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Work and Pensions Committee

**Local Housing
Allowance**

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The Work and Pensions Committee

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Summary

The Local Housing Allowance (LHA) is a way of calculating entitlement to Housing Benefit for customers living in the private rented sector which applies to customers who have made a new claim or moved address since 7 April 2008. The concept of a flat rate allowance was first considered as part of the Government's Housing Benefit reform plans in 2002, and was extensively tested in 18 local authorities from 2003 onwards.

The aim of the LHA is to give customers more choice and responsibility over their housing needs. LHA rates are set locally for each property size according to the number of bedrooms and customers are able to see in advance the maximum amount of benefit to which they are entitled. We believe that this represents an improvement on the previous scheme whereby rent was calculated on an individual basis by rent officers. It makes the benefit much simpler to understand, transparent and easier to administer.

The LHA is currently being monitored by the Department as part of a two-year review. This inquiry will provide an analysis of how the scheme has worked against its primary objectives of fairness, choice, transparency, improving personal responsibility and financial inclusion, reducing barriers to work and improving administration. Evidence suggests that whilst the objectives of LHA are sound, it is falling short of its original intentions and is in need of urgent review to ensure that those intentions can be met in practice. Particularly in the current economic climate, we believe it is important to increase personal responsibility and financial inclusion and to remove barriers to work, and we make a number of recommendations in this report as to how this aspect of the scheme can be improved.

A key feature of the LHA is that, in most circumstances, customers have their benefit paid directly to them. This is the most controversial aspect of the LHA and the one on which the Committee received most evidence, with the majority arguing that tenants should have a choice in whether the benefit is paid to them or directly to the landlord. However, we believe that direct payments to the tenant should remain the default as long as the necessary financial advice and vulnerability safeguards are in place. Managing one's own finances is an important step towards personal responsibility and financial inclusion and, through this, readiness for work. There is evidence that giving tenants the choice of having rent either paid to them or the landlord would defeat this important objective of the scheme and help perpetuate benefit dependency.

However, we acknowledge that the policy of direct payments to the tenant will only be working well when practical problems are addressed, safeguard procedures for vulnerable tenants are strengthened and landlord confidence in the scheme is improved. We make a number of recommendations in this report to that end, for example on access to bank accounts and calling on local authorities to use their discretion as to the form in which they pay LHA.

We also believe it is the Department's responsibility to ensure that local authorities identify vulnerable tenants early, before the build up of rent arrears, and to ensure that local authorities understand the safeguard rules and implement them correctly. We recommend that local authorities should seek the advice of landlords, financial advice services and the

voluntary sector pro-actively to identify vulnerable claimants.

LHA rates are set at the median rate for each bedroom size within a Broad Rental Market Area (BRMA). BRMA boundaries are set by rent officers and are intended to reflect areas in which people live in terms of access to transport and services. The evidence on the existing boundaries for BRMAs suggests that most are working well in terms of the level at which the LHA is set. However, there are some within which rent levels vary considerably where the LHA has the potential to distort the local private rental market and impede access to work. We recommend that the Department asks the Valuation Office Agency to review those areas where rents vary greatly, such as Cambridge and Blackpool. We also strongly recommend that the Department include access to low paid work as an underlying criterion for setting BRMAs.

On 6 April 2009, regulations were amended to cap LHA levels at the five bedroom rate. We agree with the Government's principle that Housing Benefit levels should be appropriate to what is affordable for people on low pay and should represent value for money for the tax payer. This relationship was clearly distorted when LHA was rolled out and a small number of benefit claimants living in large accommodation claimed an amount for rent that was well out of the reach of most working families. However, it is equally important that the solution to this problem does not undermine other Government objectives on availability and quality of housing, child poverty and race equality.

There is clear evidence that the current LHA rules constitute a real barrier to independent living for disabled people who require an extra bedroom and we believe this requires urgent action from the Department. We recommend that the Department changes LHA rules as a matter of urgency to allow for reasonable adjustments for disabled people in line with its obligations under the Disability Equality Duty.

1 Introduction

1. On 17 October 2002, the then Secretary of State for Work and Pensions, Rt Hon Andrew Smith MP, announced plans for a new form of Housing Benefit (HB) which would no longer be directly linked to rent levels. This new scheme, the Local Housing Allowance (LHA), was introduced in nine “Pathfinder” areas from November 2003 and was extended to a further nine areas from April 2005.¹

2. The Department for Work and Pensions (DWP) describes the aims and objectives of the LHA on its website:

Local Housing Allowance (LHA) is the cornerstone of the Government's Housing Benefit reform programme which aims to simplify Housing Benefit and ensure it supports the wider objectives for welfare reform.

The fundamental aims of the LHA scheme are to promote:

Fairness—LHA bases the maximum amount paid to tenants on the size, composition and location of the household. Benefit will no longer be based on actual rents but on median levels of rent within localities. Therefore, two households in similar circumstances in the same area will be entitled to similar amount of benefits.

Choice—tenants are able to take on greater responsibility and choose how to spend their income in a similar way to tenants who are not in receipt of benefits. Like other tenants they are able to choose whether to rent a larger property, or spend less on housing and increase their available income. The claimants will be able to keep the excess (to a maximum £15 per week) if they choose whether to rent accommodation cheaper than their LHA rate or rent a more expensive property and pay the additional rent from their own income.

Transparency—LHA rates will be published in advance so customers will know the maximum amount of benefit payable. The current link between Housing Benefit and individual rents is complex and does not set out clearly what level of state support is available for people on low incomes. A clear and transparent set of allowance rates helps tenants (and landlords) know how much financial help is available from the state. Tenants are able to compare how much support is available towards their housing costs in different areas and for different property sizes.

Personal responsibility—Empowering people to budget for and to pay their rent themselves, rather than having it paid for them, helps develop the skills unemployed tenants will need as they move back into work. Currently around 40% of Housing Benefit payments in the private rented sector are made to tenants, with the remainder paid straight to landlords. The Government believes that, where possible, local housing allowance should be paid to tenants, as are most other benefits and tax

¹ These Pathfinder authorities are: Blackpool, NE Lincolnshire, Salford, Guildford, Pembrokeshire, Norwich, South Norfolk, St Helens, East Riding, Wandsworth, Leeds, Conwy, Edinburgh, Brighton & Hove, Argyle and Bute, Lewisham, Coventry, Teignbridge

credits. Safeguards will be put in place for those customers that are unable to manage their financial affairs or who fall into rent arrears.

Financial inclusion—Ideally, we want people to have their housing payments paid into a bank account and to set up a standing order to pay the rent to their landlord. This has the advantage of being a safe and secure method of payment and provides certainty for landlords that rent will be paid.

Improved administration and reduced barriers to work—For working age tenants, LHA provides a greater certainty about what help is available in and out of work. A simpler system also helps speed up administration of housing payments, giving tenants more confidence when starting a job that any in-work benefit will be paid quickly. A more transparent system may also improve the ability of individuals to move between areas and to take advantage of employment opportunities.²

National roll-out of LHA

3. The experience of the Pathfinder areas led the Government to legislate for the national roll-out of the LHA from 7 April 2008. The Department states that, as at September 2009, there were 4.5 million family units in receipt of Housing Benefit in Great Britain; 1.29 million (28%) were tenants in private rented sector accommodation. Of these, 0.82 million have had their benefit assessed according to the LHA rules. Overall, Housing Benefit expenditure amounted to around £17 billion for the year 2008–09.³

4. The legislative basis for LHA is contained in the Welfare Reform Act 2007 and associated regulations. LHA was rolled out nationally for new claimants in the deregulated private sector from 7 April 2008. Other claimants continue to claim HB. Launching LHA on 7 April 2008, the Department's press release quoted the then Minister of State for Employment and Welfare Reform, Rt Hon Stephen Timms MP:

The LHA is a central part of the Government's wider programme of benefit reform. It's a radical change to the way Housing Benefit is paid in the private rented sector and will help people take action towards managing their own bank accounts, making it easier for them to move off benefits and in to work.

Having a bank account means that people are job-ready and the LHA will help towards bringing increased responsibility to hundreds of thousands of people.

We also want to see a Housing Benefit system that will ensure people in similar circumstances will receive the same amount of benefit as others in their area. I am confident that the success of the LHA in the first 18 authorities will be reflected as the scheme rolls out nationally.⁴

² <http://www.dwp.gov.uk/local-authority-staff>

³ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

⁴ <http://www.dwp.gov.uk/newsroom>

Key features of LHA

Private sector only

5. LHA only applies to private rented sector tenants, not those in social housing rented from local authorities or housing associations. It also only applies to those who make a new claim, or have a break in their claim, after 7 April 2008.

Standard rates within Broad Rental Market Areas

6. The LHA is a flat rate allowance for different sizes of properties within a Broad Rental Market Area (BRMA). Prior to the introduction of the LHA, these areas were known as “localities”. At that time, there were 305 localities in England, 22 in Wales and 85 in Scotland. As at April 2008, the number of BRMAs was 156 in England, 22 in Wales (reviews in Wales had taken place more regularly), and 19 in Scotland (now reduced to 18).

7. The Rent Service is responsible for determining BRMAs. A BRMA comprises two or more distinct but adjoining areas of residential accommodation, within which a person could reasonably be expected to live having regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping. When determining BRMAs the rent officer takes account of the distance of travel, by public and private transport, to and from facilities and services of the same type and similar standard.

8. Within a BRMA, the LHA for different sizes of properties is calculated by reference to the median rent among private properties not occupied by tenants on housing benefit. The median rent is the rent that is halfway up the ordered distribution of rents for properties of the same size in a BRMA. For each category of property, rent officers compile a list of rents that represent the non-LHA private market within each BRMA and calculate the median rent from this information.

9. The Government argued that paying the same level of allowance to tenants with similar circumstances within the same area would produce a fairer and more transparent system. Tenants would be able to make a choice between the quality and price of their accommodation. The LHA rates within a BRMA for different sizes of accommodation are published.

10. BRMAs determined by the Rent Service in some areas have proved to be controversial, particularly in areas that encompass both high and low rent localities, where the use of median rents over a large area can pull down the level of LHA payable.

Direct payments

11. LHA is paid to the tenant (direct payments). It can only be paid to landlords in certain circumstances:

- There are at least eight weeks rent arrears (compulsory);
- Deductions are being made from other benefits (JSA/ESA/IS/Pension Credit) and are being paid to the landlords to pay rent arrears (compulsory);

- The authority considers the claimant ‘is likely to have difficulty managing his/her financial affairs’ (often referred to as ‘vulnerable’ claimants);
- The authority ‘considers it improbable that the claimant will pay their rent’;
- Landlord payment has been made previously under either of the two compulsory grounds (1st or 2nd bullet point) (so for example, payment to the landlord can continue even where the arrears have reduced to below 8 weeks or have been cleared);
- For up to eight weeks where the authority suspects that 3rd or 4th point above applies and it is considering making payments on those grounds;
- If the tenant leaves with arrears of rent owing.⁵

12. The latest DWP statistics indicate that 72% of customers whose benefit is assessed according to the LHA rules receive their Housing Benefit directly. Couples (with and without children) are more likely to receive Housing Benefit directly (83%) compared with lone parents (76%) and single customers (67%).⁶

Keeping the difference

13. LHA is paid at the standard rate to the tenant based on the size of the accommodation they are deemed to need. For example a couple with no children would receive the LHA based on a one-bedroom property. Tenants who rent a property at below the standard allowance, or who move to a cheaper property in the local area, or who negotiate the rent below the standard allowance, are currently allowed to keep the difference between the rent charged and the allowance paid, up to a certain cap.

14. Thus, in theory, tenants have a choice of paying more (out of their own income) for larger/higher quality accommodation or living in smaller accommodation and retaining a percentage of the housing allowance. The Government argued that this would give tenants more choice. It was also hoped it would give tenants an incentive to “shop around” for accommodation and thereby potentially have a downwards influence on rents.

15. The amount of LHA that a tenant can currently keep is capped at £15 a week. If their rent is more than £15 below the level of LHA then their benefit payment is reduced. As part of the 2009 Budget the Government announced that the LHA would be amended from April 2010 to remove the provision allowing tenants to retain up to £15 per week in “surplus” benefit:

The Local Housing Allowance (LHA) was introduced in April 2008, and costs have exceeded the planned expenditure for this policy. To bring the cost into line with what is affordable, whilst still ensuring all recipients can afford their rent, the Budget announces that from April 2010 there will no longer be scope for anyone to receive

⁵ Housing Benefit Regulations 2006, Regulations 95(1), 96(1)(c),(2)(b),(3A),(3B)

⁶ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

more LHA than they have to pay in rent. Existing claimants will move onto the new arrangements on the anniversary of their claim.⁷

16. A consultation paper on the draft regulations to remove the entitlement to the excess of up to £15 was issued on 19 June 2009 with a closing date for comments of 10 September. The effect of the proposal was summarised as:

- All new customers claiming Housing Benefit in the deregulated private sector on or after 5 April 2010 would not be entitled to any excess benefit over their contractual rent.
- Existing customers, including those in the former LHA Pathfinder areas, who are currently entitled to an excess payment of up to £15, would see a reduction in their benefit when their claims are reviewed, usually on the anniversary date of their claim.⁸

17. The Social Security Advisory Committee, in accordance with its statutory duty, also undertook a public consultation exercise. As a result of these consultation exercises, the Government decided not to implement the withdrawal of the excess in April 2010 and to delay this reform for one year.⁹

The inquiry

18. In our call for evidence we stated that we had decided to examine how DWP is helping people in the current economic climate, in particular focusing on:

- The objectives of LHA and whether they are met in practice;
- Whether LHA is understood by claimants and landlords;
- The impact of direct payments to claimants on both claimants and landlords;
- Whether adequate and consistent mechanisms/processes are in place to help Housing Benefit Departments identify and assess vulnerable claimants;
- The boundaries and rent officer regulations which underpin Broad Rental Market Areas (BRMAs) and their impact on LHA rates and access to affordable rental properties for claimants in all communities including access to transport and work;
- Whether LHA incentivises landlords to raise their rents to the BRMA median rate;
- The £15 excess entitlement policy and the potential impact of its removal;
- The 5 bedroom cap; and
- Whether advice services have the capacity to adequately support LHA claimants.

⁷ Budget 2009, HC 407, p 97, para 5.33

⁸ DWP, *Housing Benefit Amendment (No2) Regulations 2009*, June 2009

⁹ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

19. The Committee invited witnesses to submit written evidence by 16 November 2009. Ninety-seven memoranda were received from a wide range of individuals and organisations.

20. The Committee took oral evidence from Ms Liz Phelps, Social Policy Officer, Citizens Advice; Ms Caroline Davey, Deputy Director of Communications, Policy and Campaigns, Shelter; Mr Mark McGoogan, Head of Golden Lane Housing—Mencap's Social Housing Provider, Mencap; Mr Simon Gordon, Head of Communications, National Landlords Association; Ms Margaret Collier, Private Residential Landlord, British Property Federation; Mr Bill Irvine, Spokesman for Policy & Parliamentary Affairs Committee, Scottish Association of Landlords; Mr Sam Lister, Policy and Practice Officer, Chartered Institute of Housing; Cllr Tony Newman, LGA Environment Board Member, Local Government Association; Ms Julie Holden, Head of Revenues and Benefits for Tandridge District Council, Surrey, Institute of Revenue Ratings and Valuation; Helen Goodman MP, Parliamentary Under Secretary of State, Department for Work and Pensions; Mr Paul Howarth, Divisional Manager, Housing Benefit Strategy Division, Work and Wellbeing Group; and Mr Neil Couling, Benefit Strategy Director, Work and Wellbeing Group, Department for Work and Pensions.

21. As part of the inquiry, the Committee also held a seminar with officials from the Valuation Office Agency, Brighton & Hove local authority (Pathfinder authority) and the London Borough of Greenwich (national roll-out authority). We are extremely grateful to all the speakers for a very informative series of presentations and to the DWP Parliamentary liaison team for arranging the seminar.

22. We would also like to thank Peter Kemp, Barnett Professor of Social Policy and Fellow of St Cross College, University of Oxford, for assisting us as Specialist Advisor during the inquiry.¹⁰ We very much appreciate the contribution he made to our work.

¹⁰ Relevant interests of the Specialist Advisor were made available to the Committee before the decision to appoint him on 4 November 2009. The Committee formally noted that Professor Kemp had declared that he was a member of the Department's Housing Strategy Group.

2 Objectives of Local Housing Allowance

23. The Department is carrying out a review of LHA over the first two years of the scheme in which it will be assessed against its objectives of fairness, choice, transparency, personal responsibility, improving administration and reducing barriers to work. The final report of the LHA two-year review will be published in Autumn 2010. The Department argues it cannot reach an overall conclusion on how successfully these objectives have been met until that review is complete.¹¹

24. However, asked about how well the scheme meets its objectives, the DWP Under Secretary of State, Helen Goodman MP, said to the Committee that

[...] the first objective, which was to make the system more transparent and simpler, has certainly been met. What we have got now is a system where LHA rates are set for a whole BRMA instead of the rent officers looking at every individual property. I think we have made some more progress on financial inclusion and personal responsibility because we have increased the number of tenants to whom benefit is paid directly, and alongside that obviously the local authorities have done some more work on helping people to manage their finances and open bank accounts and so forth. I think the new system is considerably fairer in that we are ensuring that people in the same circumstances also all receive the same level of benefit. We think the administration has improved and the £15 excess rules also give people some more choice.¹²

25. Asked about the scheme's impact on reduced barriers to work the Minister responded "in terms of helping people manage their finances, I think that there has definitely been an improvement".¹³

26. Most written submissions to the inquiry stated that, whilst the objectives of LHA are sound, it is falling short of its original intentions and is in need of urgent review to ensure that those intentions can be met in practice. A number of witnesses also said that DWP needed to provide more information to assess the effectiveness of the LHA.¹⁴

Fairness

27. Some argue that fairness has been achieved to a degree. Mark Moss of Moscrop Estate Agents, amongst others, welcomed that the LHA made the rental market a more level playing field as individuals in an area receive a fixed benefit payment in relation to their circumstances.¹⁵ However, CAB argue that the objective was compromised by the decision to introduce LHA for new claims only or on change of address, rather than across the board from a certain date with transitional protection so that no one lost out at the point of

¹¹ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

¹² Q 78

¹³ Q 79

¹⁴ Written evidence from National Landlords Association (LH 25), Child Poverty Action Group (LH 49), Shelter (LH 65), published on the Internet

¹⁵ Written evidence from Mark Moscrop (LH 21), published on the Internet

change. This has meant that tenants in similar circumstances living in the same area may not currently be receiving the same amount of housing benefit if one is receiving LHA and another is still receiving HB under the old rules.¹⁶ The Local Government Association (LGA) suggests that it would take 6 or 7 years before at least 90% of the caseload had transferred to the new scheme. Local authority records show between 30% and 40% take up so far.¹⁷ The Institute of Revenues Rating & Valuation (IRRV) states that with so many different schemes, two neighbours living in identical homes on the same incomes could receive very different levels of support.¹⁸

Choice

28. Mr Lister of the Chartered Institute of Housing suggested that choice has been one of the biggest gains of the scheme because “one of the things that is not often discussed about the Local Housing Allowance is that the extra amount that people are allowed has helped reduce some of the rent shortfalls in some areas. Obviously, the amount that people receive is a bigger determinant of choice than [...] the form in which they are paid”.¹⁹ However, CPAG argues that this is the policy objective that has been most eroded as the LHA has been rolled out nationally and developed further. In Pathfinder areas tenants could keep any LHA they received over and above the amount of rent they had to pay. When the LHA was rolled out nationally the amount of benefit claimants could keep was capped to £15 above the amount of rent they were liable to pay.²⁰ CAB agreed that the principle of choice was compromised in the national roll-out. It argued that the cap has limited the extent to which the tenant can benefit from choosing to make a trade off between quality and price. CAB emphasised that “if the Government goes ahead with its proposal to remove [the entitlement to] excess payments altogether, this would remove any incentive to make such a trade off”.²¹

Transparency

29. Most submissions agree that LHA has achieved transparency in relation to amounts paid in respect of accommodation. CAB, amongst others, stressed that the pre-LHA system was far from transparent as the local reference rent (the maximum rent level under the previous system) was not made public. In addition, the decision making process involved individual property assessments, so that it was not a system which lent itself to transparency.²² Ms Phelps of Citizens Advice stressed that “previously it was very difficult to know exactly because the pre-tenancy determination system did not work very well and it was confusing. On that aspect the transparency has worked well”.²³

¹⁶ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

¹⁷ Written evidence from Local Government Association (LH 74), published on the Internet

¹⁸ Written evidence from Institute of Revenues Ratings and Valuation (LH 80), published on the Internet

¹⁹ Q 76

²⁰ Written evidence from Child Poverty Action Group (LH 49), published on the Internet

²¹ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

²² Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

²³ Q 1

30. Mr Lister of the Chartered Institute of Housing agrees that “Local Housing Allowance is very easy to explain to claimants. One of the problems that you have when people are starting back to work is they understand that they might get some help with the rent but they are not sure how that is calculated and it is easier to start with a flat rate amount to explain that”.²⁴ The Residential Landlords Association suggests that this has reduced the “churn” of tenants which was experienced under the old housing benefit system.²⁵

Improving personal responsibility and financial inclusion

31. This is the most controversial aspect of the LHA and the aspect on which the Committee received most evidence. The majority of written submissions came from individual landlords and letting agents who expressed their concerns over direct payments to tenants. The organisations in favour of the re-instatement of choice in whether the benefit should be paid to the landlord, or to the claimant direct were, amongst others, the National Landlords Association, the Residential Landlords Association, the National Federation of Property Professionals, the British Property Federation, CAB, Child Poverty Action Group, Shelter, Crisis, Centrepoin, Barnardo’s, Rough Sleepers Cymru and Cymorth Cymru.

