rent increases to the LHA in the tenancy terms. Tenants have therefore been issued with letters stating "From (date) your rent will increase in line with the Local Housing Allowance as agreed in your tenancy terms..."

Another CAB reported the case of a single man with severe mental health problems whose rent is £75 per week. When the landlord found that the client was going to receive £81 under the LHA, he announced that the rent would go up to the same amount.

One private tenant had his rent increased to the LHA level, without the landlord serving the appropriate notice. The client objected to this as he felt that the flat was not worth the increase in rent. However his only option was to incur the considerable inconvenience and cost of moving home.

Indeed in some cases clients have been told that their rent is increasing on the very day that the new LHA rate is published.

One CAB client had been paying £65 a week rent. When it was announced that the local LHA rate for a single person would be £75, the landlord immediately raised the rent to this level

One CAB reported a client who had been paying £76 per week for the rent of a studio apartment. When the landlord was made aware of the local housing allowance rates for a one bedroom flat, he immediately increased the rent by nearly £50, so that it was £1 above the LHA rate.

To some extent it could be argued that LHA inevitably exerts an upward pressure on rents, as landlords face greater management costs because of the need for more time-consuming rent collection processes, as well as greater risk of rent arrears. However landlord opportunism is undoubtedly a major factor. Vulnerable tenants who have continued to have rent paid direct to their landlord are also facing sharp rent increases. In several instances bureaux report that tenants have simply been told by the landlords that any excess payment belongs to them:

One CAB reported a client who was vulnerable because of mental health problems and was therefore having LHA paid direct to the landlord. Her LHA was in excess of her rent as stated in her tenancy agreement; however the landlord was demanding she hand over her excess LHA to him. The client felt unable to challenge this behaviour.

Another CAB reported a client whose rent was fixed under a six month contract. However his landlord told him that he was putting all his rents up following introduction of the LHA. When challenged he incorrectly informed the

tenant that Rent Tribunals assessed rents and where they were not in line with rents for similar properties in the area then a new rent was set, and that this was what the council had done under the LHA.

In other cases, landlords have taken advantage of tenants' vulnerability and confusion over the new rules:

One CAB reported a case where there had been an eight week delay in processing a claim. The local authority had then in error paid the full eight weeks benefit direct to the landlord, instead of paying the LHA excess of £512 for the period, to the tenant. The client queried the matter with the landlord but was told that the money he received from the council could only be for the purpose of rent and therefore must belong to the landlord.

Some landlords have also resorted to devious tactics in order to try to get payments made direct to themselves. Under the regulations, payment should revert to the landlord if the tenant is eight weeks or more in arrears of rent. Bureaux have reported that some landlords have therefore been informing the local authority that their tenants have not been paying their rent even when in fact the tenants are up to date with their payments, in order to have the benefit paid directly to the landlord:

The landlord of one CAB client had agreed to the tenants withholding one month's rent in return for them completing some repairs to the property. The landlord then reported the clients as being in rent arrears to the local authority, and payments of LHA to the tenant were suspended whilst the local authority made further checks. The tenant was only informed of this when the money was not paid into her

account and she contacted the council herself to find out the reason.

It must be of concern that the LHA increases the extent to which landlords can take advantage of tenants as outlined above. Where possible it will be important that safeguards are put in place before any national roll out of the LHA, to minimise this risk. Clearly local authorities should check with the claimant/tenant before acting on information provided by the landlord, although this will only add to their administrative burden and draw benefit officers further into areas of disagreement between tenants and landlords. The Law Commission proposals for tenancy reform which are due to be published in the form of a draft bill in the near future, include a requirement for there to be a written agreement setting out the key terms of the contract, and these should include details about the frequency of and formula for any rent increases. **There is therefore a case for waiting for that bill to be enacted before rolling out the LHA.** However even that legislation will do nothing to protect tenants from deliberate exploitation by landlords.

Direct payments into bank accounts

One of the main changes introduced by the LHA regime relates to the method of payment. Whilst current HB regulations allow claimants to choose whether to receive the money themselves or have it paid directly to their landlord, this choice is removed for tenants on LHA. LHA is paid directly to claimants unless the local authority considers that they are 'vulnerable' in some way, or unlikely to pay their rent, or they are eight weeks or more in arrears of rent. This change has been introduced to tie in with the Government's wider financial inclusion strategy, and to encourage claimants to take

personal responsibility for budgeting and paying their rent, increasing their readiness for work.

