

# Shelter

## Welfare Reform Bill 2011

Briefing for Lords 2<sup>nd</sup> Reading – 13<sup>th</sup> September 2011

### **Summary**

Shelter supports the principles of the new Universal Credit, which is the major piece of reform contained in the Welfare Reform Bill. However, the Bill will also introduce a second wave of cuts to housing benefit, **undermining the housing safety net** for people who lose their jobs and need temporary financial help to keep a home, as well as affecting those who are in work but on very low incomes, or who are unable to work due to old age or disability.

The Bill contains very little detail but instead enables the Secretary of State to make fundamental changes to the benefits system via secondary legislation, where **the changes will be subject to little parliamentary scrutiny**. We welcome the Government's decision to table amendments making the housing clauses of the Bill subject to the affirmative resolution procedure, but we are disappointed to note that this only applies to the first set of regulations tabled and not to subsequent ones. The Department for Work and Pensions (DWP) has also failed to produce detailed proposals for key elements of the Bill, including how housing costs will be recognised under Universal Credit or under Pension Credit when claimants are no longer of working age.

The Bill will enable the Government to enact the following reforms via secondary legislation:

- Local housing allowance (LHA) and (once introduced) the private sector housing element of the Universal Credit will be linked to the Consumer Prices Index (CPI) rather than to the cost of rent. **Shelter would like housing benefit in both the private and social rented sectors to retain the link to actual housing costs rather than to the CPI, both before and after the introduction of the Universal Credit.**
- There will be a household cap on benefits. This is in addition to the LHA caps being introduced from 2011, meaning this reform is a cap on top of a cap. The reform has been hugely controversial: leaks have revealed that officials at the Department for Communities and Local Government (CLG) think it will make 20,000 families homeless, and the Children's Minister Sarah Teather recently expressed concern about the impact on families. **Shelter would like housing benefit to be removed from the household benefit cap so that people are not forced to move away from their area if they are made redundant and need a temporary safety net.**
- Housing benefit for working age claimants in the social rented sector will be restricted for households that are deemed to be under-occupying. **Although Shelter agrees that it is important to tackle under-occupancy, we are opposing this reform on the basis that it is poorly targeted and will therefore not be effective.**

## **Principles**

Shelter supports many aspects of the Universal Credit, especially measures to tackle work disincentives and to simplify the system. However, in considering this legislation we urge parliamentarians to bear in mind that:

- **Housing benefit is a fundamental part of the housing safety net** that exists to protect someone when they lose their job. Having access to temporary help with housing costs if you are made redundant means you are less likely to be forced to move away from your local area, and this can stop a bad situation turning into a disaster.
- **Housing benefit is unique** in that it exists to support a specific and essential expenditure: the cost of having a place to live. The rate of housing benefit must be linked to the actual cost of housing as this is the only way to ensure that people can access an affordable home. The Government has produced no evidence that by cutting housing benefit they can reduce rents in the high demand private rented sector market. Indeed, there is evidence to the contrary.<sup>1</sup>
- The Bill must be seen in the context of the **severe national housing benefit cuts being introduced in 2011**, which will reduce benefit levels for one million tenants and mean claimants will be increasingly concentrated in the poorest areas with less access to work, thereby undermining the potential impact of the new work incentives within the Universal Credit.

## **Removing the link between housing costs and housing support (clauses 11 & 68)**

The Bill allows the Secretary of State, via secondary legislation, to change the way that LHA is calculated. At the moment it is based on the value of rents in each locality, which means that LHA can be restricted but still remains responsive to local markets. From 2013, both LHA and housing support for private tenants as they migrate onto the Universal Credit will start to be up-rated according to the CPI. **Unlike other benefits, housing benefit is not changing from being linked to the Retail Prices Index (RPI) to being linked to CPI, but will shift from being linked to rents to being linked to inflation.**

This is problematic because **historically CPI has not increased at the same rate as average rents**. Research by Shelter and the Chartered Institute of Housing (CIH) shows that linking LHA with CPI will, over time, severely exacerbate shortfalls between payments and the rents people have to pay. On a conservative estimate, the reform would mean that **60% of local authority areas would be unaffordable for LHA claimants by 2030**. The neighbourhoods that would become unaffordable the most quickly would be higher rent growth areas. This means that claimants are likely to be concentrated in deprived areas which may have fewer employment prospects.

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<sup>1</sup> See report 'How will changes to LHA affect low-income tenants in private rented sector housing?' (University of Cambridge) p25 [http://england.shelter.org.uk/\\_data/assets/pdf\\_file/0016/290041/CCHPR\\_final\\_for\\_web\\_2.pdf](http://england.shelter.org.uk/_data/assets/pdf_file/0016/290041/CCHPR_final_for_web_2.pdf)

### **What happened in the Commons?**

In committee the Minister acknowledged that it would be problematic if the relationship between rent support and rent costs were to become “heavily out of kilter” and said, “That is not our intention. We will do everything we can to ensure that that does not happen.” However, the Minister expressed the hope that the CPI link would help to keep a check on rent inflation. In fact, there is no evidence to suggest that this would be the effect of the reform across the country.