32. Undoubtedly the reforms have had the effect of increasing personal responsibility in that the default position is now that LHA is paid to the claimant rather than the landlord. The LHA Pathfinder research reported that 84% of payments were being made direct to the tenant by February 2006. This compared with around 40% under the pre-LHA rules.²⁶ The Department reports that now 72% of customers who have their Housing Benefit assessed under the LHA scheme receive their LHA directly.²⁷

33. Ms Holden of the Institute of Revenue Ratings and Evaluation argued that

[...] we think there is a lot of evidence in the past whereby landlords saw the council as the responsible body for paying the rent, and that they did not necessarily in cases have a relationship with their tenant, and they were not necessarily carrying forward their landlord responsibilities. We feel that LHA, through the direct payment, actually makes quite a significant contribution to that. [...] We feel in time that a culture shift will come there and that is the biggest positive that has actually come from [LHA].²⁸

34. However Ms Phelps of CAB stated that the safeguard procedures of identifying vulnerable claimants are not working well:

We are concerned about the fact that local authorities are not being encouraged to be proactive in identifying people who are not going to be able to pay their rent and that is a fundamental primary problem from our point of view. We are seeing a lot of people with rent arrears facing eviction because they have not been identified

²⁴ Q 76

²⁵ Written evidence from Residential Landlords Association (LH 70), published on the Internet

²⁶ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

²⁷ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

²⁸ Q 77

upstream, wait until they get into arrears and then you have to try and help them out of that problem.²⁹

Reducing barriers to work

35. The Chartered Institute of Housing explains that:

[...] the Government claimed that the LHA payment rules would have a positive effect in helping tenants back into work. First, if tenants have responsibility for paying their rent it would enhance their budgeting skills and help reduce any anxiety about their capacity to cope when they start work. Second, tenant payment encourages the tenant to open a bank account which can be seen as another aspect of being work ready.

However, it concludes that “the [Pathfinder] evaluation did not find any evidence of a noticeable effect on labour market participation”. It adds that “overall there is no evidence that the LHA improves labour market participation to any significant extent”.³⁰ The Institute of Revenues Rating and Valuation agrees that a reduction in barriers to work through the scheme is not easy to prove.³¹

36. CPAG believes the DWP aimed at the wrong target in trying to improve work incentives. It argues that the main disincentive to work in the housing benefit scheme is the rate at which benefit is lost when claimants move into work.³² A landlord, Andrew Ashton, told us that “none of my tenants on LHA have demonstrated any [...] desire to get a job. Indeed since LHA rates are higher relative to my previous rental amounts funding their rent from employment would prove more difficult”.³³

37. CPAG also suggests that the complexity of the scheme overall may act as a work disincentive.³⁴ This is echoed by the Chartered Institute of Housing who argue that “despite the improved transparency it has, however, only had a limited impact on claimants understanding as to how much they will receive because of other aspects of the calculation”.³⁵ Centrepoint report that some clients “do not understand why the LHA does not automatically cover all their rent and why they may be required to pay a top-up”.³⁶ CPAG provides the following examples:

We have found claimants and advisers tend to think that the headline LHA rates are the amount of benefit claimants will get. In fact the LHA is the most the claimant can get, all the usual housing benefit rules apply which may reduce this, including non dependent deductions, and income and capital rules.

²⁹ Q 1

³⁰ Written evidence from Chartered Institute of Housing (LH 83), published on the Internet

³¹ Written evidence from Institute of Revenues Ratings and Valuation (LH 80), published on the Internet

³² Written evidence from Child Poverty Action Group (LH 49), published on the Internet

³³ Written evidence from Andrew Ashton (LH 34), published on the Internet

³⁴ Written evidence from Child Poverty Action Group (LH 49), published on the Internet

³⁵ Written evidence from Chartered Institute of Housing (LH 83), published on the Internet

³⁶ Written evidence from Centrepoint (LH 75), published on the Internet

A further common misunderstanding is that claimants and advisers do not realise that the LHA rates change monthly. [...] Claimants also assume that where they change, LHA levels will go up, but in the recession, LHA levels have been falling in many areas. This may result in an unexpected shortfall either when the claim is made or when it is reassessed.³⁷

38. Shelter adds that the new BRMAs restrict claimants' ability to live in the places where there are the most job opportunities, undermining the Government's aim to reduce barriers to work.³⁸

39. The Government's recent consultation paper, Supporting people into work: the next stage of Housing Benefit reform, considers possible reforms that might improve work incentives for people receiving Housing Benefit.

Improving administration

40. The IRRV states that LHA "administration is easier as the wait for rent officer decisions is done away with, and a particular improvement was the scrapping of pre-tenancy determinations. It would be preferable however if all claimants in private rented accommodation were moved to this scheme".³⁹

41. CAB confirms that there has been a steady improvement in HB processing times over recent years, from 59 days in 2001–02 to 27 days in 2007–08. The Pathfinder evaluation found that processing times in the LHA Pathfinder authorities improved by only 2 days more than they did across all authorities.⁴⁰

42. However, the Local Government Association reports that some officers find the payment arrangements to be particularly time consuming and assessing the capped excess (in contrast with the uncapped excess in the Pathfinder pilots) offset the savings from ending individual referrals to the Rent officer.⁴¹

43. CAB refers to findings from the most recent DWP Local Authority omnibus survey (Wave 18, July 2009) which showed that the areas which require more staff time to operate LHA were "dealing with landlord complaints and queries" (80%) and "operating the safeguard policy" (73%). CAB argues that "This clearly indicates that the direct payment aspect of the reforms is causing additional administrative burden to local authorities, and is working against the objective of simpler claims processing".⁴²

44. We welcome the underlying objectives for LHA as set out by the Government. We have heard that some are better met in practice than others. The objective of increasing personal responsibility and financial inclusion through direct payments to the tenant

³⁷ Written evidence from Child Poverty Action Group (LH 49), published on the Internet

³⁸ Written evidence from Shelter (LH 65), published on the Internet

³⁹ Written evidence from Institute of Revenues Ratings and Valuation (LH 80), published on the Internet

⁴⁰ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

⁴¹ Written evidence from Local Government Association (LH 74), published on the Internet

⁴² Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

has proved to be very controversial. We make a number of recommendations in this report about how this aspect of the scheme can be improved.

45. We also welcome the Government's intention to improve access to work. However, whilst LHA has improved the transparency of the scheme, there is clearly still some way to go to improve claimants' understanding, as misconceptions can still act as a barrier to work. We look forward to the outcome of the Government's consultation on this and other points and we encourage our successor Committee to return to this subject.

46. We agree with the Government that improved personal responsibility will have a positive impact on work readiness. We make a number of recommendations in this report as to how the Government could better support claimants to achieve this. We also make recommendations on how the Department can directly strengthen the objective of removing barriers to work, which we believe is fundamental to the success of the scheme, for example by placing this objective at the heart of defining the boundaries for Broad Rental Market Areas.

3 Direct payments—principles

47. According to the Department, criticisms had been made about the previous practice of paying benefit direct to landlords, including that it effectively cut tenants out of the rent cycle altogether and instead established a relationship between landlords and the Housing Benefit department of the local authority. It suggests that Housing Benefit then became the responsibility of the landlord rather than the tenant and this in turn perpetuated a benefit dependency culture among tenants who felt disconnected from the rent payment process.⁴³

48. The Department told us during our inquiry into Child Poverty that:

The LHA will improve work readiness for parents. The LHA promotes personal responsibility, by making benefit payments to tenants and giving them responsibility for paying their rent. This, together with the promotion of financial inclusion by encouraging claimants to receive their benefit into bank accounts, will help parents when they take a job.⁴⁴

49. However, Shelter’s research has found that most claimants would prefer to have their LHA paid directly to their landlord. 46% who have had experience of both forms of payment found that landlord payment helped them most in managing their rent and household budget.⁴⁵ The Residential Landlords Association argued that the ability to make arrangements for a third party to receive payment direct is just as much a matter of choice or managing one’s own financial affairs as direct payments to the tenant.

It is interesting that at the moment the Water Industry are complaining about the Water Direct system which enables water charges to be paid direct by DWP from benefits. Nonsensically, at the moment, a tenant can only sign up to this scheme once he/she is in arrears with their water charges. It is far more sensible for someone to be able to do this as part of their financial planning to avoid them getting into arrears in the first place. The same should also apply to LHA.⁴⁶

50. Mr Gordon of the National Landlords Association said that “there is [a] component of choice that is missing here and that is that some tenants will say that they still prefer the benefit paid to the landlord. [...] All we are saying is that the right for the tenant to opt for the payment to go to the landlord should be restored”.⁴⁷ Ms Davey of Shelter added that this choice should be available to all tenants, even if they are not deemed vulnerable or unable to cope with managing their finances: “it is important not to say that all people who have landlord direct payment are not able to manage their budgets; sometimes they would want to make a very active choice to do so”.⁴⁸

⁴³ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

⁴⁴ Work and Pensions Committee *The best start in life? Alleviating deprivation, improving social mobility and eradicating child poverty* Second Report of Session 2007–08, ev 138

⁴⁵ Written evidence from Shelter (LH 65), published on the Internet

⁴⁶ Written evidence from Residential Landlords Association (LH 70), published on the Internet

⁴⁷ Q 48

⁴⁸ Q 8

51. However, Ms Holden of the IRRV disagreed and stressed that:

It is convenient for a landlord to have the money paid directly. It is convenient for a tenant not to have to deal with that amount of money, but it is abdicating responsibility, and my view is that in many cases what we see is our tenants saying, yes, they prefer that because then they do not have to deal with it, they do not have to bother about it. As a practitioner for over 20 years, I have heard so many customers say to me, 'You pay my rent; the council pays my rent' and they do not see the link themselves. To me that is where it comes from. It is a cultural thing and it will change and I suspect in time the majority of tenants will say, 'No, I prefer to take the responsibility myself.'⁴⁹

52. The Chartered Institute of Housing added that tenant choice is in practice not a real choice and that:

[...] under the rent referral scheme although the tenant is allowed to select landlord payment the effect in practice is that landlords almost routinely demand it as a condition of agreeing to the tenancy. [...] Second, it follows if the vast majority of tenants select landlord payment (whether freely or otherwise) then the overall bargaining power of tenants is diminished. [...] The result is that those who are least able to cope with the pressures associated with poor housing have no choice but to accept it.⁵⁰

53. This argument was echoed by the Minister who stressed that:

[...] what we have found in the past, unfortunately, was that what was intended to be the tenant's choice ended up, in some instances, being the landlord's choice and that landlords were saying that they would not take on tenants unless they could be guaranteed to get the payments of the benefit directly. We are really trying here to address the dependency culture and we are really trying here to build up people's financial management capacities, and I think it is helpful to look at what has happened in terms of the numbers, so before the changes about half of tenants were getting the payments direct and half were going direct to the landlord, whereas now about 72% are going direct to the tenant and 28% to the landlord.⁵¹

54. Mr Lister of the Chartered Institute of Housing suggested that there was some evidence from the Pathfinders that tenants' views were coloured somewhat by the landlords' expectations. He said that tenants' views were also affected by what they were used to:

I think that is what the Pathfinders found in that they did find a small difference between people with claims who had been on the pre-LHA system and new claims who had to go through the LHA system itself. Those who were new claims and had only ever experienced the LHA were more likely to approve of the new system. I think it is partly an issue about change for people and getting used to it.⁵²

⁴⁹ Q 91

⁵⁰ Written evidence from Chartered Institute of Housing (LH 83), published on the Internet

⁵¹ Q 128

⁵² Q 89

55. **We fully support the objectives behind direct payments to tenants to promote personal responsibility and financial inclusion and, through this, removing barriers to work. We believe direct payments to the tenant should remain the default supported by the necessary financial advice and vulnerability safeguards as discussed in this report. Managing one's own finances is an important element of work-readiness which the Government should aim to support. There is evidence that giving tenants the choice of having rent either paid to them or the landlord may not be a real choice as landlords then tend to demand direct payments to them as a condition of agreeing to the tenancy. Such an arrangement would defeat this important objective of the scheme and help perpetuate benefit dependency.**

56. Despite the Minister's strong backing for default payments to tenants and the underlying objective of removing barriers to work, the Department states that it "would like to consider [...] returning to an element of customer choice in how payments of Housing Benefit are made. This could, for example, mean that benefit is paid to landlords, but only on condition that the quality of the accommodation is improved or that certain energy efficiency standards are met".⁵³

57. When we asked the Minister whether the objective of meeting energy efficiency standards was more important than removing barriers to work she responded:

[...] we have got objectives to cut our carbon and the carbon footprint of the housing stock is very significant in this and we do need to look at strengthening the policy levers, and we think this might be one policy lever. I am not saying that this is more or less important than work incentives, but clearly we have got that backstop date of 2050 and we have to make some progress on it.⁵⁴

58. Cllr Newman of the Local Government Association agreed that "if the state is paying housing benefit to landlords there should be a clear link that the accommodation provided is of the highest possible standard".⁵⁵ However, Ms Collier of the British Property Federation called the proposal the "Grand Old Duke of York-ism on the part of the Department of Work & Pensions, because they just removed, with [LHA], all elements where the rent officer assessed the quality of the property. That has been removed on the basis of simplicity. [...] it does not seem to fit with the agreed targets".⁵⁶

59. Mr Lister of the Chartered Institute of Housing agreed that

Either the housing benefit officers have got to do the assessment of whether it is up to standard or not, or you have to have some other process whereby it is taken out and somebody else does that and then it comes back again, which is pretty much like what the rent officers were doing beforehand. We want to see ways in which

⁵³ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

⁵⁴ Q 129

⁵⁵ Q 87

⁵⁶ Q 57

standards can be improved and we are not entirely convinced that it is the right model.⁵⁷

Both points were echoed by Ms Holden who said that

[...] improving the standard of properties has got to be a good thing, and we will look for work in that area, but housing benefit officers are not property inspectors, they are not specialised in that field, and I would be concerned about the increase in the administration if that were to become part of the scheme.⁵⁸

60. We seriously question the Government's suggestion to re-introduce tenant choice as to whether the payment is made to them or to the landlord under the condition that energy efficiency standards are met. We believe that this proposal would undermine a number of important objectives for LHA. It would bring back administrative burdens and benefit complexity just removed by the scheme and, most importantly, would undermine the objective of removing barriers to work as set out above. We agree with the witnesses to this inquiry who argued that standards should be improved and energy efficiency targets met, but looking at the objectives behind LHA we think that trying to achieve this through LHA would do more harm than good.

⁵⁷ Q 88

⁵⁸ Q 88

4 Direct payments—practicalities

Access to bank accounts

61. The Department states that “ideally, the Government wants people to have their housing payments paid into a bank account and to set up a standing order or direct debit to pay the rent to their landlord. This has the advantage of being a safe and secure method of payment”.⁵⁹ However, evidence to the inquiry has revealed problems with this approach.

62. Ms Holden of the Institute of Revenue Ratings and Valuation (IRRV) reports that “there has been resistance in the banks, certainly in the early days, and some of the Pathfinders found this particularly and had to go and speak directly with the banks in order to get them on board. There is not a great deal of incentive for a bank necessarily to have a basic bank account which does not pay them much of a dividend”.⁶⁰ The Chartered Institute of Housing (CIH) suggests that “sometimes the Banks encourage claimants to open more expensive accounts than is strictly necessary”.⁶¹

63. Another common problem is that some of the more vulnerable clients have difficulty providing appropriate evidence to establish their identity to open an account. For example, Housing of Multiple Occupation (HMO) tenants can often not provide utility bills where these are paid by their landlord. Mr Lister of the CIH said “I think there was one example in some of the Pathfinder evidence where the bank were asking for proof of benefits for the proof of identity where it should be the other way round”.⁶²

64. Wirral Council states that the introduction of LHA required a return to the issuing of cheques which had been withdrawn some years earlier upon grounds of cost and payment security. It argues that, in practice, a fair proportion of claimants do not have bank accounts, or do not admit to having one, and despite consistent activity to encourage and assist with opening them, they are reluctant to do so for various reasons.⁶³

65. Mr Lister of the CIH explained that “there are examples in the Pathfinders where people did not want it paid into their account because they already had debts with the bank and they were worried that the payment would just be swallowed up by the bank and they would not be able to get access to it in order to pay the rent.”⁶⁴ In the Blackpool Pathfinder, of those that declined ACT payments (one third of tenant payment cases), the vast majority did have a bank account but preferred (for whatever reason) to be paid by crossed cheque.⁶⁵

66. However, Wirral Council, amongst others, stressed that “paying by cheque not only has cost implications for the authority but significantly, in many cases, has resulted in a loss of

⁵⁹ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

⁶⁰ Q 92

⁶¹ Written evidence from Chartered Institute of Housing (LH 83), published on the Internet

⁶² Q 94

⁶³ Written evidence from Wirral Council (LH 90), published on the Internet

⁶⁴ Q 95

⁶⁵ Written evidence from Chartered Institute of Housing (LH 83), published on the Internet

benefit to those claimants who choose to cash their cheques at ‘cash converters’, generally losing around 5–6% of the face value together with paying an administration fee”.⁶⁶ Mr Irvine of the Scottish Association of Landlords added that payments in cheques are also more prone to fraud “if you are on benefit [...] and you have a cheque for £1,000 or £1,200 that you can then cash, and you take it along to one of these cash converters and they take a percentage of that as well and you then run away with the money and move on to another person”.⁶⁷

67. Wirral Council reports that many claimants paid by cheque have persistently asked that their LHA is paid into their Post Office Card Account (POCA).⁶⁸ The POCA does not have the facility to make direct debit payments. Ms Holden of the IRRV also explained that the POCA has never been able to accept housing benefit payments. She stressed “it is the payment account set up mostly for pensioners (but not just) with the idea of paying in pension credits and other welfare benefits but it has never accepted housing benefit, which I have to say, if it could, it would make a huge difference in helping people to manage their budgets”.⁶⁹ Wirral Council added “it is worthy to note the frustration of claimants, their representatives, practitioners and locally elected members on this front”.⁷⁰

68. We agree with the Government that LHA payments into a bank account are the most secure way of payment, less prone to fraud and financially efficient. Ideally, claimants are able to manage their finances by setting up a standing order or direct debit to pay the rent to their landlord. This represents an important step to improved personal responsibility and job readiness and the majority of claimants seem to have made that important transition.

69. However, we have heard that some people are experiencing problems with setting up a bank account or managing their account, particularly if they have already run into debt. We strongly believe that the policy of direct payments to the tenant is only working well when these practical problems are addressed on an individual basis. Local authorities should use their discretion as to the form in which they pay LHA.

70. Paying LHA into the Post Office Card Account would make the system easier to manage for claimants and we recommend accordingly that provision should be made for the Post Office Card Account to accept LHA payments.

Timing of payments

71. We have heard that there are two reasons why the timing of direct payments to the tenant can have a negative impact on claimants’ ability to manage their finances properly. Firstly, LHA is paid in arrears (meaning the claimant starts off in arrears because landlords usually request the payment for the first month in advance) and secondly payments are

⁶⁶ Written evidence from Wirral Council (LH 90), published on the Internet

⁶⁷ Q 51

⁶⁸ Written evidence from Wirral Council (LH 90), published on the Internet

⁶⁹ Q 83

⁷⁰ Written evidence from Wirral Council (LH 90), published on the Internet

then made fortnightly, weekly or every four weeks, instead of per calendar month (when rent is usually due).⁷¹

72. In terms of the first payment of LHA paid in arrears, Mr Irvine of the Scottish Landlords Association suggested it would increase landlords' confidence if "the [first] cheque can be made payable to the landlord, given to the tenant. If that was to happen, that would reduce a lot of the arrears that currently happen. For some reason, that does not happen".⁷² The Minister told us that "in Leeds the first benefit cheque is made out to the landlord, but given to the tenant and that means that their systems work much better than in places where the first cheque is also made out to the tenant, but again that is a question of the local authorities' administrative capacity".⁷³

73. The fact that the first LHA payment is paid in arrears makes it difficult for some to manage their finances and has been the subject of concern to some landlords. We recommend that it should be standard practice for local authorities to give the first cheque to the tenants, payable to the landlord. We believe this will give the tenant time to get used to the new scheme and provide the landlord with some confidence in receiving the payment.