However the ending of direct payments to landlords has proved to be unpopular with both landlords as outlined above, and tenants who have argued that it sits uneasily with one of the key objectives of the reform – the promotion of choice.

One family were under considerable financial pressure as the man had recently lost his job and the woman was pregnant with her second child. Previously they had had HB paid direct to the landlord but under LHA this option was removed. They had got into rent arrears because they had spent the money on living expenses instead. The client was annoyed that they had got into rent arrears as a consequence of losing the choice of having payment direct to the landlord.

Many tenants were further annoyed to find that, having already decided to have other DWP benefits paid into a post office card account (POCA) rather than a bank account when benefit order books were withdrawn, the POCA was not an option for the LHA,²⁴ and they now had to open a bank account for the purposes of LHA. The reason for this is that local authorities do not have contracts with the post office for this service and in any event the POCA would not be well suited to the needs of tenants and landlords as it is not possible to set up a standing order/direct debit facility for onward payment of rent.

DWP research shows that after the first six months of the pathfinders, 93 per cent of LHA claimants were using bank or building society accounts to receive their benefit.²⁵ Twenty three per cent of the claimants with bank accounts opened their account specifically to have their HB paid into it, with 15 per cent of

24 Indeed arguably the POCA option has been key to claimant acceptance of direct payments for other DWP benefits, as 40 per cent of customers who had to convert to direct payments chose this method of payment (Direct payment statistics, DWP March 2005).

25 LHA Evaluation 6: *Receiving the LHA – Claimants' early experiences of the LHA in the nine Pathfinder areas*, DWP, 2005.

claimants doing this after the LHA pathfinder had started.

What these figures do not show, however, is the difficulties which many of these tenants have faced in opening these accounts. Bureaux in the pathfinder areas have been actively involved in helping people with such difficulties and have therefore been able to see at first hand the obstacles which their clients have faced. All the bureaux with pathfinder contracts have reported that problems in accessing bank accounts has been the most common problem with LHA that their clients have faced. Interestingly there appears to have been little progress in resolving this, as the “second wave” bureaux are also reporting it as a common problem. Despite the fact that clients have already had to undergo go extensive verification checks in order to claim LHA, they have to start again from scratch in order to meet the banks’ ‘money laundering’ requirements.

Under EU legislation to combat international money laundering, banks must check account applicants’ identity and address before opening an account. Two separate documents are required – some form of ‘primary’ evidence of ID such as a passport or a driving licence, and ‘secondary’ evidence with proof of address such as utility bills in their name. Without these, clients are unable to open an account and are therefore unable to cash their LHA cheques. It seems ironic that, although the drive to encourage people to open bank accounts is a key element for the Government’s financial inclusion strategy, these ID requirements (drawn up for the very different purpose of combating money laundering) are precisely those which people facing social and financial exclusion will find it most difficult to meet. People on low incomes and dependent on means tested benefits may find it difficult to afford to travel abroad (so will not have spent money on a passport), or own a car (so will not need a driving licence), and people who are living in temporary

accommodation or indeed moving home and therefore making a new claim for HB, are unlikely to have a utility bill. Despite the extensive verification procedures which claimants are required to undergo in order to receive HB, an HB decision letter is not acceptable to most banks as a form of ID.

A CAB client with severe mental health problems had great difficulty in trying to open a bank account. The CAB advised him as to what forms of ID should be acceptable but when he went to a bank he was told that he must have a driving licence or passport.

A CAB client had spent a considerable amount of time trying to open a bank account but with no success as he did not have the required photographic ID. He was therefore being paid LHA by crossed cheque. This meant he had to go to the council’s One Stop Shop every four weeks to get his cheque cashed, causing him stress and additional worry about how to pay his rent.

Clients from abroad, whose documentation is more likely to vary from the principal items usually requested by banks, are reported to be having greater problems accessing bank accounts.

A Swiss client wanted to open a bank account to receive LHA but had problems with ID. She had no utility bills and was not in receipt of any other benefits. Her passport had expired and she had not renewed it because she can travel between UK and Switzerland using her Swiss ID card, and anyway cannot afford to renew it. The CAB arranged to get a letter from her doctor confirming her name and address. She wanted to use her ID card as further ID. Most banks will accept a full passport or EU ID card. However the bank’s computerised ID verification system would not accept a

Swiss ID and the manager told the CAB that they were unable to override such a decision.