### **What is Shelter calling for?**

We are pleased that the Government seems to have accepted the importance of ensuring that the CPI link does not lead to rent support becoming out of kilter with rent costs. We call on the Government to offer clearer guarantees about how they will prevent this from happening by, for example, putting in place measures to ensure that the relationship between housing support and housing costs is reviewed at regular intervals and that action can be taken to re-couple the two should there be a risk of the system reaching crisis point.

### ***Household benefit cap (clauses 93 & 94)***

The Bill introduces a new cap on the maximum amount of benefits households can claim, **targeted at households in which the adults are out of work, regardless of their ability to take up work at that point**. It is set at the average take-home pay for all households, currently estimated at approximately £500 per week (£26k per annum). The Government’s impact assessment suggests that 50,000 households will be affected by this measure, with an average loss of £93 per week. **The cap is effectively a second cap on housing benefit** because it comes on top of extensive reforms to LHA being introduced from April 2011 to prevent LHA being claimed for very high rents and to restrict claimants to living in the bottom third of the rental market.

The purpose of the cap is to ensure that out of work households cannot claim more in benefits than the amount that the average working family takes home, but in fact **average working family income has been seriously underestimated in the Government’s calculations**.

The formula is flawed because it:

- **Uses average household income as the point of comparison, regardless of whether households have children or not**, even though the Chancellor’s original commitment was to ensure that no family on out of work benefits received more “than the average family gets for going out to work”. Households with no children are not usually counted as a “family” by the DWP and tend to have a smaller income so including them in the calculation brings down the average considerably.

- **Does not take into account the various forms of state support which are available to families on an average income**, especially those with high housing costs or several children. Working families on average incomes are eligible for child benefit, child tax credit, working tax credit and, in areas with high housing costs, housing benefit. A family earning £26,000 per year through work would actually have an overall income much higher than this when state support is taken into account. The level of gross mean earnings for all working households with at least one child (i.e. families) is £763, compared to a gross mean income (i.e. including benefits and tax credits) of £945.<sup>2</sup>
- **Does not take into account the considerable variations in income and rental costs across the country.**

### **Who will be affected?**

DWP know very little about who will be affected by the cap, though a memo leaked in early July did suggest that CLG warned Number 10 in January that the cap could make 20,000 more people homeless. We think it is vital that the Government gathers and publishes more evidence on this so that parliamentarians are able to make an informed judgement about the implications of the reform. However, we do know that:

- **The cap will not just affect large families.** In many areas of London, families with just two children will effectively face a cut amounting to a third of their current (i.e. post April 2011 reforms) housing benefit entitlement.
- **This is not just a London cap.** Shelter's research shows that families with three children will lose housing benefit in more than a third of local authorities nationally. The impact of the household benefit cap will be far more extensive than the LHA caps and risks pricing families out of private rented accommodation across large swathes of the south east.
- **The cap will not just affect long-term workless households.** With so many people losing their jobs in the current economic climate, the changes will mean that any household where both parents lose their jobs will move into poverty very quickly, with many likely to be forced to move away from the areas that have the most job opportunities.
- **The cap will affect some working households.** It will apply to families that do not claim Working Tax Credits, so it will affect working households that are unable to qualify for these credits, for example because they do not work enough hours. This completely undermines the principle underpinning the Universal Credit that work should always pay, and the idea that people should be encouraged to take 'mini jobs' as a route back into employment.

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<sup>2</sup> Shelter analysis on Family Resources Survey 2008-09

### **What will be the impact?**

The household benefit cap will generate a number of practical problems across the housing and benefits system. **In mid-July Children’s Minister Sarah Teather MP publicly said that “there is a lot of detail that needs to be got right on this policy” and that this “is a view shared across Government”.** We do not believe that the Government has sufficiently taken these concerns into account and assessed the potential knock-on implications of the reform. For example:

- **The cap will create significant problems for homeless households who need to access or exit temporary accommodation.** In order to find affordable temporary accommodation under the cap local authorities will be forced to place some homeless families far out of their local area, severing ties with local support networks and job opportunities. This aspect of the policy is unacceptably punitive and will exacerbate existing shortages of temporary accommodation. The interaction of the cap with Government plans to re-house many more homeless households in the insecure private rented sector has also been poorly thought through.
- **The cap will undermine housing delivery in London.** Social landlords have expressed the concern that it will become difficult to raise funding for building family-sized homes because many tenants on housing benefit will no longer be able to afford to rent these homes once the cap comes into force. This is particularly true in London and the South East where market rents are higher. Early indications from bids to the Homes and Community Agency suggest that the development of much-needed family sized homes in the London under the Affordable Rent Programme will fall below the Mayor’s target of 42%.
- **The cap will undermine the Universal Credit.** As well as discouraging ‘mini jobs’ the cap is at odds with the Government’s plans to promote claimant responsibility. The Universal Credit incorporates a system enabling conditionality measures to be targeted at those most able to take up work. However, the cap will apply to all out-of-work households, including those not yet expected to look for work under Universal Credit. It reintroduces the crude in-work/out-of-work distinction that the Universal Credit is intended to abolish.
- **The cap will create a couples penalty.** One parent and two parent households will have the same overall entitlement, which may incentivise large families to break up into smaller units. Single parents will also be able to claim higher sums in housing benefit than couple families.