74. Ms Phelps of CAB said that an added problem is that "in virtually every case the landlord wants a calendar monthly payment and benefit cannot be paid calendar monthly, it is paid two-weekly or four-weekly into your account". She stressed that "if your account has virtually nothing else in it because you are on a very low budget then the chances are that you are going to get overdrawn, you are going to have bank charges, and we have seen various cases where people have found if they are already overdrawn their entire LHA has been taken, if you like, by the bank for that and they have not been able to budget".⁷⁴

75. Clark-Welch Partnership argued this is sometimes the case because some banks do not allow a fortnightly standing order: "as rent is credited fortnightly, this means that the funds have to remain in the claimants account until the following fortnightly payment. This can result in the claimant inadvertently using some of this balance causing the four-weekly standing order to fail due to lack of funds resulting in another £30 penalty and the landlord not receiving the rent".⁷⁵ The Bond Board argued "With a number of other welfare benefits paid on a similar timescale, tenants have mistaken a housing payment for another welfare benefit and have fallen into arrears".⁷⁶

76. When standing orders have been set up to pay rent, delays with LHA payments have caused accounts to become overdrawn, resulting in interest payments and bank charges being incurred by the claimant.⁷⁷

⁷¹ Written evidence from Crisis (LH 73), published on the Internet

⁷² Q 45

⁷³ Q 125

⁷⁴ Q 6

⁷⁵ Written evidence from Clark-Welch Partnership (LH 22), published on the Internet

⁷⁶ Written evidence from The Bond Board (LH 77), published on the Internet

⁷⁷ Written evidence from Cymorth Cymru (LH 43), published on the Internet

77. Ms Holden of the IRRV suggested “this comes down to individual authorities as regards to the way that they use the scheme. Payments can be aligned with the rental frequency so it should not actually be a major problem”.⁷⁸ The Minister agreed that it was “extremely frustrating for both landlords and tenants that rent tends to be charged on a monthly basis, whereas benefit tends to be paid on a fortnightly or four-weekly basis, and the problem is that only some local authorities have got the IT kit for resolving that and there cannot be a general change to tidy this up until all the local authorities have done that”.⁷⁹

78. We recognise that the cycle of LHA payments (fortnightly, weekly or every four weeks) instead of monthly (when rent is usually due) is making it difficult for claimants to manage their budgets. We recommend that the Department reviews payment cycles of LHA to avoid an unnecessary burden on claimants and to reinforce the financial capability agenda.

Access to financial advice services

79. The Department acknowledges that some Housing Benefit managers believe customers are having more difficulties than may have been expected in managing their financial affairs. It reports that in wave 18 of the Local Authority Omnibus Survey (after national roll-out of LHA), 43% of local authority managers that responded said that fewer than 10% of LHA customers needed money advice and 29% said that 10–24% of LHA customers needed money advice. This represents an increase on what was predicted in wave 16 of the Local Authority Omnibus Survey (before national roll-out) when 53% of local authorities predicted fewer than 10% of LHA customers would need money advice and 18% predicted 10–24% would need it.⁸⁰

80. However, the Department argues that it provided funding of £59 million for local authorities to introduce the change. This amount included funding for authorities to provide money advice and other support services for tenants, some of whom may be managing Housing Benefit or bank accounts for the first time. The Government continues to subsidise local authorities to administer Housing Benefit at a cost of over £500 million per year. The Government also provided £125 million during the economic downturn to support local authorities handling additional Housing Benefit claims.⁸¹

81. Shelter’s research revealed that people who had received advice from their local authority or landlord were far less satisfied with the quality of the advice than those who had received advice from a charity or benefits advice centre. Of the respondents who had contacted their local authority for advice, 25% were dissatisfied with the help they received. When asked for their reasons for being less than very satisfied with the advice they were given, 24% of respondents said that staff at the local authority were unhelpful or gave contradictory information. Some people found local authority staff to be unhelpful in

⁷⁸ Q 97

⁷⁹ Q 125

⁸⁰ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

⁸¹ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

explaining application forms and invoices to claimants, or in helping claimants to understand how their entitlement is calculated.⁸²

82. The National Landlords Association argues that “as Crisis's research highlights, agencies are being left to pick up the pieces when it comes to supporting and advising LHA claimants. Although the Government's vision incorporated financial inclusion elements within LHA, it is clear that housing benefit officers are ill placed to take on the much needed role of wider support services”.⁸³

83. CAB argues that, during the pathfinder stage, there was a recognition of the need for advice services to support claimants in taking on this significant financial responsibility, as well as in identifying and helping more vulnerable claimants to apply for payment to be made direct to the landlord before they got into financial difficulty. This was supported by dedicated funding to advice services such as CAB, which enabled them to provide a dedicated service for referrals from the housing benefit department to support clients, and helping claimants to open and manage a bank account successfully. That funding provision was not continued with the national roll out. CAB states that “the absence of specific funding arrangements has undoubtedly prevented a more dedicated support service aimed at arrears prevention from being developed”.⁸⁴

84. This point is echoed by the Scottish Association of Landlords who report that

[...] 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. None of this ‘pilot’ support was extended to private sector areas and Citizens Advice Scotland (CAS) and for that matter, local bureaux could not have in any case coped with the problems of LHA in addition to all the other raft of problems it grapples with year-on-year never mind the mountain of debt related issues arising from the Credit Crunch and general recession.⁸⁵

85. We asked the Minister why the Department did not ensure that LHA was rolled out nationally with the same level of support for financial advice as in the Pathfinders. She responded that

[...] it is helpful to see this alongside all the other things that we are doing on financial inclusion. For example, as I am sure you know, DBIS have got much more money guidance, we have invested £20 million in that, and there are a whole range of other financial inclusion strategies, so I would not think that we would have to repeat all of those because there are other policies in other parts of Government that are dealing with that.⁸⁶

⁸² Written evidence from Shelter (LH 65), published on the Internet

⁸³ Written evidence from National Landlords Association (LH 25), published on the Internet

⁸⁴ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

⁸⁵ Written evidence from Scottish Association of Landlords (LH 35), published on the Internet

⁸⁶ Q77 Note by witness: The Department has since clarified that funding for money advice was paid to local authorities at the rollout stage of the LHA, but this was paid within the overall £59 million rollout funding.

86. We believe the Government should monitor the need for additional advice services to help claimants and provide the necessary funding. There is evidence that at this initial stage of the scheme there is increased need for financial guidance and advice on setting up bank accounts and managing finances. We recommend that new LHA claimants should be a high priority for signposting to financial advice services.

5 Vulnerable claimants and rent arrears

Rent arrears

87. CAB states that over recent months, bureaux have increasingly reported cases where clients have fallen into arrears as a result of having their LHA paid directly to them. It states that “while it is not possible to quantify the extent of this increase, it is perhaps significant that CAB statistics for 2008–09, the first year of LHA, show a 17% increase in private tenant rent arrears enquiries. In contrast, rent arrears enquiries from social housing tenants rose by only 3%. It seems probable that this is connected with the fact that housing benefit is usually paid direct to social landlords, thus protecting this element of tenants’ income from their wider budget pressures”.⁸⁷

88. Crisis research shows that 82% of access schemes (which help homeless people to obtain accommodation in the private rented sector) which responded to their survey said they had noticed claimants falling behind with their rent payments some or most of the time and a further 11% said LHA claimants always fall behind with their rent.⁸⁸

89. The National Landlords Association’s survey found that the total amount of arrears attributable to LHA tenancies was £4.2 million. This represents an average of £4,442.90 per landlord and £368.62 per LHA tenancy. The NLA suggests that “although there is a lack of official statistics to facilitate a proper analysis of the issue, there is wide evidence that problems with rental payments have increased”.⁸⁹

90. However, the Centre for Research in Social Policy, Loughborough University found that all but a few claimants were managing their rent and making payments to their landlord. It states that most claimants prioritised paying their rent above all other financial activities and took this financial responsibility very seriously.⁹⁰ Ms Davey of Shelter disagreed “I would question that it is impacting on a very small number; certainly we are seeing more problems than we used to.”⁹¹

91. The Chartered Institute of Housing referred to evidence from the Pathfinders which suggested that the switch to tenant payment did not result in increased rent arrears. It argued that “the average rate of landlord payment among the pathfinders was 10–15% and this is itself a good indicator that most tenants manage paying the rent perfectly well. The evidence that landlord payment helps reduce arrears is in fact weak”.⁹²

92. This is echoed by the Local Government Association who suggested that “there does not seem to be any evidence that LHA is leading directly to an increase in homelessness. In fact, during this year homeless applications have decreased in many local authorities. If we

⁸⁷ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

⁸⁸ Written evidence from Crisis (LH 73), published on the Internet

⁸⁹ Written evidence from National Landlords Association (LH 25), published on the Internet

⁹⁰ Written evidence from Centre for Research in Social Policy, Loughborough University (LH 46), published on the Internet

⁹¹ Q 7

⁹² Written evidence from Chartered Institute of Housing (LH 83), published on the Internet

were to believe that the direct payments had resulted in evictions due to non payment of rent we would have expected this number to have increased”.⁹³

93. Mr Lister of the CIH confirmed that “in terms of national figures overall and national statistics, you will see from [...] looking at the statutory homelessness figures for England over the past three years, [...] it has roughly halved”.⁹⁴ He added that “the overall caseload number of acceptances has broadly halved in the three-year period from 2006 to 2009, from 20,000 to 10,000. There are various reasons collected in the official statistics and if you just look at the figures for rent arrears those have actually gone down by about the same proportion, and it is only a small proportion of those”.⁹⁵

94. The Minister stressed “we have not got evidence of increasing rent arrears”.⁹⁶ Mr Howarth of DWP clarified that

[...] local authorities will not of course hold data about their private rented tenants in rental arrears, so we do have to rely on statistics such as county court possessions which tell us that those have remained constant over the last few months [...]. We also rely on the statistics [...] about people who are accepted as homeless by local authorities and placed in temporary accommodation, and of course those figures are dropping. We look at all the evidence we can piece together on this and see if there are any trends, and there may be certain indicators and certain bits of research which have shown that there is some increase here, but we have not seen any national evidence of this.⁹⁷

95. We have received mixed evidence on the effect of direct payments to tenants on levels of rent arrears. The availability of data on rent arrears is scarce and the surveys of stakeholder groups are not representative. However, there is welcome evidence that numbers for evictions and homelessness are actually falling nationally. We recommend that the Department commissions a more representative in-depth study on rent arrears, and the reasons for them, to gain a clearer picture of the scale of the problem.

Vulnerability safeguards

Eight weeks rule

96. The decision as to when to consider payment direct to the landlord is included in the LHA Guidance Manual which was issued to all local authorities when the LHA was introduced. The Department states that the Government has acted on concerns raised about the guidance provided to local authorities on the operation of safeguards. Revised guidance was issued to local authorities in December 2009.⁹⁸

⁹³ Written evidence from Local Government Association (LH 74), published on the Internet

⁹⁴ Q 102

⁹⁵ Q 103

⁹⁶ Q 132

⁹⁷ Q 132

⁹⁸ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

97. A local authority can make a decision to make payment to landlords in broadly three circumstances: 1) When a customer reaches rent arrears of eight weeks or more; 2) when the tenant is unlikely to pay, for example, where the local authority knows from past experience that the tenant is likely to abscond with the rent payment, or; 3) when the tenant is likely to have difficulty in managing their financial affairs, for example, due to a drug or alcohol dependency or because of a relevant medical condition.⁹⁹

98. Oxford City Council, amongst others, argued that:

[...] the 8 week rule is [...] badly implemented, the vast majority of tenants rent is charged in advance, so by the time that HB agree that 8 weeks is in arrears, the tenant is effectively 3 months in arrears, when the reality is that the tenant is in 2 months arrears at the point where the second month rent becomes liable, but HB departments would argue that they are only 4 weeks in arrears.¹⁰⁰

99. The North West Landlords' Association points out that after 8 weeks, "if the rent is, say £100pw, the tenant will owe £800 before rent is paid direct to the landlord. The rate at which that money can be recovered from benefits is around £3 per week. Ignoring interest costs, it would take over 5 years to recover a debt run up in 8 weeks".¹⁰¹

100. An individual landlord, Brian Mullan, amongst others, argued "we cannot afford the loss of 8 weeks rent, extra trouble in collecting rent, cost of court action and loss of rent while court action is progressing".¹⁰² The Paragon Group of Companies has also heard anecdotal evidence that landlords now only accept housing benefit tenants who are already in rent arrears so that rent payments are received directly from the Local Authority.¹⁰³

101. Mr Lister of the CIH clarified that

The eight-week rule is when direct payments become mandatory. The point is there is lots of discretion in the system already for direct payments to be made beforehand. First of all, it is up to the authority to decide whether they consider it unlikely that someone will pay their rent. They have also got that discretion in deciding whether somebody is vulnerable at all or not. There is also a rule which allows them, if they suspect that either of those two might be the case, to be paid on that basis for up to eight weeks."¹⁰⁴ Ms Holden of the IRRV added that "discretion is used and certainly exercised in authorities. [...] I do not think it is necessary to change the law for the compulsory payment prior to eight weeks because we already do have that safeguard in there if used effectively by authorities, and I believe it is."¹⁰⁵

102. Mr Howarth of DWP suggested that:

⁹⁹ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

¹⁰⁰ Written evidence from Oxford City Council (LH 81), published on the Internet

¹⁰¹ Written evidence from North West Landlords' Association (LH 79), published on the Internet

¹⁰² Written evidence from Brian Mullan (LH 14), published on the Internet

¹⁰³ Written evidence from Paragon Group of Companies (LH 44), published on the Internet

¹⁰⁴ Q 105

¹⁰⁵ Q 105

[...] the local authority should be alert to any signs of rent arrears, and of course the landlord is perfectly at liberty to tell the local authority as soon as there are signs of any trouble and, at the outset of a claim, of course the local authority can pay the landlord while the investigations are taking place on the safeguards, so I think there are quite a few procedures in place to ensure that there is an approach taken by the local authority that will help prevent serious arrears mounting.¹⁰⁶

103. The Minister stressed that:

[...] the tenant becomes technically eight weeks in arrears at the five-week point because benefit is paid retrospectively, but landlords are requiring rent to be paid in advance, so the eight-week point is in fact reached when the person has been living in the property for just over four weeks. I hope that the new guidance which we sent out in December will have made that clear.¹⁰⁷

She added that “one of the things you said was that the local authorities have not always administered it as well as possible. Well, I am afraid I have to say to you that that is their responsibility, not the responsibility of the Department of Work and Pensions”.¹⁰⁸

104. The evidence on the eight week safeguard rule suggests that it is not fully understood and that implementation varies across local authorities. We strongly believe that it is the Department’s responsibility to ensure that local authorities understand the rules and implement them correctly. The rules need not change if eight weeks arrears remains the upper limit for when payments must go to the landlord and include the first payment, which is usually paid in arrears. However, local authorities should liaise with landlords and financial advice services to identify those clients at an early stage who are likely to run into arrears and put safeguards in place.

Early intervention

105. Shelter research into practice at around 50 local authorities has found a lack of consistency across local authorities in defining vulnerability, as well as disparities in the application process and accessibility of information and guidance.¹⁰⁹ Shelter states that a DWP survey found that only 55% of local authority staff had received any training to make determinations about whether a claimant needed safeguards to be applied to their case.¹¹⁰

106. Ms Davey of Shelter argued

[...] there was a huge amount of evidence from the old guidance that that simply was not working and there was huge inconsistency across local authorities, even to the extent where we had evidence a Housing Benefit team in a local authority was not

¹⁰⁶ Q 126

¹⁰⁷ Q 125

¹⁰⁸ Q 125

¹⁰⁹ Written evidence from Shelter (LH 65), published on the Internet

¹¹⁰ Written evidence from Shelter (LH 65), published on the Internet

accepting referrals from the homeless person's unit in the same authority around vulnerability, which we think was a really shocking state of affairs.¹¹¹

107. The National Landlords Association states that lack of transparency and consistency both across and within authorities in identifying vulnerable claimants is inadequate for two reasons: "Landlords typically have to deal with more than one local authority and are left confused by procedures and rules that vary for no explicit reason; and it is unclear whether local authorities are taking into account current best practice in determining their local procedures".¹¹²

108. The Residential Landlords Association suggests that "although local authorities deny that they are subject to targets there seems to be a wish to demonstrate the lowest possible percentage of cases where direct payment is being made to landlords due to vulnerability. Each local authority operates and implements its own policy. For example Hull is operating at 14% of LHA claimants and Leeds at 22%".¹¹³

109. The IRRV reports that in its survey, guidance originally given by the DWP was cited as very strict; an example given being, "if you see a reforming alcoholic there is no reason not to pay them direct payments".¹¹⁴ CAB adds "indeed the DWP guidance does not suggest that they should be pro-active. Instead, the emphasis is on the claimant themselves making a request, supported by evidence".¹¹⁵ It refers to the following extract from a local authority website:

The claimant and/or their representative should let the local authority know they wish to be considered as vulnerable and their Local Housing Allowance paid direct to their landlord. This first contact can be via letter, email, and phone or via the application form. However the LA will expect to receive written evidence from a number of sources.¹¹⁶

110. CAB argues that such an approach is destined to fail, as its success is dependent on the vulnerable claimant firstly being aware that there is such a procedure and secondly being able and willing to take the necessary steps, in addition to that required for making an HB application, in order to comply with it.¹¹⁷ A number of submissions also stated that the process is resented by some claimants who see it as intrusive, and are unwilling to go through a process to demonstrate their vulnerability.

111. Ms Phelps of CAB emphasised that

[...] it is the right approach to encourage people to take risks and try to achieve independence, but what one would expect is that it is done very carefully looking at the individual circumstances and making sure that those risks are proportionate and

¹¹¹ Q 16

¹¹² Written evidence from Graham Barnes (LH 26), published on the Internet

¹¹³ Written evidence from Residential Landlords Association (LH 70), published on the Internet

¹¹⁴ Written evidence from Institute of Revenues Ratings and Valuation (LH 80), published on the Internet

¹¹⁵ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

¹¹⁶ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

¹¹⁷ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

carefully managed. That is how it would work in other parts of the welfare system, but in the Housing Benefit system it is a bit of a rough tool without that sensitivity of looking at the individual circumstances.¹¹⁸

112. However, the Chartered Institute of Housing stressed that:

[...] a balance needs to be struck in assessing the evidence as some landlords will go to great lengths to get payment switched to them. Indeed some agencies have argued that it is too easy for landlords to get payment suspended (for example by an unsubstantiated allegation) and that a very high (and unfair) standard of evidence is required to get the decision reversed. They argue that tenant payment should continue until the landlord provides evidence.¹¹⁹

It refers to evidence from the Blackpool Pathfinder which shows that the majority of the requests for landlord payment (56%) came from the landlords themselves, whilst only 16% were made by the tenant. The third highest source of requests was from the homelessness service (15%).¹²⁰

113. Mr Howarth of DWP concluded that:

[...] it is very tricky, it is a balance, and obviously, for the reasons we have set out, we want to enhance personal responsibility and we want to ensure that most people handle their affairs themselves. At the same time, we do want to identify those people who fall into the categories we have set out and we want to ensure that local authorities have the tools to do that and do so as well as they possibly can.¹²¹

The Minister added “one of the things we are going to do to deal with this is look at where things are working well and we are hoping that we will be able to issue some best practice guidance to local authorities”.¹²²

114. It is a difficult balance to strike for the Department to enhance personal responsibility and to identify vulnerable claimants early in the process to avoid the build-up of rent arrears and possibly even eviction. We believe that in order to achieve the objective of greater personal financial responsibility it is important that local authorities apply a personalised approach to advising and dealing with claimants. Local authorities should also seek the insight of financial advice services and the voluntary sector to pro-actively identify vulnerable claimants. The onus should not be on the claimant to inform the local authority that they are vulnerable. We welcome the Minister’s assurance that the Department will issue further guidance and some best practice examples to local authorities to ensure that good practice is applied more consistently between and within local authorities.