A client who had a valid Egyptian passport, a solicitor's letter with his address on and a letter from the local authority confirming receipt of HB, was refused a basic bank account. Only when the CAB telephoned the branch manager was the problem resolved. He agreed there should be no problem and told the client to come back and mention the manager's name.

Clients from outside the EU can face major problems in getting banks to recognise their documents, especially where they have entered the country as asylum seekers and do not have passports from their country of origin. Many banks will not accept travel documents as primary ID despite the fact that they bear a photograph which will almost certainly be recent, a copy of the holder's signature and the official stamp of the Home Office.

A client, who originally entered the UK as an asylum seeker and now has indefinite leave to remain, was receiving LHA at a level slightly in excess of his rent. The CAB attempted to help him open a bank account and went in person with the client to three banks/building societies in the local area. On each occasion the client presented the only ID he had which was his Home Office travel document. On each occasion he was refused the option of opening an account. The CAB made several telephone calls to other financial institutions who confirmed that they would not be prepared to accept a travel document as primary ID. The CAB therefore had to help the client apply to have his rent paid directly to the landlord on grounds of vulnerability.

Another client, originally an asylum seeker from Zaire who now has indefinite leave to remain, had been unable to pay her rent because she could not open a bank account to deposit her LHA cheques. When she was referred to the CAB she had 16 weeks rent arrears. Her only ID was a travel document issued by Home Office but this was not acceptable to local banks. The CAB therefore had to apply for rent to be paid directly to the landlord on the grounds of client's vulnerability. The bureau was subsequently able to assist her in joining a credit union which was prepared to accept her travel document as primary ID.

In many cases, after protracted work by the CAB, the client is eventually able to open a bank account, with the result that the overall LHA statistics on the percentage of claimants with bank accounts is high. Where despite the CAB's efforts the client is unable to open an account, then these circumstances should mean that the client meets the vulnerability criteria for rent payments to be made directly to their landlord, as the DWP guidance specifically states that being unable to open a bank account is a potential trigger for such a decision. However bureaux report that this is not always the practice and in some cases local authorities insist on an additional reason. A further problem is that some local authorities are requiring evidence that the client has been refused a bank account, something which banks are not currently required to provide.

Part of the reason for bank staff reluctance to promote basic bank accounts is likely to be the fact that they do not count towards the banks' internal sales targets as they are not seen as profitable accounts. In addition the harsh sanctions which stem from the money laundering regulations, which make staff personally liable for criminal proceedings if a money laundering offence is committed, will

leave branch staff reluctant to take any risks where standard ID is not provided.

In order to try and overcome this reluctance, Brighton and Hove CAB organised a meeting to bring together local bank staff, MPs, and representatives from the Financial Services Authority and the British Banking Association. Discussions covered a variety of issues including staff training, appropriate selling of products, the length of time to open an account, possible systems for copying original ID documents and the need for a single list of acceptable documents to prove identity and address. Although the bureau felt that the discussion was useful in raising awareness of the problem locally, still very few local banks would accept HB decision letters as proof of address.

The Joint Money Laundering Steering Group²⁶ is currently reviewing its guidelines on acceptable documents to prove ID and address, with the aim of introducing greater flexibility. Whilst this is welcome, in our view current proposals do not go far enough. In particular there is a need to make explicit reference to the fact that documents relating to HB should be treated in the same way as other national DWP administered benefits.

Citizens Advice recommends that the Joint Money Laundering Steering Group should produce and publicise a single list of acceptable documents to prove ID and address. This list should draw on banks' best practice and include a broad range of acceptable documentation. To meet the needs of currently disadvantaged groups, this list should explicitly include local authority letters granting entitlement to HB, official Home Office travel documents and residence permits.²⁷ The list should be communicated clearly to all bank branch staff to ensure consistent application.

Even when clients do have enough identification to open a bank account, CAB clients applying for basic bank accounts have waited up to three months to have their applications for these accounts processed. This has caused serious problems for clients who have inevitably fallen behind with their rent payments, causing friction with their landlord and threats of eviction.