The cap is a crude measure which will have a disproportionate impact in areas where housing costs are highest. The DWP’s own impact assessment warns that the cap will increase homelessness and make many areas unaffordable. Unless housing benefit is excluded, the cap is likely to cause significant disruption and hardship for a wide range of families.

### **What happened in the Commons?**

There was a long debate on this in committee and serious concerns were raised by Government and opposition MPs about the potential impact of the cap. The Minister appeared to accept the suggestion that the Government may have to give further consideration to how the cap will operate for families in temporary accommodation. Iain Duncan Smith claimed the cap was “about those

who we believe should be able to go work but are not doing so.” However, this is not the case in practice as it will be imposed on households that the DWP itself has said do not need to be actively seeking work. Ministers have promised some assistance for “hard cases” but have not set out who these families are or what assistance may be appropriate.

### **What are we calling for?**

Shelter is calling for the benefit cap to be modified to take account of variations in housing costs, so that people who lose their jobs are not forced to move into areas with fewer job opportunities or pushed into overcrowded accommodation. This could be simply achieved by removing housing benefit from the calculation. Protection must also be introduced to ensure that the cap does not affect claimants’ benefit entitlement during short-term spells of unemployment, or before claimants have been offered support via the Work Programme. The Government must also look again at how the level of the cap is calculated, to ensure that the average income of working families is accurately reflected.

### ***Size criteria cut in the social rented sector***

The Bill will allow the Government to reduce the amount of housing benefit for which working age tenants in the social rented sector are eligible if the tenants are deemed to be under-occupying their property. This will affect about 32% of all working age housing benefit claimants living in the social rented sector. Given the extent of overcrowding and the shortage of homes in the social rented sector, we agree **it is vital that genuine under-occupancy is sensitively tackled** and that the best use be made of existing stock through proportionate and targeted measures. However, this reform will not be an effective way of tackling overcrowding as it is poorly targeted.

**The majority of those affected are not under-occupying according to the conventional definition** used by the Department for Communities and Local Government (CLG) and local authorities. Also, the Government’s impact assessment shows that nearly four-fifths of those affected only have one bedroom spare (according to Government occupancy measures). This bedroom might not necessarily even be empty. For example, in a household with a nine year old son and eight year old daughter, the two children might each have their own bedroom, in which case the family would be classed as under-occupying and denied adequate housing benefit to cover their housing costs. ‘Spare’ bedrooms may also be invaluable for separated parents who share custody of children, or for couples or siblings who cannot share a bedroom for health reasons. It will also penalise foster parents and single parents whose children only live with them for part of the week, as bedrooms will not be allocated in such circumstances.

This is not a policy that has been designed to encourage empty nesters to downsize, as 220,000 households set to be affected by this measure contain children. We are also concerned about the fact that **the measure will impose centralised standards on local allocations policies** which are carefully designed in response to specific local conditions such as the balance of stock. Other practical problems with the proposed reform include:

- The areas where **overcrowding is most prevalent will have the fewest properties freed up by this measure** because they tend to have the lowest level of under-occupancy.
- **The areas where under-occupancy is most prolific tend to have a low supply of smaller properties**, so it will be very difficult to re-house tenants. Options for mobility in the social rented sector are limited and it would be wrong to penalise households if they have little option of moving without sacrificing their social home altogether.
- **Two-thirds of people under-occupying in the social sector will be entirely unaffected by this measure** because it applies only to working age tenants.
- **Disabled people will be heavily affected by this measure**, with 450,000 of those set to be affected classed as disabled, and the Government has not offered any concessions to recognise their additional needs. The National Housing Federation estimates that 100,000 tenants set to be affected by this measure live in homes specially adapted to their needs. Encouraging these tenants to move would not be cost-effective as new properties would need to be adapted while aids and adaptations would be stripped out of vacated homes.
- **The cut carries the risk of generating increased costs for Government** and the impact assessment makes clear that projected savings will only be achieved if tenants remain in their existing homes and make up the shortfall themselves. However, if tenants decide that they would either prefer or would have no choice but to move into the private rented sector, then the cost of providing housing benefit for them could increase. Tenants who seek to move within the social rented sector could also see their rent increase with the introduction of the new 'Affordable Rent' tenure in which rents will be set at up to 80% of market levels.

### **What happened in the Commons?**

Concerns about this reform were raised in committee by Government and opposition MPs. The Minister accepted that there might be a case for considering exemptions for disabled people who have had property adaptations. However, Ministers did not respond to the central argument that this is an unfair cut that will penalise people regardless of whether it is possible for them to move to smaller accommodation.

### **What are we calling for?**

Shelter is opposing this reform on the basis that it is impractical and ineffective. The Government should explore other measures of tackling under-occupancy. If the reform goes ahead then disabled people should be better protected to avoid creating adverse consequences and unintended costs. The Government should exempt households who claim DLA from the measure or at the very least tenants in adapted properties.

### ***Further information***

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