¹¹⁸ Q 16

¹¹⁹ Written evidence from Chartered Institute of Housing (LH 83), published on the Internet

¹²⁰ Written evidence from Chartered Institute of Housing (LH 83), published on the Internet

¹²¹ Q 131

¹²² Q 131

6 Broad Rental Market Areas

BRMA boundaries and access to work

115. Tenants receive a set amount of LHA based on the median rent level in their Broad Rental Market Area (BRMA). Ms Phelps of CAB argued that “the BRMA calculation is one of the least transparent, nobody can understand it. It is an absolute nightmare to try and explain to somebody how the boundary was drawn in that way”.¹²³ The Department recognises that the setting of areas is not always transparent and that this has been an area of controversy. It proposes to look for a better way to set boundaries which define local benefit areas which do not rely on proxy indicators of a rental market.¹²⁴

116. The Department also acknowledges that BRMAs can become quite large where regional services and facilities are concentrated within a small geographical area. Large areas where rent levels differ widely, can create problems, requiring customers to move some distance in order to find affordable housing. However, it argues that much smaller areas may result in pockets of either very low or very high LHA rates.¹²⁵

117. Shelter’s *A Postcode Lottery* research found that in some larger BRMAs the median rent does not offer a fair reflection of the extremes of the range of rents within those areas. This means that LHA claimants are unable to afford to live in parts of the area where the rent is much higher than they can claim on LHA. For example, in the Cambridge BRMA, the level at which LHA is set effectively excludes claimants from living in the city of Cambridge and its suburbs, where suitable jobs are more likely to be located.¹²⁶ Ms Davey of Shelter explains that the Cambridge BRMA “includes both central Cambridge, where rents are relatively high, but also a reasonable amount of rural Cambridgeshire where rents are much lower, which in effect means that LHA claimants are unable to live in the centre of the city where, of course, all the work opportunities are by and large.”¹²⁷

118. Cambridge City Council states that “this is in direct conflict with the Government’s desire in reducing barriers to work as the distance and cost of travel is too great to sustain low paid work within the City. Housing Benefit is a cornerstone of in-work benefits, but only if it can encourage claimants to take often part time, low paid or seasonal work as a start in to employment”.¹²⁸ The Council also reports that 57% of Discretionary Housing Payments awarded during 2009–10 have been to LHA claimants to meet the shortfall between LHA and the eligible rent. It suggests that this will increase as more claimants move on to LHA. The Council also lost use of at least 11 properties that were formerly used under a scheme to reduce homelessness because LHA rates did not meet rent levels;

¹²³ Q 20

¹²⁴ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

¹²⁵ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

¹²⁶ Written evidence from Shelter (LH 65), published on the Internet

¹²⁷ Q 19

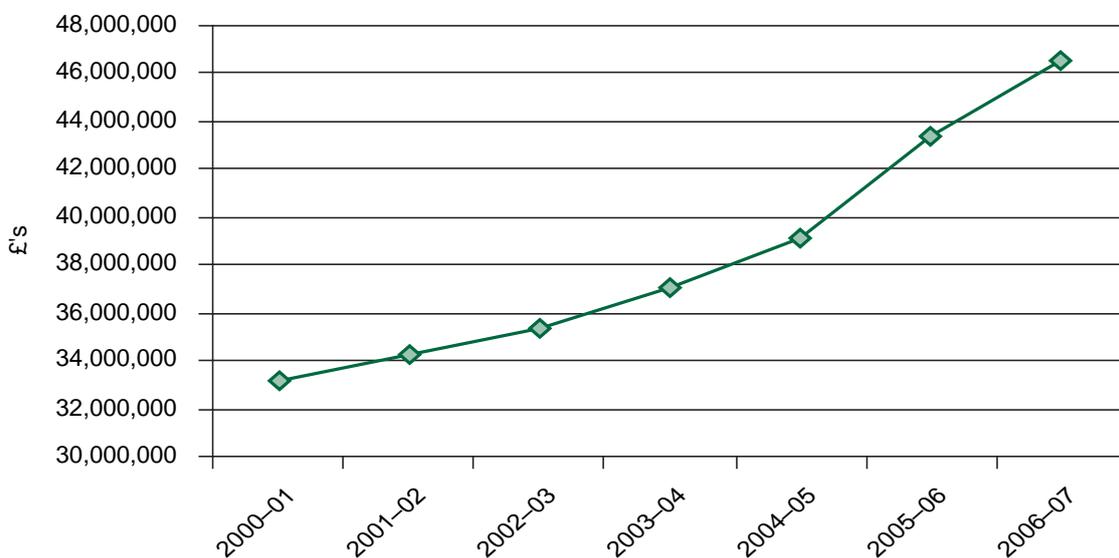
¹²⁸ Written evidence from Cambridge City Council (LH 58), published on the Internet

“unfortunately the landlords were unable to decrease the rent for these properties to match the LHA rates”.¹²⁹

119. In Blackpool, the impact of the BRMA boundaries has been the opposite to the effect in Cambridge, but with an equivalent damaging impact on tackling barriers to work. The LHA level for Blackpool is considered to be artificially high because it is based on all of Blackpool, almost all of Fylde, and the majority of Wyre, even though house prices and market rents vary enormously between the urban, suburban, and rural areas covered by the BRMA.¹³⁰

120. Both total Housing Benefit paid out and the number of Housing Benefit claims in Blackpool started to rise more steeply after Local Housing Allowance was introduced in October 2003:

Housing Benefit Expenditure in Blackpool



Blackpool Housing Benefit Claims 2000-09



¹²⁹ Written evidence from Cambridge City Council (LH 58), published on the Internet

¹³⁰ Written evidence from Blackpool Council (LH 76), published on the Internet

121. Blackpool Council argued that the way in which LHA operated had increased expenditure on housing benefits:

as a direct result of the way that the Local Housing Allowance and Local Reference Rents are calculated, higher Housing Benefit payments than would reasonably be expected are paid in the inner towns, and especially the centre of Blackpool, where there are large supplies of lower quality rental properties, and especially houses in multiple occupation.

It added that a particular effect of LHA on the housing sector in Blackpool was that:

[...] yields from tenants paying Housing Benefit tend to be greater than yields that can be achieved from using buildings as holiday accommodation, creating a financial incentive for more and more guest houses to convert to residential use in the private rented sector. It is not argued that the introduction of the Local Housing Allowance is the primary cause of the problems of poor quality accommodation in inner Blackpool—the principal causes are decline in the tourism industry and wider local economy, and the legacy of former guest house properties—but the Local Housing Allowance exacerbates the problems and makes them more difficult to address.¹³¹

122. The Child Poverty Action Group, amongst others, emphasised that BRMAs are on average twice as large as their equivalent “localities” under the local reference rent (LRR) scheme. The meaning of “locality” for the purpose of the local reference rent scheme was considered by the House of Lords in *R(Heffernan) v The Rent Service* [2008]. In that case, the court questioned whether the proper approach to the build-up of a locality could ever include so extensive an area as (in this case) the whole of the City of Sheffield, and interpreted the rules to provide a control mechanism for the number of neighbourhoods that could be included in a locality. CPAG argues that “as the definition of ‘BRMA’ in the rules was similar to that of ‘locality’, similar principles should have been applied to the way in which a BRMA is identified. However, the government decided to legislate so as to replace the definition of ‘locality’ with a new, broader definition of ‘BRMA’”.¹³²

123. Most submissions argued that BRMAs should be re-drawn to reflect local rental prices and to ensure that LHA tenants are not forced to move from their communities to cheaper areas with limited employment and transport. Ms Davey of Shelter suggested:

What we would like to see in the determination of BRMAs is a much more sophisticated use of a range of different criteria, including access to centres of employment and access to transport in particular as well as the promotion of mixed communities and more emphasis on homelessness prevention. At the moment, the way the BRMAs are drawn up do not take those factors into account and that is very problematic in certain areas.¹³³

124. Mr Lister agreed that

¹³¹ Written evidence from Blackpool Council (LH 76), published on the Internet

¹³² Written evidence from Child Poverty Action Group (LH 49), published on the Internet

¹³³ Q 19

[...] it would be helpful if there were a statement of government policy of actually what they were trying to achieve, so, for example, we have said it would probably be fair if the market areas were broadly based on travel-to-work areas of low-paid people. If there were sort of a general statement out there as to what the Regulations were trying to achieve, then you could judge it against those criteria.¹³⁴

125. Mencap added that what was reasonable for an able bodied person without an intellectual disability in terms of housing and access to facilities and services for the purposes of health, education, employment, recreation, personal banking and shopping, was not necessarily reasonable for someone with a learning and/or physical disability.¹³⁵ Mr McGoogan of Mencap explained that

[...] cases are presented to us of someone with a disability having to move to a different area in order to be able to afford their rent. There are consequences for them on the informal support that they had in areas that they know, bus routes that they know, employment they can get to, of moving to somewhere else and replacing that informal unpaid support with paid support from the state for the sake of an extra little bit of payment for people to live in their own communities.¹³⁶

126. Crisis states, however, that setting the LHA rates at the median level of rents within BRMAs seems to have made more properties affordable to claimants, with 64% of respondents to its survey describing the level at which the LHA is set in their BRMA as “about right”.¹³⁷ The Chartered Institute of Housing argues that if the market areas used to set the LRR and LHA were too small then this would disadvantage the poorest households.

The LHA and LRR are set using a mid-point of rent within the area. Therefore some households in the very poorest low value areas would face a restriction whereas others in very desirable expensive areas (out of reach of most working families) would not. Further, if the market areas are set too small then the general policy objective of the LRR and LHA (to limit HB rates to reasonably priced accommodation) is undermined because the rent allowable will be virtually the same as the contractual rent in almost every case.¹³⁸

127. Ms Holden of the IRRV argued “broadly, for most of the country the BRMAs are okay and they do seem to be working fairly well for most authorities, but there are some areas of problems”.¹³⁹ This was echoed by Cllr Newman who stated “they are broadly right, but, by the very nature of the system, there are going to be exceptions”.¹⁴⁰ And Ms Collier of the British Property Federation added “broadly speaking, leave the BRMAs as they are and

¹³⁴ Q 108

¹³⁵ Written evidence from Mencap (LH 72), published on the Internet

¹³⁶ Q 21

¹³⁷ Written evidence from Crisis (LH 73), published on the Internet

¹³⁸ Written evidence from Chartered Institute of Housing (LH 83), published on the Internet

¹³⁹ Q 109

¹⁴⁰ Q 107

have the individual review programmes that are being done to look at the ones where there are clear problems”.¹⁴¹

128. The Minister emphasised that “any system that we set up will be right for one community and one geographical arrangement and wrong for somewhere else, so I do not think we are ever going to reach a solution which is going to satisfy everybody in all parts of the country because there is an inherent tension, as you have pointed out”.¹⁴²

129. When we asked her why access to work was not one of the underlying criteria for BRMA boundaries she responded “that is because a lot of people travel a long way to work and we think that it is completely unrealistic to say that we should have the housing market in the same space as the travel-to-work area”.¹⁴³

130. When we put it to her that “if you are travelling 50 miles to work, you are not on housing benefit because all of your salary is going to go on travel, so we are actually talking about people who are at the poorest end who are probably trying to get in work”, she acknowledged this point and added “I really do not think on this one that there is a neat and tidy solution because the geography just varies from place to place and at some point you have got to deal with the boundary of the boundaries, as it were”.¹⁴⁴

131. In summary, the evidence on the existing boundaries for Broad Rental Market Areas suggests that most are working well in terms of the level at which the LHA is set. However, the examples of the Cambridge and Blackpool BRMAs demonstrate that there are some BRMAs within which rent levels vary considerably, with potentially negative consequences for claimants. In Blackpool, the inclusion of the pricier suburbs artificially raised the level of LHA in the inner city. The evidence suggests that this has had adverse implications for business and incentives to work. In Cambridge the inclusion of the low rent rural area around the city prices out people on LHA from living in the higher rent city, with adverse implications for their access to low paid work.

132. We recommend that the Department asks the Valuation Office Agency to urgently identify and review those BRMAs where rents vary greatly and, as a consequence, potentially distorting the local rental market and increasing barriers to work.

133. We also strongly recommend that the Department includes access to low paid work as an underlying criterion for setting BRMAs. This would help the scheme to meet the Government’s overall objective of helping people out of benefit dependency and into work.

Rent levels and £15 excess entitlement

134. The Government acknowledges that publishing LHA rates in advance increases the risk that some landlords may raise their rents to the rate that they know will be met by

¹⁴¹ Q 73

¹⁴² Q 136

¹⁴³ Q 137

¹⁴⁴ Q 139

benefit levels. That is why the Government will be considering, as part of the two-year review, whether there has been a degree of rents converging at LHA level.¹⁴⁵

135. Allowing claimants to keep the difference between the LHA rate and their rent, up to £15 per week, was designed to make the system transparent whilst encouraging the claimant to shop around for their accommodation. However, many submissions suggested that, in some areas, an unintended consequence of this is that some landlords now appear to be raising rents to the LHA level. Indeed, 50% of respondents to a survey by Crisis said that some landlords had raised rent levels to match LHA rates and 10% said landlords had raised rents above the LHA rates. As the rates are calculated every month using a median level of rents within the BRMA, there have also been reports of a spiralling upwards of LHA rates.¹⁴⁶

136. The Local Government Association has evidence that some landlords are using the BRMA /LHA figures to set the rents they will charge based on what can be achieved as rent from HB.¹⁴⁷ Cymorth Cymru adds that there is clear evidence in Wales that some landlords are setting their rents according to the LHA rate.¹⁴⁸ The Scottish Council for Single Homeless reports that almost two thirds of the local authorities who responded to its survey indicated that there had been a change in rent levels following the introduction of LHA.¹⁴⁹

137. Graham Barnes argues that “in lots of ways any extra money received (by landlords) will be viewed as compensation for the extra risks faced when renting to tenants claiming benefits”.¹⁵⁰ However, Centrepoint points out that “this means that landlords of poor quality properties are charging more than they would get on the open market. There is no real competition in the HB market as all landlords know what the local authority will pay”.¹⁵¹

138. The Government in its 2009 budget announced the withdrawal of the maximum £15 excess payment which is currently available under LHA to claimants whose rent is below the LHA rate. Ms Phelps of CAB strongly criticised this proposal:

Part of the reason for moving to transparency was that on the Local Reference Rent they were very keen not to publish what those rates were, for reasons of landlord pressure on the rents. The shopping incentive mechanism was the one thing that was meant to empower tenants and enable them to put pressure to keep rents down. If you keep the transparency of LHA and you take away any excess payments, then, yes, it really is an open invitation for rents to coalesce around the LHA regardless of quality, which is a real problem.¹⁵²

¹⁴⁵ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

¹⁴⁶ Written evidence from Crisis (LH 73), published on the Internet

¹⁴⁷ Written evidence from Local Government Association (LH 74), published on the Internet

¹⁴⁸ Written evidence from Cymorth Cymru (LH 43), published on the Internet

¹⁴⁹ Written evidence from Scottish Council for Single Homeless (LH 67), published on the Internet

¹⁵⁰ Written evidence from Graham Barnes (LH 26), published on the Internet

¹⁵¹ Written evidence from Centrepoint (LH 75), published on the Internet

¹⁵² Q 32

139. Most submissions also argued that abolishing the £15 excess would increase the financial burden on claimants and, potentially increased levels of rent arrears. Many stressed that, from a policy viewpoint, the purpose of the excess payment was to give claimants an incentive to shop around when looking for accommodation and thereby to become more active consumers in the rental housing market. However, its impact has been broader and now claimants expect that extra income as part of their benefit.¹⁵³

140. Shelter argued that the removal of the entitlement would result in very few cost savings to the housing benefit budget. It suggested that it may actually encourage more private landlords to put their rents up to the maximum LHA as there will no longer be any incentive on their part to ensure that claimants are able to keep £15 as a safeguarding 'buffer'. Similarly, tenants may decide to move to more expensive properties as they will no longer be benefiting from the £15 excess if they move somewhere cheaper.¹⁵⁴

141. Shelter, amongst others, were critical of the fact that there was insufficient evidence to accurately assess the impact of the changes, both in terms of who would be affected and also in terms of the impact on individual claimants: "DWP has no reliable data available on the number or type of households that currently keep the up to £15 surplus LHA, or what they use this money for".¹⁵⁵

142. CAB stated that, despite the lack of detailed data, it seemed that the impact on levels of poverty would be considerable, as DWP estimated that around half of all LHA claimants (around 300,000 households) would experience a cut in benefit of up to £15. The Equality Impact Assessment concedes that

Reductions in the number of children in poverty that resulted from allowing customers to retain any excess up to £15 following the introduction of LHA may now be negated as a result of this policy.¹⁵⁶

143. Ms Collier of the British Property Federation even called the proposal "dishonourable" and argued that "if you invite tenants to trade quality for price and then you say, 'Actually, we are taking the price advantage from you and you are left with the bad quality', I think that is just quite wrong".¹⁵⁷ Mr Gordon of the National Landlords Association suggested that the proposal "seems to undermine the initial idea that was behind the policy".¹⁵⁸

144. The Minister conceded that "a lot of responses were extremely critical of the proposal [...] therefore, we decided to delay it".¹⁵⁹ However, she did not rule out scrapping the entitlement and instead stressed "we have not got a proposal which deals with the inherent

¹⁵³ Written evidence from National Landlords Association (LH 25), published on the Internet

¹⁵⁴ Written evidence from Shelter (LH 65), published on the Internet

¹⁵⁵ Written evidence from Shelter (LH 65), published on the Internet

¹⁵⁶ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

¹⁵⁷ Q 75

¹⁵⁸ Q 75

¹⁵⁹ Q 139

problems as an alternative to the £15, so we are genuinely looking at the different possibilities here”.¹⁶⁰

145. We are not convinced by the Government’s arguments in favour of scrapping the £15 excess entitlement and welcome its decision to review this proposal in the context of its wider consultation on Housing Benefits. We believe that the £15 excess entitlement is a key feature of the scheme and supports the objective of increasing choice for tenants. Also, the £15 excess incentivises tenants to shop around and, through this, mitigates against rent levels coalescing around the LHA rate.

7 Impact of LHA rules on large families, disabled people and under 25s

5 bedroom cap

146. Towards the end of 2008 the case of a family of Afghan refugees, who were renting a seven-bedroom house in Ealing, was widely reported in the press. The family was receiving LHA to cover their rent payments of £2,875 per week. In the light of these critical reports the Department carried out an inquiry into LHA rates for homes with more than five bedrooms. The inquiry reportedly found 16 similar cases, all in London, which were collectively costing the taxpayer around £2.5 million per year.¹⁶¹

147. On 20 October 2008 the then Secretary of State for Work and Pensions, James Purnell, announced:

In April of this year we introduced the local housing allowance, a more straightforward and transparent way of calculating entitlement to housing benefit in the private rental sector. However, an unintended consequence of the changes meant that in a limited number of cases the taxpayer paid out significant sums of money to private landlords in order to house people in the sorts of property that they could not afford if they were in work. That was clearly unacceptable and I ordered an urgent inquiry into the local housing allowance rates for properties with more than five bedrooms.

Today, I can announce that LHA rates will be capped at the five-bedroom rate for all new customers. We will lay regulations as soon as possible, to come into effect no later than next April.¹⁶²

148. The Government amended the Housing Benefit regulations to cap the level of LHA at the five bedroom rate from 6 April 2009. It argued that the move followed concerns raised by rent officers in England, Scotland and Wales who reported difficulties in determining LHA rates for larger properties. It stated that where properties are available, they tend to be at the luxury end of the market.¹⁶³

149. A number of submissions opposed the 5-bedroom cap on the grounds of its disproportionate impact on ethnic minority households. This was demonstrated in the DWP equality impact assessment published as part of the statutory consultation on the amending regulations. The DWP estimated that whilst 5,000 households will be affected by the change, nearly 2,000 of these will be non-white families.¹⁶⁴ CAB argued that, as such, “it sits very uneasily with DWP’s high level commitment to race equality and fairness to all”.¹⁶⁵

¹⁶¹ Inside Housing, *Families pushed to downsize to save cash*, 21 November 2008

¹⁶² HC Deb 20 October 2008, col 15

¹⁶³ Written evidence from Department for Work and Pensions (LH 89), published on the Internet

¹⁶⁴ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

¹⁶⁵ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

150. In addition, a number of submissions stressed that this proposal had implications for child poverty as DWP estimates that over half the households affected will have children living below the poverty line. CPAG questioned whether this policy was compatible with the right to family life under Article 8 European Convention on Human Rights.¹⁶⁶

151. Shelter argued that the regulations were inconsistent with the Government's other housing policy objectives, including the commitment to reduce the number of households living in overcrowded accommodation, and homelessness prevention programmes that encourage tenants to make use of the private rented sector as a means of meeting their accommodation needs.¹⁶⁷

152. Oxford City Council describes the negative impact of the cap as follows:

It is putting some tenants into rent arrears that they have no hope of ever paying back.

Putting HB departments under pressure to use DHP's to cover the difference, using these scarce resources in this way is not a good use of it, as there are other cases that DHP is better use for.

It is putting further pressure onto Housing Allocations departments as people will now be trying to move to smaller accommodation. The Council will have to put these families at a higher priority for social housing.

[...] It increases the risk that these tenancies cannot be sustained in the PRS, and we could then have to accept a homeless duty and place them in Temporary Accommodation. This will cost the 'public purse' considerably more.¹⁶⁸

153. Ms Phelps of CAB recognised “that the current system was clearly producing some distortions which DWP needed to do something about. We were not so happy with the solution they chose. [...] Our suggested solution was that [...] you would still get a six-bed rate but it would be calculated by stripping out the Mayfair luxury properties before you calculated it. That seemed to us a fairer system.”¹⁶⁹

154. The Minister argued: “the LHA is paid at the median of the rents in the area, so clearly there will be larger properties, say, six-bedroom properties, available at the five-bedroom rate”. She added “we have got a situation where clearly some people on housing benefit are enabled to spend a lot more not just than their working peers, but than most of the population, and that is not sustainable and that is not reasonable and we are going to address it.”¹⁷⁰

155. We agree with the Government's principle that Housing Benefit levels should be appropriate to what is affordable for people on low pay and should represent value for money for the tax payer. This relationship was clearly distorted when LHA was rolled

¹⁶⁶ Written evidence from Child Poverty Action Group (LH 49), published on the Internet

¹⁶⁷ Written evidence from Shelter (LH 65), published on the Internet

¹⁶⁸ Written evidence from Oxford City Council (LH 81), published on the Internet

¹⁶⁹ Q 40

¹⁷⁰ Q 155

out and a small number of benefit claimants living in large accommodation claimed an amount for rent well out of the reach of most working families. However, it is equally important that the solution to this problem does not undermine other Government objectives on availability and quality of housing, child poverty and race equality. We recommend that the Government monitors the impact of the cap as part of its two-year review of LHA with an open mind to other potential solutions for larger properties.

Disability

156. A number of written submissions to the inquiry raised concerns over the impact of LHA rules on disabled people, particularly those who require a live-in carer (and therefore an extra bedroom) when the carer is not a member of that disabled person's household. Mencap provided the following list of unmet needs of disabled people:

Sleepover room

Depending on the severity, people with a learning disability may need someone to stay with them either for 24 hour support or on an occasional support visit. This could be either care staff or more informally family, supporting their loved ones to live more independently.

Extra bedroom

Under the current regulations, two children of the same sex within a household have to share a bedroom until the age of 16. Two children of different sexes have to share a bedroom until the age of 10.