An LHA pathfinder bureau reported that the long processing times for basic bank accounts are causing problems for their clients. In one case, a client, who needed a bank account to cash her LHA cheques, had been told it would take three months for her application to be processed. The client had to take every cheque to the council's One Stop Shop to be cashed, and then pay the landlord in cash.

Citizens Advice considers that the LHA should not be rolled out nationally until the DWP has obtained guarantees from the banking industry that the application process for a basic bank account is one which will be completed within no more than 10 working days.

But problems extend beyond the opening of bank accounts. CAB evidence indicates that benefit claimants struggling to budget on low incomes can find that having a bank account compounds their financial problems, raising questions as to whether these products are appropriately designed for the needs of low income customers.²⁸ For example, if someone becomes overdrawn or owes money to the bank on another account or credit card, any money paid into an account may be claimed by the bank to pay the debt on the other account, leaving them unable to pay their rent or other essential items. Delays in cheque clearance can also have serious consequences where clients have set up direct debits to pay

²⁶ This group is made up of the leading UK Trade Associations in the Financial Services Industry. Its aim is to promulgate good practice in countering money laundering and to give practical assistance in interpreting the UK Money Laundering Regulations.

²⁷ Residence permits were introduced for anyone given indefinite leave to remain after December 2003.

²⁸ See *Banking benefits*, Citizens Advice (2006) for further details

their rent, leaving them at risk of bank charges and therefore further debt. CAB clients are also vulnerable to being sold financial products that are inappropriate to their needs.

A bureau reported that their client had opened a basic bank account to access his LHA money. The client's LHA cheque then took ten days to clear – and as he had a direct debit set up to pay his rent this meant that his account then became overdrawn. This left the client unable to pay his rent cheque into the account, as this would be swallowed up by bank charges, and he was forced to open another basic bank account for this purpose. The client was very upset and worried that this would happen again with his new account.

A CAB client was receiving a discretionary housing payment to meet the shortfall between her LHA and her actual rent, but this stopped one week before the level of LHA was increased. This meant there was a shortfall of £7 when her rent was taken out of her bank account – the client was charged £20 for going overdrawn by her bank.

A vulnerable CAB client was sold a variety of financial products when he went to a local bank to open an account to cash his LHA cheques. The client was sold home insurance, card protection and an additional bank account, none of which he wanted or needed.

Where it is accepted that the claimant is unable to open an account, the LHA provisions allow for LHA to be paid direct to the landlord to cover the rent owed. However, problems remain where these clients have excess LHA over and above the level of their rent. If this is paid to them via cheque, they have no way of cashing these, and are effectively being denied access to this money.

One CAB reported that their client, who had recently moved into the area and had no utility bills in his name or photographic ID, had been refused access to a bank account by several banks. The bureau advised the client on how he might obtain this identification, and made a recommendation that the council pay the rent directly to the landlord until he was able to open an account. The council accepted this recommendation, but the client was still unable to access his excess LHA that was being sent to him by crossed cheque.

A single retired woman in receipt of pension credit was having benefit paid direct to her landlord as she did not have sufficient ID to open a bank account. However she was receiving a monthly cheque of £2.50 excess payment which she was unable to cash without incurring charges imposed by cheque cashing services.

Another CAB reported a client who was unable to open a bank account due to lack of ID and literacy problems so benefit was being paid direct to his landlord. However on two occasions he came to the CAB because he had no money for food despite having cheques for the excess which he had been unable to cash.

It is unacceptable that people already identified as vulnerable should face additional problems in benefiting from what is arguably the main attraction of the LHA for tenants. To address this, **Citizens Advice recommends that all local authorities should ensure they have in place permanent free cheque cashing facilities so that claimants whose rent is being paid to their landlord can benefit from any excess payment to which they are entitled.** Some local authorities²⁹ have also negotiated directly with their corporate banking partner to allow HB

claimants who do not possess a bank account to cash their cheques free of charge at their branches. This has been very helpful for claimants.

Some bureaux have found alternatives for clients unable to open or manage a bank account. Both Leeds and Lewisham bureaux have links with local credit unions, which clients may use to access their LHA monies. However this is not an ideal solution – in Leeds, people are required to pay a fee to join the union and to make regular savings, and in Lewisham membership of the credit union is only open to 30 per cent of the population of the borough. Also it is not currently possible to set up a standing order from a credit union.

We recommend that the national rollout of LHA should not take place until difficulties with opening and using bank accounts for payment of LHA have been resolved. DWP should work with HM Treasury and the Financial Inclusion Taskforce to achieve this.³⁰ In addition, the British Bankers Association should issue a briefing for its members on how the LHA will prompt more requests for accounts.

Assessing vulnerability

One of DWP's explicit objectives in introducing the LHA reform was to speed up and simplify claims processing by removing the need for individual referrals to the Rent Officer. However for vulnerable and potentially vulnerable claimants, the LHA has also resulted in an additional layer of complexity and decision making.

From the outset it was recognised that not all HB claimants would be able to manage payment direct to themselves, and that alternative arrangements would be needed for vulnerable claimants as well as for those unlikely to pay their rent. The regulations

therefore provide that payment may be made direct to the landlord where the local authority considers the claimant is vulnerable because they are "likely to have difficulty in managing their affairs".³¹ The guidance goes into some detail about the circumstances which might lead to a decision of vulnerability, including reference to people with learning difficulties, people with medical conditions such as mental illness which may impair their ability to manage, illiteracy or an inability to speak English, addiction, women fleeing domestic violence, people leaving prison, single homeless people, people with severe debt problems, and people who are unable to open a bank account.

Exercising such discretion is not easy. HB officers themselves have neither the expertise nor the evidence to hand, to be able to recognise that a claimant meets the vulnerability criteria. In practice, therefore, vulnerability assessments require evidence to be provided from a third party. This is far from ideal. It inevitably slows down processing time for potentially vulnerable clients, as well as placing additional burdens on the support agency from which evidence may be required, forcing them to take resources away from their main function of supporting the person.

It is also intrusive, and resented by many claimants who are unwilling to have to demonstrate their inadequacy. One CAB reported that they regularly attended at the council's cash desk on the day claimants received their LHA cheques, in order to advise on opening bank accounts or to offer help with vulnerability representations. Some claimants were seen on several occasions but did not want to apply for their LHA to be paid to their landlord as they did not want to be labelled as vulnerable or unable to manage.

A private tenant in receipt of high rate care and mobility disability living allowance was annoyed that she had to prove that she was vulnerable in order to

³⁰ See *Banking benefits*, Citizens Advice (2006) for further discussion on these issues

³¹ Regulation 94, Housing Benefit (General) (local housing allowance) Regulations 2003.

have her LHA paid directly to her landlord.

Another client refused to apply for payment direct to her landlord because she was concerned that if she was assessed as being vulnerable, social services might take her children into care.

GPs are specifically mentioned in the LHA Guidance as one of the agencies from whom evidence may be obtained. The fact that GPs are mentioned seems to conflict with the direction of recent Cabinet Office work³² aimed at reducing the extent to which GPs are required to provide evidence to support their patients' claims to third parties (for example rehousing requests or insurance claims). Many GPs are therefore reluctant to provide such evidence, or will only do so by making a significant charge for the service. This effectively rules out the option for anyone on HB.

A client who had been having payments made directly to her landlord was told by the local authority that they were reviewing her case, and would commence payments to her unless she produced medical evidence to support her case within 14 days. The client visited her doctor to obtain medical evidence to support her claim, but her doctor, knowing she was on income support, told her that he felt it was unfair that she should have to pay for it. He offered only to provide this evidence if the council requested and paid for it. The bureau also feels it is unfair for the council to demand medical evidence when they know the client would have problems paying for this.

A bureau helping a client making an application for vulnerability status reported that the client's GP "flatly refused" to write a report on his

condition to support the application. The GP also told the client that if he did write such a report, he would charge £30 – which the client would be unable to pay.

The bureaux with LHA contracts have played a key role in ensuring this vulnerability procedure works smoothly. Typically where the local authority considers a claimant may meet the criteria, it offers the claimant a referral to the CAB for further work. In many cases, this may result in the client not needing a vulnerability assessment as the CAB is able to help them open a bank account, or get their debts under control. In other cases, the CAB is able to help them collect the evidence necessary to support a vulnerability claim. Bureaux report that this procedure works well in that their vulnerability recommendations are invariably accepted by the local authority, and clients are relieved and satisfied with the service. However it is often time consuming work, which needs to be undertaken quickly in order that appropriate payment arrangements can be put in place.