Sharing a bedroom with a sibling, although not always impossible, will on some occasions become more difficult with a child with a learning disability. Depending on the severity of the learning disability, the child may need a separate bedroom to allow for the extra space required.

An extra bedroom may also be required by, for example, a couple sharing a flat due to personal care issues.

Ground floor accommodation

Due to possible mobility issues, a person with a disability may need ground floor accommodation, such as a bungalow or a ground floor flat, to allow for unrestricted access.

Additional space

In order to be able to accommodate a wheelchair user and disability associated equipment or certain behaviours of people with a learning disability, a property may need to be more spacious than would otherwise be required.

Layout

On occasion a particular layout may also be required to, for example, provide safe areas and exits for staff or to allow for unobtrusive views.¹⁷¹

157. The Department has stated that it expects the additional needs of disabled people to be paid for by local authorities from Discretionary Housing Payments.¹⁷² However, a number of submissions have argued that this is not working in practice. The Warwickshire and Coventry Council of Disabled People points out that DWP issued parallel instructions to housing departments that they must make additional payments for disabled people's essential disability related housing costs strictly under three simultaneous conditions a) payments must be discretionary b) they must be strictly temporary for a short term only and c) they must only be made while there is surplus budget available, regardless of the needs of the disabled people.¹⁷³

158. Ms Phelps of CAB stressed that “the problem with the Discretionary Housing Payment is that it is not a right: instantly disabled people are put at a disadvantage because they are not entitled to this; it is just whether the local authority chooses to use its discretion, has it in the budget, and, anyway, it always does it on the short term. [...] To expect people with a disabled family member to have to live under those circumstances is just not acceptable”.¹⁷⁴

159. Ms Holden of the IRRV emphasised that “over the past year to 18 months, as the country has been through the recession, we have found real calling on the DHP for short periods for people who really did need it for short periods of time while they have been job-seeking, and we have found that being able to support our long-term DHP customers has become increasingly difficult”.¹⁷⁵ The Local Government Association argued that “councils do not have enough money in many cases to meet such extra needs from DHPs. The LGA repeats its request for DWP to provide substantially greater resources for DHPs.”¹⁷⁶

160. Baroness Wilkins stressed that the current situation “is not compatible with the Disability Equality Duty or the Human Rights Act, is causing the disabled people affected real hardship and loss of control and therefore demands urgent action from Government”.¹⁷⁷ The Warwickshire and Coventry Council of Disabled People suggested “this is directly the opposite of what the government claims its intentions are in their Independent Living and Putting People First Strategies”.¹⁷⁸

161. The Equality and Human Right Commission (EHRC) states that the Department of Health produced a note outlining the adverse effects of LHA. The EHRC was also contacted by disabled people or people whose family members were affected by LHA and

¹⁷¹ Written evidence from Mencap (LH 72), published on the Internet

¹⁷² Written evidence from Local Housing Allowance Reform Group (LH 11), published on the Internet

¹⁷³ Written evidence from Warwickshire and Coventry Council of Disabled People (LH 38), published on the Internet

¹⁷⁴ Q 39

¹⁷⁵ Q 113

¹⁷⁶ Written evidence from Blackpool Council (LH 76), published on the Internet

¹⁷⁷ Written evidence from Baroness Wilkins (LH 36), published on the Internet

¹⁷⁸ Written evidence from Warwickshire and Coventry Council of Disabled People (LH 38), published on the Internet

made aware of at least five cases where it was alleged that disabled people had been prevented from living independently.¹⁷⁹

162. One such case was brought against Walsall Council on the issue of the calculation of housing benefit under LHA to a first-tier tribunal. The tribunal found that regulations discriminate against people who need an extra bedroom for a live-in carer. The mother of a severely disabled woman who needed 24-hour care brought the case after Walsall Council refused to pay enough LHA to cover the rent on her two-bedroom property. The council said it would only pay enough LHA to cover a one-bedroom home, even though the woman needed a second bedroom for her team of six carers who sleep in it on a rota. The tribunal found the regulations contravened the European Convention on Human Rights because it “discriminates against her as a severely disabled person in need of constant care and supervision”.¹⁸⁰ The EHRC reports that there is currently at least one other case before a tribunal on the same question.¹⁸¹

163. From December 2008, the EHRC raised these matters in correspondence with both officials and ministers at the DWP. As a result of its actions and those of stakeholders, it was advised that the DWP would be undertaking consultation on Housing Benefit (including Local Housing Allowance), beginning in June 2009, a retrospective impact assessment, to be completed in December 2009 and a review that would examine Local Housing Allowance. Whilst the review of LHA was set for April 2010, the consultation and equality impact assessment have been delayed.¹⁸²

164. When the consultation eventually began in December 2009, it presented the issue as a question of finding savings from elsewhere, asking: “would it be fair to raise the age which a young person qualifies for a separate bedroom [...] and to use the savings to provide extra space for disabled people”.¹⁸³ Mr Lister of the CIH explained that the Government is proposing “that the age at which a child qualifies for a room of their own should be raised from 16 to 18, and the broad justification for that is that the size criteria in housing benefit are more generous than the overcrowding standards”. However, he argues that “the overcrowding standards were set in 1935 and we do not think that they are acceptable now. In fact, the ODPM in 2004 described them as being completely unacceptable, so we do not think that is justifiable”.¹⁸⁴

165. The EHRC was critical that the way in which the question is posed did not consider the Department’s duty to have due regard to the need to promote disability equality.¹⁸⁵

166. The Minister defended the consultation: “one of the things we have done in the consultation document is say that we will look at the possibility of providing an extra bedroom for carers where that is needed, but obviously this is extremely expensive”.¹⁸⁶ She

¹⁷⁹ Written evidence from Equality and Human Rights Commission (LH 97), published on the Internet

¹⁸⁰ Inside Housing, *Benefit regulations ‘discriminatory’*, 20 November 2009

¹⁸¹ Written evidence from Equality and Human Rights Commission (LH 97), published on the Internet

¹⁸² Written evidence from Equality and Human Rights Commission (LH 97), published on the Internet

¹⁸³ DWP, *Supporting people into work: the next stage of Housing Benefit reform*, December 2009

¹⁸⁴ Q 113

¹⁸⁵ Written evidence from Equality and Human Rights Commission (LH 97), published on the Internet

¹⁸⁶ Q 142

emphasised “we also have to take account of the affordability issues, and that is why we think it is better to have produced a document which looks at a whole range of things, some of which will inevitably involve spending more money and some of which will produce some savings”.¹⁸⁷

167. There is clear evidence that the current LHA rules constitute a real barrier to independent living for disabled people who require an extra bedroom and we believe this requires urgent action from the Department. As a result of the continuing failure to conduct an equality impact assessment and demonstrate compliance with the Disability Equality Duty, the Committee remains very concerned about this aspect of Local Housing Allowance. We strongly disagree with the way in which the consultation on Housing Benefits has put the initial question about this policy and recommend that the Department changes LHA rules as a matter of urgency to allow for reasonable adjustments for disabled people.

Under 25s

168. A number of submissions criticised the provisions in LHA rules which restrict Housing Benefit for single under 25s to the average rent of shared accommodation. CAB states that although the definition of shared accommodation was made slightly more generous, bureaux continue to report that under 25s are far more likely than other groups to face shortfalls between their rent and LHA:

The resulting financial hardship is compounded by the fact that young people are entitled to lower levels of means tested benefits (the personal allowance for an under 25 is £50.95 as compared with £64.30 for a claimant aged 25 and over), thus making it much harder to make up the shortfall from their other income.¹⁸⁸

169. The Scottish Council for Single Homeless argues that

in all jurisdictions in the UK there have been statements about the importance of the private rented sector for young people. Yet the Single Room rent makes it not a realistic option for those in precarious employment or who are reliant on benefits. [...] We are aware that Deposit Guarantee Schemes in many parts of Scotland will not deal with under 25s because they know that the LHA levels they will receive are insufficient to enable them to sustain a tenancy without subsidising it from their own resources.¹⁸⁹

Cymorth Cymru agrees that “this policy perpetuates homelessness among this client group, undermines young people’s capacities to develop more independent and fulfilling lives, and maintains dependencies on Third Sector providers.”¹⁹⁰

170. The Bond Board suggests that “one significant way around this is for this age group [to] decide to start a family, and with one child (or more), the limitations on the under 25’s

¹⁸⁷ Q 144

¹⁸⁸ Written evidence from Citizens Advice Bureau (LH 71), published on the Internet

¹⁸⁹ Written evidence from Scottish Council for Single Homeless (LH 67), published on the Internet

¹⁹⁰ Written evidence from Cymorth Cymru (LH 43), published on the Internet

are no longer common and the 2 bed LHA rate then allows for greater freedom for finding affordable accommodation”.¹⁹¹ The IRRV believes that “in today's society where teenagers often take on adult responsibilities from a younger age, the 25-year age clause is outdated and needs to be reviewed.”¹⁹²

171. Ms Phelps of CAB argues that

DWP did change the definition for LHA to call it “shared-room rate” and it is slightly more generous, and that was hoped to ameliorate the problem but it does not appear to have done at all. [...] One way that you might begin to address this problem would be to expand the shared-room rate to include bedsits, which is what a lot of people have to resort to because they cannot find shared accommodation. That would have the effect of raising that figure to perhaps more like the market area.¹⁹³

172. However, the Minister said “we are not currently looking at any further changes on [the shared-room rate]”.¹⁹⁴ Mr Howarth added that “the principle of paying the different amount for people who are under 25 is the right one, [...] but we do certainly appreciate that sometimes in practice it is difficult for people to access that type of accommodation, so we will be looking at shortfalls and we will be looking at availability of and accessibility to that type of accommodation”.¹⁹⁵

173. The Minister’s statement that the Government is not currently looking into changes to the shared-room rate for the under 25s does not sit well with the Department’s acknowledgement that there aren’t enough places available for young people at this rate. We have heard that as a consequence many face shortfalls between benefit and rent, which leaves local authorities and third sector organisations to make up the rest. We recommend that the Government considers the proposal to allow for the calculation of the shared-room rate for LHA to include the rent for bedsits in order to improve access to accommodation for young people.

¹⁹¹ Written evidence from Bond Board (LH 77), published on the Internet

¹⁹² Written evidence from Institute of Revenues Ratings and Valuation (LH 80), published on the Internet

¹⁹³ Q 42

¹⁹⁴ Q 145

¹⁹⁵ Q 146

Conclusions and recommendations

Objectives of Local Housing Allowance

1. We welcome the underlying objectives for LHA as set out by the Government. We have heard that some are better met in practice than others. The objective of increasing personal responsibility and financial inclusion through direct payments to the tenant has proved to be very controversial. We make a number of recommendations in this report about how this aspect of the scheme can be improved. (Paragraph 44)
2. We also welcome the Government's intention to improve access to work. However, whilst LHA has improved the transparency of the scheme, there is clearly still some way to go to improve claimants' understanding, as misconceptions can still act as a barrier to work. We look forward to the outcome of the Government's consultation on this and other points and we encourage our successor Committee to return to this subject. (Paragraph 45)
3. We agree with the Government that improved personal responsibility will have a positive impact on work readiness. We make a number of recommendations in this report as to how the Government could better support claimants to achieve this. We also make recommendations on how the Department can directly strengthen the objective of removing barriers to work, which we believe is fundamental to the success of the scheme, for example by placing this objective at the heart of defining the boundaries for Broad Rental Market Areas. (Paragraph 46)

Direct payments—principles

4. We fully support the objectives behind direct payments to tenants to promote personal responsibility and financial inclusion and, through this, removing barriers to work. We believe direct payments to the tenant should remain the default supported by the necessary financial advice and vulnerability safeguards as discussed in this report. Managing one's own finances is an important element of work-readiness which the Government should aim to support. There is evidence that giving tenants the choice of having rent either paid to them or the landlord may not be a real choice as landlords then tend to demand direct payments to them as a condition of agreeing to the tenancy. Such an arrangement would defeat this important objective of the scheme and help perpetuate benefit dependency. (Paragraph 55)
5. We seriously question the Government's suggestion to re-introduce tenant choice as to whether the payment is made to them or to the landlord under the condition that energy efficiency standards are met. We believe that this proposal would undermine a number of important objectives for LHA. It would bring back administrative burdens and benefit complexity just removed by the scheme and, most importantly, would undermine the objective of removing barriers to work as set out above. We agree with the witnesses to this inquiry who argued that standards should be improved and energy efficiency targets met, but looking at the objectives behind

LHA we think that trying to achieve this through LHA would do more harm than good. (Paragraph 60)

Direct payments—practicalities

6. We agree with the Government that LHA payments into a bank account are the most secure way of payment, less prone to fraud and financially efficient. Ideally, claimants are able to manage their finances by setting up a standing order or direct debit to pay the rent to their landlord. This represents an important step to improved personal responsibility and job readiness and the majority of claimants seem to have made that important transition. (Paragraph 68)
7. However, we have heard that some people are experiencing problems with setting up a bank account or managing their account, particularly if they have already run into debt. We strongly believe that the policy of direct payments to the tenant is only working well when these practical problems are addressed on an individual basis. Local authorities should use their discretion as to the form in which they pay LHA. (Paragraph 69)
8. Paying LHA into the Post Office Card Account would make the system easier to manage for claimants and we recommend accordingly that provision should be made for the Post Office Card Account to accept LHA payments. (Paragraph 70)
9. The fact that the first LHA payment is paid in arrears makes it difficult for some to manage their finances and has been the subject of concern to some landlords. We recommend that it should be standard practice for local authorities to give the first cheque to the tenants, payable to the landlord. We believe this will give the tenant time to get used to the new scheme and provide the landlord with some confidence in receiving the payment. (Paragraph 73)
10. We recognise that the cycle of LHA payments (fortnightly, weekly or every four weeks) instead of monthly (when rent is usually due) is making it difficult for claimants to manage their budgets. We recommend that the Department reviews payment cycles of LHA to avoid an unnecessary burden on claimants and to reinforce the financial capability agenda. (Paragraph 78)
11. We believe the Government should monitor the need for additional advice services to help claimants and provide the necessary funding. There is evidence that at this initial stage of the scheme there is increased need for financial guidance and advice on setting up bank accounts and managing finances. We recommend that new LHA claimants should be a high priority for signposting to financial advice services. (Paragraph 86)

Vulnerable Claimants and rent arrears

12. We have received mixed evidence on the effect of direct payments to tenants on levels of rent arrears. The availability of data on rent arrears is scarce and the surveys of stakeholder groups are not representative. However, there is welcome evidence that numbers for evictions and homelessness are actually falling nationally. We

recommend that the Department commissions a more representative in-depth study on rent arrears, and the reasons for them, to gain a clearer picture of the scale of the problem. (Paragraph 95)

13. The evidence on the eight week safeguard rule suggests that it is not fully understood and that implementation varies across local authorities. We strongly believe that it is the Department's responsibility to ensure that local authorities understand the rules and implement them correctly. The rules need not change if eight weeks arrears remains the upper limit for when payments must go to the landlord and include the first payment, which is usually paid in arrears. However, local authorities should liaise with landlords and financial advice services to identify those clients at an early stage who are likely to run into arrears and put safeguards in place. (Paragraph 104)
14. It is a difficult balance to strike for the Department to enhance personal responsibility and to identify vulnerable claimants early in the process to avoid the build-up of rent arrears and possibly even eviction. We believe that in order to achieve the objective of greater personal financial responsibility it is important that local authorities apply a personalised approach to advising and dealing with claimants. Local authorities should also seek the insight of financial advice services and the voluntary sector to pro-actively identify vulnerable claimants. The onus should not be on the claimant to inform the local authority that they are vulnerable. We welcome the Minister's assurance that the Department will issue further guidance and some best practice examples to local authorities to ensure that good practice is applied more consistently between and within local authorities. (Paragraph 114)

Broad Rental Market Areas

15. In summary, the evidence on the existing boundaries for Broad Rental Market Areas suggests that most are working well in terms of the level at which the LHA is set. However, the examples of the Cambridge and Blackpool BRMAs demonstrate that there are some BRMAs within which rent levels vary considerably, with potentially negative consequences for claimants. In Blackpool, the inclusion of the pricier suburbs artificially raised the level of LHA in the inner city. The evidence suggests that this has had adverse implications for business and incentives to work. In Cambridge the inclusion of the low rent rural area around the city prices out people on LHA from living in the higher rent city, with adverse implications for their access to low paid work. (Paragraph 131)
16. We recommend that the Department asks the Valuation Office Agency to urgently identify and review those BRMAs where rents vary greatly and, as a consequence, potentially distorting the local rental market and increasing barriers to work. (Paragraph 132)
17. We also strongly recommend that the Department includes access to low paid work as an underlying criterion for setting BRMAs. This would help the scheme to meet the Government's overall objective of helping people out of benefit dependency and into work. (Paragraph 133)

18. We are not convinced by the Government's arguments in favour of scrapping the £15 excess entitlement and welcome its decision to review this proposal in the context of its wider consultation on Housing Benefits. We believe that the £15 excess entitlement is a key feature of the scheme and supports the objective of increasing choice for tenants. Also, the £15 excess incentivises tenants to shop around and, through this, mitigates against rent levels coalescing around the LHA rate. (Paragraph 145)

Impact of LHA rules on large families, disabled people and under 25s

19. We agree with the Government's principle that Housing Benefit levels should be appropriate to what is affordable for people on low pay and should represent value for money for the tax payer. This relationship was clearly distorted when LHA was rolled out and a small number of benefit claimants living in large accommodation claimed an amount for rent well out of the reach of most working families. However, it is equally important that the solution to this problem does not undermine other Government objectives on availability and quality of housing, child poverty and race equality. We recommend that the Government monitors the impact of the cap as part of its two-year review of LHA with an open mind to other potential solutions for larger properties. (Paragraph 155)
20. There is clear evidence that the current LHA rules constitute a real barrier to independent living for disabled people who require an extra bedroom and we believe this requires urgent action from the Department. As a result of the continuing failure to conduct an equality impact assessment and demonstrate compliance with the Disability Equality Duty, the Committee remains very concerned about this aspect of Local Housing Allowance. We strongly disagree with the way in which the consultation on Housing Benefits has put the initial question about this policy and recommend that the Department changes LHA rules as a matter of urgency to allow for reasonable adjustments for disabled people. (Paragraph 167)
21. The Minister's statement that the Government is not currently looking into changes to the shared-room rate for the under 25s does not sit well with the Department's acknowledgement that there are not enough places available for young people at this rate. We have heard that as a consequence many face shortfalls between benefit and rent, which leaves local authorities and third sector organisations to make up the rest. We recommend that the Government considers the proposal to allow for the calculation of the shared-room rate for LHA to include the rent for bedsits in order to improve access to accommodation for young people. (Paragraph 173)

Formal Minutes

Monday 22 March 2010

Members present:

Mr Terry Rooney, in the Chair

Miss Anne Begg
Harry Cohen

John Howell
Tom Levitt

Draft Report, Local Housing Allowance, proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 173 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fifth Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House, together with written evidence reported and ordered to be published on 25 November 2009, 9 December 2009 and 27 January 2010.

[The Committee adjourned.]

Witnesses

Wednesday 13 January 2010

Page

Liz Phelps, Social Policy Officer, Citizens Advice, **Caroline Davey**, Deputy Director of Communications, Policy and Campaigns, Shelter, and **Mark McGoogan**, Head of Golden Lane Housing—Mencap's Social Housing Provider, Mencap.

Ev 1

Simon Gordon, Head of Communications, National Landlords Association, **Margaret Collier**, Private Residential Landlord, British Property Federation, and **Bill Irvine**, Spokesman for Policy & Parliamentary Affairs Committee, Scottish Association of Landlords.

Ev 11

Wednesday 3 February 2010

Sam Lister, Policy and Practice Officer, Chartered Institute of Housing, **Cllr Tony Newman**, LGA Environment Board Member, Local Government Association, and **Julie Holden**, Head of Revenues and Benefits for Tandridge District Council, Surrey, Institute of Revenue Ratings and Valuation.

Ev 21

Helen Goodman MP, Parliamentary Under Secretary, **Paul Howarth**, Divisional Manager, Housing Benefit Strategy Division, Work and Wellbeing Group, and **Neil Couling**, Benefit Strategy Director, Work and Wellbeing Group, Department for Work and Pensions.

Ev 31

List of unprinted evidence

The following written evidence has been reported to the House and published on the Committee's website:

(www.parliament.uk/parliamentary_Committees/work_and_pensions_committee.cfm)

To save printing costs it has not been printed but copies have been placed in the House of Commons Library, where they may be inspected by Members. Other copies are in the Parliamentary Archives (www.parliament.uk/archives), and are available to the public for inspection. Requests for inspection should be addressed to The Parliamentary Archives, Houses of Parliament, London SW1A 0PW (tel. 020 7219 3074; email archives@parliament.uk). Opening hours are from 9.30 am to 5.00 pm on Mondays to Fridays.