In addition, bureaux are concerned that some of the most vulnerable claimants may still fall through the net.

One CAB reported a client who came into the local authority, by chance, with a whole bundle of uncashed LHA cheques. She had quite severe learning difficulties and mental health problems but would not co-operate with Social Services and other support networks and so would not be identified and referred by them for an LHA vulnerability assessment. The bureau helped her to get her rent paid to the landlord and in the course of the enquiry also discovered that she had had no disability living allowance or pension payments for nearly two years. These had been stopped when she refused access to DWP visiting officers. The bureau adviser

was able to take remedial action but was very concerned that other such vulnerable people might not be being identified.

Bureaux also report that when people try to make vulnerability claims without the support of an agency such as the CAB, many are either turned down or find the whole process of providing supporting evidence too much to deal with and so give up:

A young client with epilepsy who has gambling and alcohol addictions had requested direct payment to his landlord but this had been refused. He appealed the decision but was again refused. He was finding it very stressful to handle the money, and also to manage the cheques cashing process. His landlord, who plays an active role in helping him manage his affairs such as bill paying and hospital visits, also requested direct payments but was refused. When the client approached the CAB, they submitted the vulnerability request with no additional supporting evidence, and the request was successful.

The DWP evaluation has noted that over time the percentage of payments being paid direct to claimants has declined in all the pathfinder areas, suggesting that some cases are initially missed. It is of particular concern that the LHA guidance explicitly states that local authorities are not expected to be pro-active in identifying a claimant as potentially vulnerable and therefore initiating the process. Bureaux comment that local authority officers providing advice other than in the HB department are not necessarily trained to identify and support people who might meet the vulnerability criteria.

One CAB reported a client with mental health problems who had been unable to open a bank account because she did not have the required ID. She had been coming to the council's cheque cashing

desk every four weeks which she found inconvenient and stressful. However no one at the desk had suggested that she might request payments to be made direct to her landlord.

The bureaux with LHA contracts have deliberately sought to be pro-active, for example by ensuring that other CAB advisers identify and refer possible clients to the LHA workers, and contacting other local agencies such as Sure Start and voluntary organisations supporting drug users to inform them about the service the CAB can offer. **We recommend that existing regulations and guidance should be amended to place a duty on local authorities to be pro-active in identifying claimants who meet or may potentially meet the conditions for having payment made direct to their landlords.**

More broadly, Citizens Advice remains concerned as to whether the vulnerability procedures are sufficiently robust to sustain a national roll out. In the pathfinder areas, which have been relatively well resourced and with enthusiastic and committed HB departments working together with local bureaux, it has been possible to deliver this. However it is very unlikely that all these elements will be present in every local authority. At best procedures will be time consuming and costly to deliver. At worst, procedures will break down in some authorities, and it will be the most vulnerable claimants who will suffer the consequences.

The role of advice

It is perhaps unprecedented for DWP to have built funding for advice into the delivery of benefit as has been the case with LHA. This no doubt reflects recognition that the successful delivery of this reform requires a more intensive person-focussed approach to more vulnerable claimants than is usually the case. It is therefore of considerable concern that some of the contracted bureaux have

recently been informed that their funding for this work will be reduced or even cut altogether from April 2006. Whilst it is true that the nature of their work has shifted over time, from an initial focus on helping people open bank accounts and set up arrangements to pay their rent, to more ongoing work on managing debt and avoiding rent arrears, bureaux are clear that the need for money management support is ongoing. The fact that this advice is independent has been welcomed by clients.

Bureaux have also been active in working with their local authorities to promote the LHA, reassuring landlords that vulnerable tenants will be provided for, and developing relationships with the local banks in the area.

Both bureaux and local authorities agree that, where proper referral arrangements have been put in place, the CAB role has been key to the high level of payments being successfully made to tenants, and to avoiding rent arrears and homelessness. However the pathfinder experience has also demonstrated the potential for tension in this relationship between a statutory decision-making body and a voluntary agency. Local authorities need to ensure it is made as straightforward as possible for claimants to take up a CAB referral by, for example, having the option to set up an appointment on the claimant's behalf. On the other hand it is clearly inappropriate to refer a client to the CAB without the client's consent or even knowledge. Such practices conflict with the basic principles of the CAB service by breaching client confidentiality; they also undermine the client/adviser relationship and are unlikely to be effective.

Local authorities have been clear that this face to face advice service has been invaluable for tenants to help them cope with their ongoing responsibility of paying their rent and to educate them in financial literacy and debt management.

One CAB reported a client whose current account was seriously overdrawn. She was concerned that when LHA was paid into her account it would be used by her bank to pay off her overdraft and she would be unable to pay the rent to the landlord. She thought she wouldn't be able to open another account because of her poor credit rating. The bureau helped the client to open a basic bank account for her LHA.

A young single parent contacted the CAB when she received her first LHA cheque, as she did not want to pay in her cheque because her account was overdrawn. She was concerned that if she put the cheque into the account, she would not then be able to pay her rent. The bureau contacted the local authority and explained the situation and she was able to cash this cheque at the council offices. The bureau completed a vulnerability report with this client as she had high debts, and assisted her with money and debt advice. She is now having LHA paid directly to the landlord.

Bureaux report that few of their clients have got into rent arrears because of having to pay the rent themselves, although advisers are now seeing more clients with rent arrears and debt problems than they did at the outset.

Ironically it appears that the reforms themselves are contributing to short term rent arrears where clients face problems with opening bank accounts and delays in clearing cheques. Clearly it is still early days and it will be important that evaluation of the pathfinders continues for a longer period before a full assessment of the impact of the LHA is made.

Conclusions

In our view two factors have been key to the relatively smooth implementation of the LHA to date:

- firstly there is the fact that there were no losers at the point of change and indeed many clients have benefited from reductions in the shortfall between their benefit and rent, and even excesses which they have then been able to use to relieve some of the financial pressure of living on means tested benefits
- secondly the funding of a dedicated money advice service for LHA claimants has been invaluable in helping tenants with the transition as well as with the ongoing responsibility of managing their money and paying their rent. It has also ensured that more vulnerable tenants have been successfully supported through the somewhat convoluted process of getting payments made direct to their landlords.

Citizens Advice would be very concerned if either of these two key elements were compromised in any national roll out of the LHA. Indeed as the DWP evaluation has been based on these elements being in place, it would be unsafe to generalise the findings to a less well resourced situation.

More generally it is our view that it is still early days, and that, given the concerns raised in this report, **there is a strong case for longer term monitoring of the impact of the LHA on claimant and landlord behaviour, before decisions are made on a national roll out.**

In terms of the specific objectives set out by the DWP for these reforms, this report suggests the evidence is mixed. There remains a **lack of fairness** in the way the reforms have impacted on different groups, with under 25s remaining significantly disadvantaged by the application of the

shared room rate. Given that the DWP's own research has also demonstrated the negative impact of the similar single room rate on the lives of young people **we strongly recommend that there should be no lower rate for under 25s in the LHA.**

There is also evidence that the reforms are impacting differently in different geographical areas, because of the way the Broad Market Rent Areas (BMRA) have been defined by local Rent Officers and **we recommend that, to increase accountability, Rent Officers should be required to consult with local authorities which have responsibility for housing strategy, in setting the boundaries of BMRAs.**

The impact of the reforms in enabling tenants to exercise **choice** in their accommodation appears to be limited. Only tenants with significant excesses of LHA over their rents who were living in highly unsuitable or overcrowded accommodation were even considering using the extra money to move. Any amendment to limit the size of excesses would therefore be likely to eliminate the exercise of such choice altogether. On the other hand many clients resented the fact that they no longer had the choice over how their HB was paid.

In terms of **transparency**, it appears that the initial benefits have been felt by landlords more than tenants. Bureaux report that many tenants are particularly confused when they receive payments in excess of their rent, and are sure this must be an error. Others are easy prey for landlords who raise the rent to LHA level, or tell them that any excess belongs to the landlord. **Provisions in the proposed Law Commission bill on tenancy reform could help to reduce such exploitation and there would therefore be advantages in delaying roll out of the LHA until that legislation is in place.**