A McGarrick (LH 01)
 David Willmott (LH 02)
 Andrew Young (LH 03)
 Iain Devenney (LH 04)
 Mick Roberts (LH 06)
 Collette Lord (LH 07)
 Seth Adams (LH 08)
 Oyster Estates Ltd (LH 09)
 Ronald Edgcumbe (LH 10)
 Local Housing Allowance Reform Group (LH 11)
 Supplementary Local Housing Allowance Reform Group (LH 11A)

Anonymous (LH 12)
Paul Alexander (LH 13)
Brian Mullan (LH 14)
Diana Grant (LH 15)
Jan Bartlett (LH 16)
James Kirkby (LH 17)
John Bryson (LH 19)
James Allison (LH 20)
Mark Moscrop (LH 21)
Clark-Welch Partnership (LH 22)
Anonymous (LH 23)
Merseyside and Wirral Property Landlords Action Group (LH 24)
National Landlords Association (LH 25)
Graham Barnes (LH 26)
Damian and Sarah Auden (LH 27)
Joanne Bennett (LH 28)
Anthony and Christine Murray (LH 31)
Shirley Group Homes (LH 32)
Alice Dair (LH 33)
Andrew Ashton (LH 34)
Scottish Association of Landlords' Policy & Parliamentary Affairs Committee (LH 35)
Baroness Wilkins (LH 36)
Mrs Quirke (LH 37)
Warwickshire and Coventry Council of Disabled People (LH 38)
Anonymous (LH 39)
Michelle Anderson, South Gloucestershire Council (LH 40)
Robert Hall (LH 41)
Rough Sleepers Cymru (LH 42)
Cymorth Cymru (LH 43)
Paragon Group of Companies PLC (LH 44)
British Property Federation (LH 45)
Centre for Research in Social Policy, Loughborough University (LH 46)
Mr Barnes (LH 47)
A. Brewster (LH 48)
Child Poverty Action Group (LH 49)
Caroline Grierson (LH 50)
Emma Kelly (LH 51)
Kieran Greene (LH 52)
Pete Freeman (LH 53)
Michael David Grosvenor (LH 54)
Barnsley Residential Landlords Association (LH 55)
National Centre for Independent Living (LH 56)
Social Homes Ltd (LH 57)
Cambridge City Council (LH 58)
Supplementary Cambridge City Council (LH 58B)
Addington Lettings (LH 59)
Catch 22 (LH 60)
Muscular Dystrophy Campaign (LH 61)
Michael Fearneyhough (LH 62)
Julian Clokie (LH 63)
London Borough of Newham (LH 64)
Lee Charles (LH 66)
Scottish Council for Single Homeless (LH 67)
Mendip (LH 68)
Association of British Credit Unions Limited (ABCUL) (LH 69)
Residential Landlords Association (LH 70)
Citizens Advice Bureau (CAB) (LH 71)
Mencap (LH 72)
Crisis (LH 73)

Local Government Association (LH 74)
Centrepoint (LH 75)
Blackpool Council (LH 76)
Bond Board (LH 77)
Rebecca Trengrove (LH 78)
Institute of Revenues Ratings and Valuation (LH 80)
Oxford City Council (LH 81)
Mark Edmondson (LH 82)
Chartered Institute of Housing (LH 83)
Kevin Davies (LH 84)
Keith Wood (LH 85)
Barnardo's (LH 87)
Association of Residential Letting Agents (LH 88)
Department for Work and Pensions (LH 89)
Wirral Council (LH 90)
Mencap (LH 91)
Steve Bartlett (LH 93)
National Landlords Association (LH 94)
Chartered Institute of Housing (LH 95)
Acre Properties (LH 96)
Equality and Human Rights Commission (LH97)

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2009–10

First Report	Work of the Committee 2008–09	HC 92
Second Report	Decision making and appeals in the benefits system	HC 313
Third Report	Child Maintenance and Enforcement Commission	HC 118
Fourth Report	Management and Administration of Contracted Employment Programmes	HC 101

Session 2008–09

First Report	Work of the Committee 2007–08	HC 68
Second Report	DWP's Commissioning Strategy and the Flexible New Deal	HC 59
Third Report	The Equality Bill: how disability equality fits within a single Equality Act	HC 158
Fourth Report	Workplace health and safety: follow-up report	HC 635
Fifth Report	Tackling Pensioner Poverty	HC 411

Session 2007–08

First Report	Work of the Committee in 2007	HC 317
Second Report	The best start in life? Alleviating deprivation, improving social mobility, and eradicating child poverty	HC 42
Third Report	The role of the Health and Safety Commission and the Health and Safety Executive in regulating workplace health and safety	HC 246
Fourth Report	Valuing and Supporting Carers	HC 485

Session 2006–07

First Report	Power to incur expenditure under Section 82 of the Welfare Reform and Pensions Act 1999: new Employment and Support Allowance IT System—Further Report	HC 86
Second Report	The Work of the Committee in 2005–06	HC 215
Third Report	The Government's Employment Strategy	HC 63
Fourth Report	Child Support Reform	HC 219
Fifth Report	Personal Accounts	HC 220
Sixth Report	The Social Fund	HC 464

Seventh Report	Benefits Simplification	HC 463
Eighth Report	Full employment and world class skill: Responding to the challenges	HC 939

Session 2005–06

First Joint Report	Home Affairs and Work and Pensions Committee: Draft Corporate Manslaughter Bill	HC 540
Second Report	The Efficiency Savings Programme in Jobcentre Plus	HC 834
Third Report	Incapacity Benefits and Pathways to Work	HC 616
Fourth Report	Pension Reform	HC 1068
Fifth Report	Power to incur expenditure under Section 82 of the Welfare Reform and Pensions Act 1999: new Employment and Support Allowance IT System	HC 1648

Oral evidence

Taken before the Work and Pensions Committee on Wednesday 13 January 2010

Members present

Mr Terry Rooney, in the Chair

Miss Anne Begg
Harry Cohen
Mr Oliver Heald
John Howell

Mrs Joan Humble
Tom Levitt
Greg Mulholland
Chloe Smith

Witnesses: **Ms Liz Phelps**, Social Policy Officer, Citizens Advice; **Ms Caroline Davey**, Deputy Director of Communications, Policy and Campaigns, Shelter; and **Mr Mark McGoogan**, Head of Golden Lane Housing—Mencap's Social Housing Provider, Mencap, gave evidence.

Q1 Chairman: Good morning, everybody. Welcome to this first evidence session of our inquiry into the Local Housing Allowance. I am glad you could all make it on such a difficult day. If I can kick off. There were various, shall we say, alleged principles that underpinned Local Housing Allowance and I wondered if you could tell us which of those you think are working and which are farthest from being achieved.

Ms Davey: I am Caroline Davey from Shelter. It is important to say, first of all, we endorse the original objectives that the Government set out for Local Housing Allowance but, unfortunately, we do not think they are being met in their entirety. The ones being least well met are the objectives around choice, financial inclusion and reducing barriers to work. The objectives around transparency and improved administration are much closer to being met in our view, albeit not without their problems. Our difficulty with Local Housing Allowance in its entirety is that it is falling far short of its original intentions and is in need of urgent review to ensure that those intentions can be met in practice.

Ms Phelps: Similarly, we feel that they are being only partially met. The one that has probably been best met is the transparency one and clearly people have benefited from having that information made public about LHA. Previously it was very difficult to know exactly because the pre-tenancy determination system did not work very well and it was confusing. On that aspect the transparency has worked well. The other thing is that in some parts of the country it is more generous and bureaux are reporting that there have been fewer people coping with shortfalls. It is very difficult without proper data from the DWP about this. The feeling I get is on the negative side there are hotspots where it is a lot worse than it used to be, so it becomes more of a postcode lottery that in some parts of the country it is easier to find somewhere that is affordable and in other parts it is just about impossible. The other thing that is not working well is the safeguard procedures, which we will probably be coming on to. We are concerned about the fact that local authorities are not being encouraged to be proactive in identifying people who are not going to be able to pay their rent and

that is a fundamental primary problem from our point of view. We are seeing a lot of people with rent arrears facing eviction because they have not been identified upstream, wait until they get into arrears and then you have to try and help them out of that problem.

Q2 Chairman: Are there any common features of those hotspots? Are they university towns, for instance?

Ms Phelps: Yes, definitely. I am not sure it is because they are university towns, but it is places like Cambridge, York, Durham, or small market towns like Ulverston and Petersfield where they are reasonably near either a hinterland of lower value accommodation or if they are near a larger conurbation where rents are much cheaper. So Petersfield is put in with Portsmouth where rents are cheaper and Ulverston in the Lake District has been put in with Blackpool where rents are much cheaper and that means people in those particular communities cannot find anywhere to rent.

Mr McGoogan: Mark McGoogan, Royal Mencap Society. I would concur with my colleagues and say that it has provided transparency and an element of simplicity and those are things that I think we should strive for. I do think, however, fundamentally it is our view that it discriminates against some disabled people and it is a fundamental flaw in the way the system has been designed. We would like to see substantial changes made to that to provide the safety net required for people with disabilities.

Q3 Chairman: The Department claims that there is appropriate financial support to help customers with direct payments and that is available when necessary.

Ms Davey: Again, we would say there is a mixed picture here. We did a survey at the back end of last year which showed that close to a third of claimants had been behind in their rents since they had moved on to Local Housing Allowance and often needed to borrow money or use other benefits to meet those shortfalls. Many of those people were in a desperate situation reporting that they had to sacrifice food or heating in order to cover their rent. We know that

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discretionary housing payment is available for claimants and that is used in very different ways by local authorities, but also we would say that discretionary housing payments are intended to cover emergency situations rather than ongoing shortfalls, so where claimants are having ongoing shortfalls, which does vary from area to area but we have found a number who are, there is not financial support available to help them meet those shortfalls on an ongoing basis and we think that can be problematic.

Ms Phelps: There are two ways of interpreting that question. There is support needed around, for example, opening bank accounts, knowing how to manage those bank accounts and budgeting advice which helps to manage this very significant change in your budget. Certainly bureaux did some of that work during the pilots and found that was quite important. There was a little bit of funding in the first year that some bureaux picked up a small amount of, but much less since. The other area which Caroline has touched on, which is where bureaux say much more is needed, is downstream when the people have got into arrears and trying to help them to manage the debts. That is our bread and butter work anyway, but now bureaux are finding that the rent is with all those other debts you have got to try and help the client get on top of. What is quite interesting looking at our debt statistics—with the recession and everything else all of our debt statistics have soared—is private sector debts have gone up 17%. The only type of debt that has bucked the trend is social rented debts in our figures and they have only gone up 3%. It may well be that a factor there is the fact that HB is paid direct to social landlords and that has protected that income stream from the constraints on people's budgets given the recession. Of course, with LHA that has not applied in the private sector.

Mr McGoogan: From our point of view the issue is about affordability. For instance, someone who needs someone to sleep over with them needs a two-bedroom house or bungalow to live in and they are only entitled to the one-bedroom rate. You do not purposely put yourself into arrears. Fundamentally, the affordability issue for us is around the fact that it does discriminate against people who need something different from the norm. Just off the top of my head, if you have a family who have two children of nine or 10, one of those children may have autism or some other form of disability that means they cannot share a room and they might need a three-bedroom rather than two-bedroom place. That is not reflected in the rules either. There are a wide variety of those sorts of circumstances that are everyday family circumstances to a wide variety of people for whom the system makes no allowance. We think that is wrong. The idea in the system is that people should fall upon discretionary housing benefits and those are cash limited and used sparingly and wisely for short-term, temporary arrangements. They are not intended to be for people who need to make longer or medium-term arrangements. Most people who would want and need to move into the private rented sector with

disabilities, in those circumstances they would not want to put themselves at the mercy of a discretionary Housing Benefit system that could be withdrawn at any time. These are fundamental issues to do with the system that we think need addressing.

Q4 Chairman: Is there a role there for the Supporting People budget?

Mr McGoogan: Supporting People budgets are there to provide support for people in terms of face-to-face support. They do not cover housing costs. The fact that somebody needs an extra room, different sorts of facilities or a detached property because they might make a bit of noise or disturbance, those things are not covered by the Supporting People budgets. That is if you could even get a Supporting People budget because those are 100% committed and under a great deal of pressure. That is not really an option for most people.

Q5 Chairman: We could have another debate on that. I have got an authority where a third of their spending is *ultra vires*, but that is for another day. I know the answer to this but I need to put it to Caroline and Liz. We have had representations from a number of landlord associations that organisations like the CAB, law centres, Shelter and such like, only act for tenants and there is nothing for landlords. Can we have a response just so that we have it on the record?

Ms Davey: I think it is entirely reasonable that landlords want and need advice on all aspects of working with tenants, and particularly on Local Housing Allowance as a new system. From a Shelter perspective, and I suspect from CAB as well, we were set up to help tenants. I do not think any of our donors would want us to be directing our voluntary funding away from tenants and people in most need. That said, I entirely understand that landlords need advice. Obviously there is a role for the landlord associations but also there is a key role here for local authorities. Local authorities are in a position to offer assistance and advice both to tenants and landlords but, in our view, are not doing that universally and there is a further role there for them to develop.

Ms Phelps: I think our situation is slightly different. Certainly we do advise certainly small landlords, but not commercial landlords who we feel probably need to pay for their advice. We receive a number of enquiries from small landlords and have even got an item in our information system particularly about advising small landlords. We recognise that people who are, for example, renting out their home do need advice and information about what they need to do, what they should be doing and the proper processes. Where we are very careful is about helping people to draft a notice to quit and to take possession proceedings because it is a very skilled job and we do not think a generalist adviser would be able to do that. We would certainly recommend that a landlord took specialist advice in those circumstances. We have had case evidence from landlords about problems with tenants getting into rent arrears as a

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result of LHA and have had to advise them about what they can do applying for payment to be made direct to them. Yes, we do advise small landlords.

Q6 Mr Heald: I have some questions about the impact of direct payments. First of all, on the synchronisation of payments of LHA into a tenant's bank account and the actual date of the payment of the rent, are you finding any problems emerging? We have had some evidence of a lack of synchronisation. Is it affecting overdrafts or making it hard for claimants to budget?

Ms Phelps: Yes, in that in virtually every case the landlord wants a calendar monthly payment and benefit cannot be paid calendar monthly, it is paid two-weekly or four-weekly into your account. If your account has virtually nothing else in it because you are on a very low budget then the chances are that you are going to get overdrawn, you are going to have bank charges, and we have seen various cases where people have found if they are already overdrawn their entire LHA has been taken, if you like, by the bank for that and they have not been able to budget. It is a problem. In fact, bureaux tell me that what a lot of people do is the money goes into their bank account and they then go and draw it out in cash and take it round to pay the landlord. That is not really what DWP had in mind in terms of making it easier for people to budget. Certainly it is very difficult if you are handling large sums of money in cash and you have a lot of other constraints on your budget.

Q7 Mr Heald: The next issue is about whether there is a big problem here for tenants or not. Research at Loughborough University seems to show that the vast majority of tenants are able to cope, they are managing their rent accounts and the number of arrears cases is, in fact, very small. Do you accept that insofar as there are issues they are affecting a really tiny number of people?

Ms Davey: I would not accept that. The research that we did last year showed that landlord payment was popular amongst a majority of claimants, and particularly amongst those who had experienced both the previous system of having direct payment to landlord and the new system of having it to themselves. More of those tenants said that they preferred the system of the payment to their landlord. We also know that rent arrears have gone up and certainly we have seen anecdotal evidence through our services of people who have really struggled. I would question that it is impacting on a very small number; certainly we are seeing more problems than we used to.

Ms Phelps: Similarly, so are we. Of course, we only see people with problems so it is difficult to be sure and without the DWP figures we cannot tell. Fundamentally, in our view the problem is the fact that local authorities are not required to identify at the outset who is going to be able to manage their payment and who is not. It is a totally reactive system that waits for the vulnerable client to present the evidence downstream. Even looking on websites yesterday I found how difficult it was to see that it

was even an option. The message that is going out is that in exceptional, exceptional circumstances payment will be made to you. It does not say, "Come and tell us if you think [. . .]" It is very biased the other way. The result is that when you look at the case histories of a lot of the clients we are seeing in arrears it is quite clear to us that they meet the vulnerability criteria and a lot of them have mental health problems. We had a young woman who was bipolar, who had multiple debts, was trying to manage two small children, and she was given direct payments. There was an alcoholic, and you could go on. The problem is the system does not require the Housing Benefit department to try to identify these people before they get into problems.

Mr McGoogan: That is certainly our experience. If you raise it beforehand then there is a route for you to go down, but if you do not raise it beforehand they are not very good at recognising those indicators that would point towards people who might need support. From our point of view the two main issues are people get into arrears because it is paid fortnightly in arrears and the private sector wants monthly in advance, and also the discriminatory effect of the system whereby private landlords on the whole, some of them anyway, are reluctant to take people because of the time it takes to process claims. If we can get simplicity in the system and get that speeded up, that will help.

Q8 Mr Heald: Is there not a contrary point of view, which is that if somebody with mental health problems is going to get into the world of work, which I think the majority of people would like to do, they are going to have to be able to manage a budget. Is it not slightly discriminatory against them from the very outset if you say, "No, that is somebody with a mental health problem, they're going to get their payments direct from the benefit system"?

Mr McGoogan: No, I do not think so. From our point of view it is entirely at their discretion if they want that support, and most people do want that support. The idea of getting that support is to deliver independence. The point of giving support is to see those opportunities for you to open up the world for them to take on that responsibility and that is good quality support. If, as you say, you just carry on not allowing people to have that responsibility then that is failed support.

Ms Davey: I think what we would all be looking for is a restoration of the previous system where it was down to the choice of the tenant, so it is absolutely not going to be an assumption that where all people who are designated vulnerable by someone else must have landlord payment. The other important point to make is that some people, and certainly we have seen this again and again through our services, want to make the very active and responsible decision to have their rent paid direct to their landlord. That is not assuming they are being financially irresponsible or are not able to manage their money, it is a very active decision that they want to make to say, "That rent is covered and I know my home is safe. Within my budget, I know that's the right decision for me".

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It is important not to say that all people who have landlord direct payment are not able to manage their budgets; sometimes they would want to make a very active choice to do so.

Q9 Mr Heald: Are we not missing one point, which is that the landlords are all pressing the tenants to have direct payment, are they not? Is it really that the tenants want this or is it part of the culture that has developed because landlords prefer it?

Ms Davey: That is an interesting question but, of course, it is important to remember that before LHA was introduced about 40 % of tenants did receive payment direct and about 60 % went direct to the landlords. Under those circumstances, when they had choice, we were not seeing 100 % of landlords requiring direct payment, and I do not think we would anticipate that situation changing.

Ms Phelps: The Housing Benefit department could be more proactive in sitting down with a client at the beginning and saying, "Look, there are pros and cons to having it paid to you and certainly if you are moving into work you are not getting 100 % HB, it is going to be very complicated for you to work out how much you have to pay. There are advantages, but let's sit down and look at your situation and make a decision together". That kind of more personalised approach could help. Certainly some of our clients have said, "I told them from the outset that I wouldn't be able to manage. I knew this would happen. It always happens to me". They were very clear and, yes, it did happen.

Mr McGoogan: I can see why it is popular with landlords, and certainly that is my experience. At the end of the day it comes down to providing good support for the individual. If it is still their choice then I think that is the best way forward.

Q10 Mr Heald: It does build a dependency culture, does it not, if you have direct payments and a person is not really managing their finances?

Mr McGoogan: If that happens and they are not managing their finances and not supported properly then it would be, yes. That is not what I am experiencing on the ground.

Ms Davey: Also, it seems a very blunt lever to, in effect, force some people into rent arrears and very difficult financial situations in order to push them towards financial inclusion. Absolutely financial inclusion is an admirable objective, but I think there are other ways of doing that and supporting people through that process. In a lot of cases we would expect people who perhaps start with direct payment to their landlord then to get into work, have the additional support, and at a certain point transition to have direct payment to themselves when they can handle it.

Q11 Tom Levitt: Is there a mechanism for doing that, bringing that situation up and responding to it in that way?

Ms Davey: There is a lot of different work going on across government departments and elsewhere around financial inclusion and improving generic financial advice and support for people who do not

have bank accounts and all the rest of it. On the point that Liz made earlier, the important distinction we have seen, unfortunately, between the Pathfinders for Local Housing Allowance and the national rollout, is that under the Pathfinders there was an awful lot of support dedicated to helping people open bank accounts, develop budgeting skills and all the rest of it, very intensively, but that support has not been mainstreamed in the rollout and I think that has been one of the problems.

Q12 Mrs Humble: I just want to explore a little further this issue of rent arrears and vulnerable payments. As Oliver Heald said in his question, the research undertaken by Loughborough University says that the arrears problem has not actually increased, but, Caroline, earlier in answer to the Chairman you said that about a third of people were talking about an increase in rent arrears and, Liz, you mentioned you only see the people who come to you with problems. It is a bit like us as Members of Parliament, people come to us with problems but they do not come to us if everything is fine and dandy. It may well be that you are seeing more people coming to you with rent arrears but out of the total number of people there might not be a large increase. Has Shelter done any systematic research into this?

Ms Davey: It is worth saying that the figure of a third of people in rent arrears or suffering shortfalls was from research. It was not from just people who came to us, we mailed out to LHA claimants across a number of different local authorities. That was from a broader cross-section rather than just from our clients. That was significant for us.

Ms Phelps: When you talk about the Loughborough research you are talking about the Pathfinder research presumably, are you, that was done before the national rollout? There the bureaux that were involved in those Pathfinder areas did not report much in the way of rent arrears but they are reporting a lot more now. The situation has changed and part of that is probably because those local authorities that were in the Pathfinders were very motivated, they chose themselves, they were well funded and very spot-on. Certainly where the bureaux were involved there were a lot of referrals to and fro between the local authorities and the bureaux. I think there was a much more focused effort to make sure it worked and that people were identified, but that is not happening everywhere in the rollout in our view.

Ms Davey: We are not yet seeing the systematic data from DWP around who is suffering shortfalls, what are the problems, who are in rent arrears, and we would like to see much more comprehensive data out of the Department in terms of how LHA is working now that it is rolled out nationally.

Ms Phelps: A key statistic that would be really useful for DWP to provide would be the number of cases where the eight week rule is being initiated. In a sense, you can argue the use of that rule is a sign of failure, I would say, that the local authority has had to revert back to landlord payments because eight weeks of arrears have built up. If you are a tenant on

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Income Support and you have got eight weeks of arrears, which probably means the best part of a thousand quid of arrears, you are really in a mess. Ideally, I would like to see regular data from all local authorities about the numbers of people where that rule is invoked and the local authority should be encouraged to make sure that they do not have to use it because there are steps to prevent them having to get to that last-ditch point.

Q13 Mrs Humble: To sum up, the data at the moment is confusing and we need better data.

Ms Phelps: Yes. At the moment we are slightly in the dark about the full picture. Under the old scheme we had the Rent Service data regularly on shortfalls that came out and you could tell around the country on a regular basis how many people were experiencing arrears and how big they were. We have lost that data source so we do not have that data, and nor will we unless DWP finds some other way of getting it. The local authorities know it, but as far as we understand they are not required to provide DWP with that so it is not possible to access it.

Q14 Mrs Humble: In your experience, have you found that because of the increase in rent arrears you are also seeing an increase in people who have been deemed to be intentionally homeless?

Ms Davey: It is difficult to establish that as an absolute link as much as anything because it is very likely that if someone is in the private rented sector and they are in rent arrears, if they go to a local authority to present as homeless they are very unlikely to even get to the point of filling in a homelessness application because they will be advised they would be very unlikely to be eligible. In many respects if they are already in the private rented sector that is probably because they are not eligible for local authority housing. In our view it is not necessarily linking up in terms of homelessness applications because those people are in a slightly different category.

Ms Phelps: Very often the bureaux manage to avoid the homelessness situation and when they intervene we do not know what happens to people who do not get advice. We had one case, for example, where the local authority homelessness prevention team were possibly going to pay off a lot of the debt in order to help the person stay in their home, so the local authority is picking up the tab for the failure. No, we have not been reporting cases of intentional homeless decisions.

Q15 Mrs Humble: Can I move on to the issue of vulnerable people. Blackpool, which is in my constituency, was one of the Pathfinders and had the highest percentage of payments directly to a landlord because vulnerable people had been identified. This goes back to the point that you were making about the importance of correctly identifying these vulnerable claimants right at the beginning. We have had evidence of the variability that you have been talking about between different local authorities in the way they handle vulnerable claimants, but we have also been told by the

Department they have now issued new guidance following consultation with stakeholders. What do you think of the new guidance? Will it solve the problems of local authorities having different systems in place or is there a better way forward?

Ms Phelps: It is better. It only came out in December so we have not had much of a chance to see how it works in practice, and I think that is going to be one of the issues. There is a greater emphasis on the need to liaise with other parts of the local authority and it says some useful things about where the homelessness prevention team is trying to help somebody to resettle in the private rented sector and because they are homeless then it is very likely that is an indication that they are vulnerable. It is pushing the right way. It talks much more about liaison but still does not stress that the local authority needs to be proactive and make these decisions early. That is what we have been fighting for all the way through. In the draft guidance during the Pathfinders there was a sentence that said exactly the opposite which really upset us. It said, "You do not have to be proactive". We lobbied to get that removed, and it was removed, but in our view it still does not shift it sufficiently the other way to say you do need to look from the outset. Yes, the guidance helps but it is too soon to be sure whether that is going to feed through into better practice.

Q16 Mrs Humble: The question for Government is how to achieve that balance between risk taking, trying to encourage a vulnerable claimant or, indeed, any claimant to take financial responsibility, and indeed take responsibility full stop for their lives, or, on the other hand, trying to protect both the claimant and the landlord by not getting into rent arrears. Some of the previous rules that the DWP had were very much on the risk taking side, so if somebody was a recovering alcoholic you would say, "Right, they've acknowledged that they had a problem but now they are coping with it and we are going to allow them the financial responsibility to deal with their own affairs, including rent payments". Do you think that this new guidance has moved away from the risk taking or does it still want to treat the claimant as somebody who should be allowed the opportunity to take the risk of looking after their financial affairs?

Ms Davey: As Liz said, the new guidance is certainly an improvement but we are concerned that it does not emphasise the need to be proactive in identifying vulnerable claimants in advance of any problems and that is a real concern. Certainly there was a huge amount of evidence from the old guidance that that simply was not working and there was huge inconsistency across local authorities, even to the extent where we had evidence a Housing Benefit team in a local authority was not accepting referrals from the homeless person's unit in the same authority around vulnerability, which we think was a really shocking state of affairs. The other point, which is a technical point more than anything, is that while we did provide comments on the guidance in terms of where it needed to be improved, it was not a consultation undertaken on draft guidance issued

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for comments in the standard three month consultation format that we might ordinarily expect. As Liz said, given that it only came out in December we will be looking very closely over the next few months to see how that works in practice.

Ms Phelps: I do not think all our comments were taken onboard anyway. In terms of what you are saying about risk taking, I do not think that has altered, that philosophy is still very much there. It would be interesting to see what Mark feels about this, that it is the right approach to encourage people to take risks and try to achieve independence, but what one would expect is that it is done very carefully looking at the individual circumstances and making sure that those risks are proportionate and carefully managed. That is how it would work in other parts of the welfare system, but in the Housing Benefit system it is a bit of a rough tool without that sensitivity of looking at the individual circumstances.

Q17 Mrs Humble: All the moves in social care have been in risk taking and, of course, the Mental Capacity Act deems everybody to have the capacity to make decisions unless you can prove on a case-by-case basis that they lack the capacity in that particular area. Mark, do you have any further comments on this issue of vulnerability?

Mr McGoogan: For someone with a learning disability, sometimes what they need is support information in order to make those decisions and some of that support can take some time to deliver, it has to be delivered often by somebody they know, somebody they would trust and are familiar with and feel accessible to. Quite often they would need not only someone in the Housing Benefit local authority department who would be able to deal with them, but they would need someone alongside them to support them in making their decisions, and that is quite a skilled approach but it is the right approach.

Q18 Mr Heald: I just want to ask whether one of the problems is that a lot of people are innumerate, they cannot actually do a budget. Have you any thoughts on how we might tackle that?

Ms Phelps: I think that comes right back to school and basic numeracy and literacy. It was interesting to see the recent suggestion that there should be more budgeting skills taught in school. That was a point I was going to pick up, that for some people their rent may be as much as half of their budget. Housing Benefit payment is about £100 and that is a huge amount of money for people who are trying to cope on extremely low means-tested benefits and cope with all the various pressures that budget puts on them. One of the things that worry us is how little it seems that DWP are aware of the housing agenda and the homelessness agenda which Housing Benefit is meant to be delivering. If you allow someone to fail in relation to their housing that has huge repercussions for other parts of the system and for the individual and everything else that the individual is trying to achieve. It is incredibly high risk to play around with these very large sums of money if you

are not sure that person is going to be able to cope if the person is not sure and confident and feel they are able to manage it.

Q19 Tom Levitt: I want to look at BRMAs and perhaps come to Caroline first. I am sure if you do not know the story of my own constituency in High Peak then you will know something like it happening somewhere else. The BRMA being proposed is so large it is taking not just Glossop from my constituency but Rochdale and Oldham as well, places with no road connection, places we had never heard of, places people never went to and so on, and ended up potentially with people in Glossop losing about £18 a week. We fought that, the Labour MP and Conservative Council and the CAB working together very effectively, and got the boundaries changed. Clearly there is a movement towards larger BRMAs but are the present boundaries too big following the process we have been through?

Ms Davey: Certainly we think there are some problems with the present boundaries in some areas, but not all areas by any stretch. Our view and what our research shows is that it is not size in its own right that is a problem. For example, we have done some research in North West London, which is a BRMA, which works reasonably well, but size in some areas is a proxy for bringing in a range of different locations where there are huge variations in rent. Cambridge is another one, as well as your constituency, which has been raised as a particular problem because it includes both central Cambridge, where rents are relatively high, but also a reasonable amount of rural Cambridgeshire where rents are much lower, which in effect means that LHA claimants are unable to live in the centre of the city where, of course, all the work opportunities are by and large. What we would like to see in the determination of BRMAs is a much more sophisticated use of a range of different criteria, including access to centres of employment and access to transport in particular as well as the promotion of mixed communities and more emphasis on homelessness prevention. At the moment, the way the BRMAs are drawn up do not take those factors into account and that is very problematic in certain areas. As a point of comparison it is worth flagging up Wales which has reviewed their BRMAs recently and changed those boundaries to reflect the middle super output areas, so-called, which are based on population size. I think that presents a useful example of how they have redrawn their boundaries. I know that in the current DWP consultation on Housing Benefit which is out at the moment there are some questions about BRMAs and where the boundaries need to sit, and that is the right opportunity to look at those again and redraw the boundaries in areas where there are real problems.

Q20 Tom Levitt: The Department argues that making them bigger gets greater uniformity because you do not get BRMAs with high levels of benefit and LHA next to ones with low levels. Is that a valid argument?

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Ms Davey: I am not sure that has been proven to work particularly. While some BRMAs are functioning effectively and offer a range of different opportunities for people on LHA to rent, in others we have seen real ghettoisation where all LHA claimants can rent is pocketed in a very small area of the BRMA because of the breadth of rental areas that they include. That can be a real problem and unless it is tackled it will become more of a problem around separating communities.

Ms Phelps: The differences between some of the neighbouring BRMAs are absolutely huge, so I am not quite sure what the Department is getting at there. As a result of large ones we are seeing massive cliff edges between them, if you like, where in London it depends which side of the street you live or, for example, in this Lake District case there is a difference of £30 a week between the neighbouring BRMAs. That is part of the problem. From our point of view you need to start with an assumption that people should be able to live in every community and that it must be affordable to some extent in every local community, particularly in rural areas. Where there are huge differences then you need to adjust that. Currently the other problem is that the BRMA calculation is one of the least transparent, nobody can understand it. It is an absolute nightmare to try and explain to somebody how the boundary was drawn in that way. If the Department is concerned about transparency it needs to think of a way that makes sense to people, and again that is possibly back on to local authority or community boundaries, boundaries that people understand and recognise.

Q21 Tom Levitt: I have to say I compared the report the Rent Service had drawn up in my constituency's case to a rather poor GCSE attempt to justify it. It really was going through ticking boxes in a very simplistic and not very meaningful way. I am trying to remember a particular name. It is Heffingdon, the Sheffield case. Just remind us what the impact of that ruling was on BRMAs.

Ms Phelps: I have not got the details to hand but I think it went from seven areas down to one for the whole of Sheffield. That was what the Rent Service did. A successful judgment would have meant far more detailed and smaller BRMAs around the whole country and DWP was very concerned about that. To what extent that was about the administrative cost of running such a scheme as opposed to the resultant rent levels I am not sure. I think where that was coming from was the same angle, that people need to be able to live in the community in which they have always lived, with their families and their support networks. You will be aware from your own constituency or from our cases that somebody in Ulverston does not see Blackpool as an alternative for them to live, they do not know anybody in Blackpool, they have never lived there. It cannot be right for the benefits system to be trying to manoeuvre people round. Particularly the consequence for mixed communities is it is a

manoeuvring of poor people into cheaper areas and the large-scale consequence of that is not what the Government is trying to achieve.

Mr McGoogan: We see this fairly commonly now where cases are presented to us of someone with a disability having to move to a different area in order to be able to afford their rent. There are consequences for them on the informal support that they had in areas that they know, bus routes that they know, employment they can get to, of moving to somewhere else and replacing that informal unpaid support with paid support from the state for the sake of an extra little bit of payment for people to live in their own communities with all of that support and independence they can get. For people with disabilities that is another inherent failure in the system for them.

Tom Levitt: I will come back to that in just a moment. My colleague is muttering about why is Blackpool not the best place for everyone to live, because she represents it very effectively!

Q22 Mrs Humble: I am going to interrupt Tom now since he has referred to Blackpool. There is a real issue because Blackpool has traditionally had cheaper rents in the town centre but is surrounded by more affluent boroughs—Wyre, Fylde and heading north—which in turn impacts upon the LHA in Blackpool and there is a financial impact upon the local authority. In a way it is the opposite of the Cambridge scenario with the high rent in the centre of the city and the lower rents around the city; in Blackpool it is inverted and has had the opposite effect of increasing the LHA in the town centre. There are all sorts of permutations with much wider Broad Rental Market Areas.

Ms Davey: A scenario like that would be equally problematic but for different reasons, absolutely.

Q23 Tom Levitt: Just to come back to the point that Mark was getting on to, clearly when you are looking at drawing up a BRMA and assessing how people access services, the pattern of access is going to be different for people with different disabilities, is it not?

Mr McGoogan: Yes.

Q24 Tom Levitt: How can that be catered for in the BRMA calculation?

Mr McGoogan: I am not sure it is possible to cater for those complexities by moving the line or having smaller BRMA areas. I think the system, which is the one-size-fits-all flat rate, needs to be looked at again in the light of what the circumstances of people with disabilities are.

Q25 Tom Levitt: So you are arguing for a differential level of LHA, in effect?

Mr McGoogan: Yes. I do not think it is possible to move the boundaries in such a way to take into account all of those different factors—employment, support, family—you need to make some reasonable adjustments in the system to allow different levels of payment for people with learning and other disabilities.

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Q26 Tom Levitt: I am playing devil's advocate for a moment here because I am not sure that Housing Benefit did that. One of the first points Caroline made was that the simplicity in LHA was welcomed and you are suggesting it should be made more complex again.

Mr McGoogan: No, I am not. I am suggesting a reasonable adjustment is made. Again, it is not widely known but for people with severe disabilities who live in shared housing they get the self-contained rate, if that is what they need, so that is a fairly simple, straightforward adjustment that has already been made in the system. It is not widely publicised but it is there. In our project in South West London we are trying to open the private rented sector. If we take three people who want to live together, for instance, who need a four-bedroom house in Kingston, if they pool together their three self-contained rates that is just about enough to get them a four-bedroom house with a ground floor bedroom, which is what one of them needs. It makes it over the line and it works. That is a simple, straightforward system. It might be that for someone who needs a carer to sleep over and have got a severe disability—that is what they need and that is what they get—maybe they should get the two-bedroom rate. Maybe it as simple as that, but at the moment we have got a situation where the Local Housing Allowance does not have a disability impact assessment and it has had an enforcement letter from the Equality and Human Rights Commission. It is a real problem, but if you look at this and get the statisticians out, how much would it cost and all the rest of it, there is a way it can be made simply to adapt and reasonably adjust for people with disabilities.

Q27 Tom Levitt: What was the enforcement letter obliging them to do?

Mr McGoogan: That was in May this year. They wrote to the Department saying they had not carried out a disability impact assessment for the Local Housing Allowance, they should have done and they would like to see them do it. I have not got that with me today but I am quite happy to provide that letter.

Q28 Tom Levitt: That would be interesting.

Mr McGoogan: In the brief that you were given from the Department I was surprised to see that was not referred to.

Q29 Tom Levitt: It has been now.

Mr McGoogan: Thank you.

Q30 Tom Levitt: Moving on, what has been the impact of establishing BRMAs on rent levels? Have landlords been raising rents to meet LHA rates and thus making LHA a disincentive to work?

Ms Davey: Certainly we have seen evidence anecdotally—and I suppose it is the flipside of transparency—that as well as tenants being able to see quite clearly what LHA rates are, landlords are able to do the same, and we know that in some areas they have been raising their rent levels accordingly.

Mr McGoogan: I have no evidence to suggest it, but my gut feeling is that that would be the case, and particularly for landlords at the lower end of the spectrum, dealing with perhaps some of the more vulnerable members of society. If they see that they can put the rent up and get the money, I can see that being a problem.

Q31 Tom Levitt: Claimants are able to keep up to £15 where the LHA is in excess of the rent paid. You will be aware that the Government was proposing to scrap that and has now delayed that decision by a year. What is your advice on that?

Ms Davey: We have a number of practical objections to that, notwithstanding it seemed quite an arbitrary point at which to make that decision before they had done a two-year review of the LHA. Certainly we are very conscious that for claimants on a tight budget, which they will be, the loss of that £5, £10, £15 to their budget that they had been used to will make a massive difference. We should not underestimate quite what a difference that would make to people on those budgets, leaving them really struggling. In reference to your previous question, we are concerned that in practice it is likely to result in very few savings to the Exchequer, because landlords may well raise their rents up to the maximum LHA level, which means that all the money goes there, claimants get no excess and there is no saving for anyone. Principally, we have not really seen any evidence to assess the impact, to take a view on how many people are currently receiving an excess. I think the Department needs to do much more of that impact assessment before it can make the decision.

Mr McGoogan: My gut instinct would be that if there is no shopping incentive to provide accommodation below the LHA level, landlords are more likely to raise their rate.

Q32 Tom Levitt: You are saying that it is more likely to disappear of its own accord.

Mr McGoogan: Yes.

Ms Davey: Notwithstanding the fact that it undermines the Government's own original policy intention that allowing an excess was giving people more choice to shop around.

Ms Phelps: Part of the reason for moving to transparency was that on the Local Reference Rent they were very keen not to publish what those rates were, for reasons of landlord pressure on the rents. The shopping incentive mechanism was the one thing that was meant to empower tenants and enable them to put pressure to keep rents down. If you keep the transparency of LHA and you take away any excess payments, then, yes, it really is an open invitation for rents to coalesce around the LHA regardless of quality, which is a real problem.

Q33 Tom Levitt: Where there is a payment of excess or an entitlement to keep the excess and the rent is paid direct to the landlord, who gets to keep the excess?

Ms Phelps: That gets paid to the tenant. The local authority has to make a dual payment unless the tenant is in arrears, and then the excess would go to

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the landlord. It is administratively quite complicated because the local authority will just have to make split payments.

Q34 Chloe Smith: Tom mentioned a campaign to get your BRMA changed locally. Have you any experience of interacting with the Department on such issues that may not have been such a campaigning issue? Have you found it easy or difficult to have a dialogue with the Department about such things?

Ms Davey: We have certainly raised the issues on a number of occasions. Particularly on BRMAs, we did some research at the beginning of last year. We know that the Department has been doing its own review, particularly of the 20 % most problematic BRMAs, but certainly we have not been let into the detail of that review. I understand it is still ongoing, but we have not had a detailed dialogue about those particular BRMAs.

Ms Phelps: It is the Rent Service rather than DWP that sets these, and the Rent Service is keen to have dialogue with local agencies and does now always contact the CAB if it is doing a review in their area, and that is helpful. But in our view the real problem is the regulations to which the Rent Service has to apply. They were set in 1995 in a very, very different climate with very, very different government objectives. Things have moved on a lot since then, but those regulations have been virtually unchanged since then. That is the root of the problem.

Chloe Smith: Thank you.

Q35 Chairman: Accepting Mark's point about the premium or reasonable adjustment dealing with disabilities, do you think most of the problems on BRMA can be dealt with by removing the lowest and highest rent and taking a different average?

Ms Davey: There are certainly different ways you could do it. We know that the Rent Service (the Valuation Office Agency as it is now) collects an enormous amount of data about rents across the BRMAs. Someone far more mathematical than I could do a range of different modelling to calculate rents in a more accurate and fair way across those areas. I think the current way it is done is a bit of a blunt tool.

Q36 Chairman: There is a danger, then, that the smaller you make the areas, the more people at the lower end of the income scale are excluded from a greater range of housing.

Ms Phelps: Yes.

Q37 Chairman: The bigger the area, the more choice there is, if you can get the rent levels sorted.

Ms Davey: If you can get the level right, yes. It is important not to get too distracted by size and it being about between small and large. In some areas large will work; in some areas large will not. It is about the range of properties and prices within those areas, and in some cases small will be appropriate and in other cases large will work, and I think it is about taking that differentiated view.

Q38 John Howell: Mark, I would like to pick up on a couple of points you have made. You have highlighted a number of barriers, not in the amount of the LHA but in the way that the rules are applied. Today you have spoken about the difficulty for having live-in carers, personal assistants and groundfloor rooms. Are there any other barriers that stick out in your mind with regard to disabled people as a result of the rules of LHA?

Mr McGoogan: It seems to me that there are three areas where the barriers exist. The first one is about people's different needs for, if you like, the size and shape of the building, the physical aspects that people need. That is not just about sleeper rooms or carers' rooms; you might need a garden space for staff to retreat to or you might need to have different sizes of accommodation. There is a physical aspect to things. The second is that, in terms of providing the management to those tenants, we are finding that it is more intense and more costly than the private sector would normally allow for. In terms of providing the support that people need to maintain their tenancy, that is not always something that private landlords will do. In our experience we have to step in between the private landlord and the tenant and provide whatever support that is—and it might be fairly modest or it could be substantial—in order for them to maintain their tenancy. The final aspect is location. That is extremely important to people with disabilities. If they know where their areas are, where their employment is, it makes it so much easier for them to maintain their independence. You can spend £10, £15, £20 more a week on rent but that is going to save you four or five hours of support a week, and in London that is £12 to £20 an hour. The overall cost to the public purse, if we get this right and put the flexibility in the system, could be good.