Direct payments

From the outset it has been the direct payment provisions of LHA rather than the introduction of the flat rate which has been more controversial, with many critics arguing that this would result in escalating housing debt and increased evictions and homelessness. Although to date these fears have not been realised, the CAB evidence outlined in this report indicates that it is indeed the direct payment provisions which are proving most problematic. The DWP's agenda to pay benefits direct into bank accounts does not appear to be shared by the banking industry at the local level, and it is claimants who lose out as a result. Behind the figure of some 93 per cent of LHA claimants having bank accounts, lie the very real obstacles which many have faced in navigating this process and managing bank accounts. Claimants face demands for ID which they are unable to meet, lengthy delays in setting up accounts, and bank charges when benefit is not paid on time. **It will be essential that DWP works with HM Treasury and the Financial Inclusion Taskforce to ensure these problems are resolved before any national roll out takes place.**

In addition there is worrying evidence that the direct payment provisions may be further deterring private landlords from letting to tenants on HB. This would be very serious as the private rented sector performs a vital role for many people on low incomes unable to access social housing and it will be essential that the reforms do not make access more difficult. **We recommend that no decision is made about rolling out these reforms until and unless the DWP is able to clearly demonstrate that there will be no loss of private rented sector accommodation to claimants as a result.**

It is also the direct payment provisions which result in the need for vulnerability

assessments. Arguably this is the most challenging and resource intensive part of the reformed scheme and can result in benefits being delayed, additional burdens on third parties such as GPs to provide evidence and a resentment by claimants at having to prove they have difficulty in managing their affairs. Unsupported vulnerable claimants may fail to make successful claims or may simply find the process too much to deal with and give up.

We recognise that for many claimants there will be real advantages in tenants opening bank accounts and managing their rent payments themselves, particularly where HB does not cover 100 per cent of the rent, and it will be important that the advantages of taking control are clearly spelled out. The LHA initiative is also a key opportunity to achieve the wider benefits of financial inclusion. Having a bank account and therefore being able to pay essential household bills by direct debit can lead to considerable savings.³³

However Citizens Advice considers that there remains a strong case for allowing claimants to retain a choice over how their LHA is paid.

This need not be incompatible with the DWP's objective to encourage personal responsibility and promote the payment of benefits into bank accounts. The work of personal advisers in encouraging people back into work has already proved to be one of the success stories in the wider DWP reform programme and we believe that an extension of this approach to encourage claimants to have HB paid to themselves would bear fruit. Bureaux are already actively involved in developing financial inclusion work, and would be well placed to support such an approach and help tenants access advice around getting the most out of having a bank account. There is also a need to explore ways to make direct payment to claimants the more attractive option, both for tenants and landlords.

³³ The Financial Services Authority in its recent leaflet *Basic Bank Accounts – your questions answered* (Oct 2005) quotes estimated annual savings of £22 in electricity charges, £38 in gas charges and £12 in telephone charges.

However if compulsion is to remain then it will be important that the vulnerability assessment process is made simpler and less burdensome for claimants and third parties before LHA is rolled out nationally. In particular **Citizens Advice recommends that a) local authorities should have a responsibility to be pro-active in identifying claimants who may be vulnerable and b) vulnerability is defined in a way which enables HB departments to reach a decision without demands being made on already hard pressed health and social care workers such as GPs and social services.** This will mean developing in-house expertise and more face to face contact with claimants, and/or contracting with other agencies such as bureaux to support the process. This is likely to be more costly and resource intensive than adopting a voluntary approach to direct payments.

Implications for the social rented sector

The DWP has expressed the intention of piloting a similar reform in the social rented sector. Despite the relatively trouble-free experience of the private sector pathfinders, Citizens Advice remains unconvinced of the need for such an extension. In terms of the flat rate element, the HB rent restriction rules do not apply in the social rented sector, so the

advantages of reduced shortfalls, greater transparency and simplicity in processing claims would not apply. Indeed a flat rate allowance would create shortfalls where they do not currently exist, and would create losers at the point of change unless the rate was set very high, at considerable cost to the public purse. Nor would it be realistic to expect tenants to exercise choice by moving home, both for the reasons spelled out in this report and also because in many parts of the country, the demand for social housing significantly exceeds supply.

In terms of direct payments, such a reform would place even greater pressures on the vulnerability assessment process, as large numbers of social rented tenants would need to retain direct payments to their landlords. On the other hand, social landlords should already have evidence about tenants who are likely to have difficulties in managing their money and it would be important that this evidence was given due weight.

There would also be significant cost inefficiencies in relation to local authority tenants, as one part of the local authority would be paying out the benefit which another part of the same authority would be setting up systems to collect as rent.

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