Q39 John Howell: From your comments at the beginning to the Chairman, Discretionary Housing Payments are not delivering in practice what is needed.

Mr McGoogan: No. For tenants and their families, social workers and ourselves are reluctant to say to people, "You can move into this flat here. It is an extra £60 a week, and, by the way, you can make a Discretionary Housing Payment." You go to the local authority and they can be persuaded, but they are reluctant to make long-term arrangements on that basis. It just does not work for them.

Ms Phelps: From our point of view as well, we are seeing older couples, one of whom has health problems, who need separate bedrooms; families with a disabled child with siblings. In some cases, as you were saying, adaptations have been made which have cost quite a lot and so they need to stay for that reason. The problem with the Discretionary Housing Payment is that it is not a right: instantly disabled people are put at a disadvantage because they are not entitled to this; it is just whether the local authority chooses to use its discretion, has it in the budget, and, anyway, it always does it on the short term. Our clients are saying, "Well, I have no security. I do not know whether it will be renewed in

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six months' time." To expect people with a disabled family member to have to live under those circumstances is just not acceptable. The most important thing our evidence shows is that there will be households who do need more bedrooms, and that should not be that difficult to put into regulation.

Q40 John Howell: That neatly leads me on to ask the question about the five bedroom cap. It is there largely as a result of administrative reasons because of the difficulty of determining the rate for it. It is clearly not something that you would like to see there. Can you explain why and what the impact has been on people who are suffering as a result of that?

Ms Phelps: It is only going to apply to a reasonably small group on renewal, and then with a transitional period yet. We have not seen any clients who have been affected by it. What worried us very much was the principle, given that the DWP's own equality impact assessment was very clear that it would impact particularly on ethnic minority households and on households with children, and it would affect them. We could recognise that the current system was clearly producing some distortions which DWP needed to do something about. We were not so happy with the solution they chose. This problem, as far as we know, did not happen under the old Local Reference Rent rules. The reason it did not happen was because, as was mentioned earlier, there they did strip out the very high and the very low before they worked out the figure. Our suggested solution was that they should adopt that principle here, so you would still get a six-bed rate but it would be calculated by stripping out the Mayfair luxury properties before you calculated it. That seemed to us a fairer system than just to say that nobody is entitled to more than five beds, regardless of how big your household size is.

Q41 John Howell: In terms of the impact on BME communities, you are saying that the worry in the impact assessment has not emerged. Is that because it has not emerged full stop, or it has just not emerged yet?

Ms Phelps: It has not emerged yet, because the rules say that it will only be applied on annual review and then there will be a transitional period of six months before it will be applied. It only came in last April, I think—and, anyway, very few households are of that size—so you would expect it to begin to show during 2010.

Ms Davey: We would absolutely agree. The principle of having a five-bed cap, while it is unlikely to impact on any more than a very, very small number of households, plainly and simply is discriminatory against those families who happen to have a need for more than five bedrooms. Just to say, "Absolutely you cannot" and to force people to live in substandard conditions or overcrowded housing goes against obviously a whole range of other government housing agendas.

Q42 John Howell: The last group of people on which I would like to understand the impact of the LHA rules is the single under 25s, where clearly there is a problem in the restriction of the level of LHA. Can you give me a feel for what the impact of that is and how people are either dealing with it or not?

Ms Davey: It is fair to say this is not new to LHA or exclusive to LHA, this has been a part of the Housing Benefit system for many years, the single room rate/the shared-room rate, whichever, which essentially says that under 25s have a lower rate and the expectation is that they take a room in a shared house. There is an important distinction between the experience of an awful lot of young professionals or students of rented housing, which is very likely to be of sharing a larger house, and the needs of, in particular, some vulnerable young people for whom that is either simply not appropriate or who find it exceptionally difficult to find a room in a shared house, given that they are on benefit. We know that often the problems in those cases are the other tenants in those houses, who for one reason or another do not want to share with a benefit claimant if they themselves are working and not on benefit. That again reduces the choice fairly substantially for that group. We are finding anecdotally through our services that the amount of available accommodation to that group is much, much more restricted, not to mention the fact that in some cases that kind of shared accommodation for vulnerable people, people who have been homeless or for whatever reason are on benefit, is actually quite inappropriate.

Ms Phelps: We have been lobbying on this for a long time, and the DWP itself has accepted that in fact in many parts of the country, the more rural areas, the accommodation simply does not exist, so you are imposing a sanction on young people to live in the sort of accommodation which they know is not there. Generally, when we have asked the Bureaux about the impact of the LHA, quite a few have said, "Some of our clients are better off. The shortfalls have reduced", but they all say, "Not in relation to single room rent." That is interesting, because the DWP did change the definition for LHA to call it "shared-room rate" and it is slightly more generous, and that was hoped to ameliorate the problem but it does not appear to have done at all. We are still seeing far more people, even if they do find shared accommodation, who do not seem to be able to find it within the rate, but others are forced out. There is an interesting area here, which is that under LHA the one type of property that the Rent Service does not look at all is bedsits. There is not a bedsit rate. Bedsits are not included in the one-bed rate and they are not included in the shared-room rate. One way that you might begin to address this problem would be to expand the shared-room rate to include bedsits, which is what a lot of people have to resort to because they cannot find shared accommodation. That would have the effect of raising that figure to perhaps more like the market area. It is a huge issue for young people, and certainly charities working to resettle young people regularly talk about bed-blocking and the hidden cost of having to keep

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people in supported accommodation longer than they need to because they cannot find move-ons. It might be a saving to the DWP budget, but I am sure it is sparking up additional costs elsewhere.

Mr McGoogan: We are presently supporting a young woman in South London in a shared housing scheme. She has a form of disability, an autism called Asperger's, and she just cannot live in that environment. She was told that she was only entitled to shared-room rent and she cannot have shared accommodation. Just before Christmas, she put all her belongings in a black plastic bag and went back home. As it happens—because she is known to the Social Services Department, she does get Disability Living Allowance¹—there is provision in the system for her to get the self-contained rate, it is just something that the local authority Housing Benefit Department are not aware of. The social workers are not aware of it. She could get a reasonable self-contained flat now because we know that is how the system works and it has come to our attention. Those sorts of modest adjustments are already in the system and can be made to work if we do more of those sorts of things.

Ms Phelps: They are very tightly drawn. It is only if you are a middle or higher rate DLA. A client we recently saw is somebody who has mental health problems and suffers from Tourette's but he does not get that rate of DLA. He had managed to find a job and he was managing to live, but then he lost his job because of the recession, had to claim HB and is now in debt and having to give up his flat as well. It is a really tight system. Another example is pregnant

¹ *Note by witness:* In a way, we would probably want to have said here also that this, is of course not available to everyone, but that even where it is, it is not promoted.

women. They are not entitled to the one-bedroom room rate until they have their baby. If you are six, seven or eight months pregnant and you are looking for somewhere to live, you can only look for shared accommodation and apparently have to move after the baby is born. It is incredibly tightly drawn.

John Howell: Thank you very much.

Q43 Chairman: You have committed the cardinal sin that all witnesses do of suggesting joined-up government. This is not allowed! To take you back to this issue of large families and the inference that there seems to be discrimination here—and I am not arguing or disagreeing with you—of course, that only applies if you are on 100 % benefit, because from November large families have disproportionately benefited by the ignoring of Child Benefit in calculating Housing Benefit, which only relates when you are in work. There is an issue there, is there not, on the other side?

Ms Davey: More fundamentally, notwithstanding the fact that this will only be literally a handful of cases, it seemed, and seems, an arbitrary cap to say, "You simply cannot have Housing Benefit over a certain level regardless of the size of your family." Notwithstanding the fact that it was also prompted in our view by a series of tabloid articles rather than on any systematic evidence. Certainly in Shelter's view that is not the way to make government policy.

Q44 Chairman: But you do accept that in terms of large families where they are in work the Child Benefit disregard change disproportionately benefits larger families.

Ms Davey: Yes, it does.

Chairman: Thank you very much. It is good to see you all.

Witnesses: **Mr Simon Gordon**, Head of Communications, National Landlords Association, **Ms Margaret Collier**, Private Residential Landlord, British Property Federation, and **Mr Bill Irvine**, Spokesman for Policy & Parliamentary Affairs Committee, Scottish Association of Landlords, gave evidence.

Chairman: Good morning to you and welcome. There will be a similar pattern of questioning, and I am sure you have your defences in line by now.

Q45 Chloe Smith: Before we go further into the detail of Local Housing Allowance, perhaps you would also tell us your names and the names of your organisations, and make an introductory statement about what you think of the objectives of Local Housing Allowance. Have they been achieved? Which ones are working well? Which ones are there issues with?

Ms Collier: I would say it is interesting that you will probably find landlords lining up with Shelter in their opinion of the Local Housing Allowance. You might say they are on opposite sides, but, in fact, a tenancy is a partnership and, as long as you can get that partnership working well, the landlords and tenants are on the same side. It is only if you have somebody who is difficult on either side of the equation, the landlord or the tenant, that problems

arise. It is not surprising that we have here unanimity over this Direct Payment issue. In my opinion, most of the other things have been met, and the problem with Direct Payment is that it is not really to do with the administration of Housing Benefit; it is to do with stuffing in another directive which is to do with financial inclusion, and that should really be treated separately. That is really where the problem lies in this Local Housing Allowance, that you are trying to do two things at once and in that area you are failing. From my point of view, as a hands-on small landlord, that is where I see problems.

Mr Gordon: Perhaps I could first offer my apologies to the Committee that you have ended up with me. My Chairman, I am afraid, is stymied by the weather, so it is me instead. I am Head of Communications for the NLA. We thought that LHA was a promise to fix a system of Housing Benefit that was complex, difficult to access, prone to bad administration and miscalculations. As you heard earlier—and we would agree with this—it was obviously made to ensure simplicity and

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transparency. For tenants, it could have overcome some of the problems they had with the complexity and sophistication of rent determinations, and for landlords it helped, when you were confronted with a situation of no information as to what the realistic rents for Local Housing Benefit tenants should be, in how you would set your rents locally. However, we do feel that it has led to increased rent arrears and we do feel that there is the danger that there is less choice for tenants. We feel that LHA tenants have less control over the administration of their benefit payments, and we would echo what you have heard earlier, that local authorities are not focusing their efforts on solving LHA issues as soon as possible so that good tenancies can be maintained. We feel, in a way, that a benefit system that was difficult to comprehend has been replaced by one which is inflexible, where tenants are placed in impossible situations potentially, and where landlords are faced with increasing arrears. That is why we feel that the system is broken and now needs reform.

Mr Irvine: Good morning. My name is Bill Irvine and I am from the Scottish Association of Landlords. Our view of the scheme is that if you look at LHA in isolation—very much like CAB and Shelter said this morning—it is more simplistic and transparent than what was there before it. If you look at the old rent referral schemes and things like that, you had the problems there of trying to understand how rent officers arrived at these determinations. The point has been well made by some of the Members here this morning about that. The downside to LHA is that it is part of a bigger Housing Benefit scheme. Some people think of LHA as a replacement for Housing Benefit when, in fact, it is a small element of Housing Benefit. My background is that I was Head of Revenue in one of Scotland's largest councils, so I am a bit like a gamekeeper turned poacher these days, and when I used to run the council—and I am talking about seven years ago—and I used to tutor as well on this, the regulations were so much simpler than what they are today. Now you have a system that tries to embrace a lot of the issues that have been raised here this morning. The Government is trying to accommodate so many different competing demands, and you have a Housing Benefit scheme now that is contained in a book like this here, which is 1,300 pages, it has been written by lawyers, and it is a dream for the legal profession because what they are really doing is focusing on how complex the scheme is. For the last six months or so, I have been trying to get my head around the aspects of LHA, plus the aspects of the scheme as it is, and it seems to me that the scheme is now trying to focus on things like the Direct Payments. I attended the NLA Conference a few months ago, and the biggest two issues for the members there—and I am talking about landlords, 150 of them—was not getting payments direct, and the arrears and the problems associated with that. That was their biggest issue. The Housing Benefit scheme makes allowance for things like making the first payment to the landlord. The cheque can be made payable to the landlord, given to the tenant. If that was to happen, that would

reduce a lot of the arrears that currently happen. For some reason, that does not happen. It is a bit like the 8 week's rule as well. The 8 week's rule has been there for quite some time now on Housing Benefit, but it is not applied universally by councils. In Scotland we have 32 councils, and if you looked at how they all administer the scheme, you would find that you would probably get 32 different approaches to that issue. Before coming here today, I had a look at some of the landlord blogs, and if you look at those you find the same complaints about the new guidance that came out only a few weeks ago—I think it came out on 4 January—supposedly addressing some of the safeguard issues and trying to reinforce the point to councils to take these issues on board. The problem when it gets to the council end is how that is explained to the staff. With budgets in this time of austerity being cut, training being cut, the problem is it does not sometimes get to people at the coal face whose job it is to administer the scheme. Overall, I would go back over what I said, that the LHA itself is simplistic and if you could embrace that with other aspects of Housing Benefit it would make the scheme much better than it is just now. Where it falls down is when it comes to the implementation of it. Partly that is because of the comments I made earlier about the staff at the coal face maybe not being given the proper support. Organisations like CIH, Shelter and others are experiencing a big, big drop in the number of people attending the courses they used to run for this very topic, Housing Benefit, Housing Benefit overpayments, all of those types of things. When you advertised these types of things in the past, they would be full with people who were private landlords, housing associations and council staff. Now, there are very few of them running because they do not get enough people coming along to them. I believe part of the reason behind it is that budgets are being cut and training is one of the first lines to be cut in that process.

Ms Collier: Could I just come back on transparency. I think there would be greater transparency if there was less discretion with individual local authorities to play tunes on the system. If they were told, "These are the guidelines"—that are not really guidelines—and they were told, "You have to do this." If that was in place, there would not be the scope for having to make individual detailed decisions which should not really be going different ways in different authorities. If the scheme is working, it should be really working fairly tightly. If there are specific issues to do with a specific tenant—say, the one who the Mencap people were raising—perhaps there should be a completely different area that deals with that which gives them some separate support, that is not to do with the Housing Benefit system, and just keep the benefit system simple. One more thing about the old system and the new system and the calculation of the appropriate rents is that the old system was not transparent but it was yielding under the pressure of the Freedom of Information Act, and in its dying days there was a successful pressure for the rent officers to release details of all the rents under the old Local Reference Rent system. We would be with transparency to some extent anyway, whether this

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scheme came in or not. The DWP is claiming some success for transparency when it would have been visited upon them. They were going for that transparency anyway under the Pathfinders, so I am not really taking a kick at them, but we would have the transparency anyway. The old way of calculating those rents was not just, "A good idea, we'll take off the higher rents." The rent officer did that calculation on the basis of two figures: one rent labelled "H" which was high but not abnormally high; and another one labelled "L" which was low and not abnormally low, and then those were averaged, so that you got a crude average of two figures, subjectively chosen by a rent officer and that was your lot. I do not think that going back to something like that would work.

Q46 Chloe Smith: Thank you very much. I have one final quick question, because I know colleagues will come in on the further detail of the system. We have received some evidence to suggest that landlords perceive they do not get the support from local Housing Information Centres, Shelter or, indeed, the CAB. Do you share that concern? If you do share that concern, or even if you do not share that concern, is there a gap in the system for helpful support for landlords and what should be done about that?

Ms Collier: I think there is a gap. I can understand that CAB do not want to be helping landlords to evict tenants but, given that constraint, then there should be some mechanism. The CABs might be the first port of call for an adventitious landlord who perhaps is renting out a property that he has inherited because a parent has died and he cannot sell it, but who is likely to make a mess of it because he does not know what he is doing, and some help should be available to those sorts of people, and perhaps the CABs should be required to provide a list of landlords associations, so that the landlord who finds himself in a mess has somewhere to turn to. Because I do not think that landlords would, whether rightly or wrongly, see the local authority as their first port of call. The sort of "We're the government, we're here to help" is not what they will be going with.

Mr Gordon: We have over 20,000 members and we have an advice line so that you can talk to expert landlords about issues like this in the same way that tenants would go to CAB and Shelter, which we do appreciate. I do think, however, that for a lot of landlords their first port of call is their local authority. There is a number of issues here. One is that some local authorities do not, as they should nowadays, and as I think CLG would enjoin them to do, see landlords as partners in providing housing; they still see them as part of the problem. They are, as Bill said, facing increasing calls to tighten their budgets and trim support. They also—and this is not just on the issue of LHAs—have a silo mentality. One department deals with one issue, one department deals with another issue, and yet another department deals with Local Housing Allowance. As Margaret says and as Bill has said, there is an inconsistency on the advice, not, as I say,

just on LHA but right across the board on issues to do with the PRS, and we do need far more consistency on the policy being pursued by different local authorities on the issue of LHA. If you are a landlord who has a property in more than one local authority area, you can be confronted possibly with different sets of advice. That is not joined-up government.

Mr Irvine: There is obviously a gap and a need for help with landlords. One of the objectives of LHA was, first of all, to give people choice, and part of that was to give payments direct. That had the unintended consequence of creating barriers that were previously not there between the landlord and the local authority. In many cases, good relationships existed between landlords and local authority staff, and I think that has been lost. What now happens is, because of the key objective, staff have in their mind, "We must pay people direct rather than the landlord", and when the landlord approaches to try to help, to assist with the problem, what tends to happen is that they are told, "We can't help you unless you get your tenant's consent", "There's a breach of the data protection rules", or whatever. There is a variety of barriers that come up. I do think there are organisations out there that could probably provide that type of advice to landlords, but it strikes me that we should try to get back to the stage where landlords associations and local authorities are working hand-in-hand to address many of the issues, some of which I think could be resolved. Some of the things I mentioned earlier on about making the first payment direct to the tenant but in the name of the landlord would address a big issue, and that is the initial location of the debt. In many of these cases eight weeks' arrears or 10 weeks' arrears amounts to a figure of over £1,000, and if you could sort that part out, it would address some of the issues that have been alluded to this morning.

Chloe Smith: Thank you.

Q47 Miss Begg: I take it from what we have heard from the witnesses before and yourselves that you support a flexibility that would allow Direct Payment to landlords and not just, as it is at the moment, Direct Payment to the tenant. Is that right?

Mr Gordon: Yes.

Q48 Miss Begg: In that case, do you not accept the Government's argument for making sure that the tenant is personally responsible, to cut that dependency culture? There was a question about that earlier on this morning. Do you think the Government has got it wrong in that respect perhaps? Obviously that was the reason behind their thinking of why it should all be Direct Payment to the tenant.

Ms Collier: It is not one size fits all for tenants.

Mr Gordon: Exactly. We would not say that at all. We do not object at all to the principle that the Government had in mind. We understand the idea that you wish to empower people and that you wish to spread financial responsibility. You wish to have an inclusive society, of course. It is wrong to say that

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landlords are against tenants having the benefit paid directly to them; however, there is component of choice that is missing here and that is that some tenants will say that they still prefer the benefit paid to the landlord. By all means give tenants choice, but do accept that some people because of personal circumstances, because they know perhaps that they would have great difficulty running their finances, because they know that they will give in to the temptation to put an immediate issue first before an issue that is vital—or the other way round, for that matter—may run up arrears and get into a fix. All we are saying is that the right for the tenant to opt for the payment to go to the landlord should be restored.

Mr Irvine: I would agree with that. You should give the choice and then, after that, it is up to the individual and the landlord to sort the thing out. As far as council tenants and housing association tenants are concerned, all they need to do just now is to tick the box saying you wish the payment to be made direct to the landlord. To some extent then, private tenants are being discriminated against. I believe that you should restore that choice. If you did, I think you would do away with a lot of the biggest concerns about LHA.

Ms Collier: I am all in favour of financial inclusion and tenants going back to work, and it is very upsetting to see tenants who want to work frightened of starting work because they have seen what has happened to the person three doors down the road. Do not get me wrong on this financial inclusion, but I would say there is a range of people. At one end of the scale you have tenants who are well capable of managing their finances and if they want to, that is fine by me. In the middle there are people who perhaps need more than just choice: they need support in managing finances. The problem with tenants doing budgets is perhaps illustrated by anybody who saw Michael Portillo with a pinny on a television programme managing for a week or so on benefits. He managed, but he did not have to buy shoes for the children during that week; there were not any things that were required where you would need a margin in your budget. You cannot just have money in/money out, you need margins if you are managing on a tight budget. People who are being told, “Manage your own finances. There’s your bank account, get on with it,” need more help than the sort of “sink or swim without water-wings” approach, which is being given. I say yes to choice, but it has to be choice with support for those people who want to move forward. Unfortunately, at the other end of the scale there is the professional tenant. It is not observed, unfortunately, in the area where I have my properties, that this business of giving the first cheque to the tenant payable to the landlord works. We have evidence of several outfits—I do not know whether we are under parliamentary privilege here, but I can give you the details—where the tenant goes along with a cheque and inadequate identification and these places cash the cheque, and then there is a long, money-chasing rigmarole where the landlord does not have the money, the local authority has paid it out, and there is a stand-off between the landlord and the local authority about

where the money is. Ultimately, it can be found, but there is a problem when you get to an unscrupulous tenant. There is also a problem that a tenant will delay the first payment being settled, so that the first payment is bigger and the amount that they can get hold of is bigger. You cannot legislate for the unscrupulous, but you can perhaps bring things in to tie their hands.

Q49 Miss Begg: I presume in these cases it is fraud.

Ms Collier: It is fraud and it will take a year and a threat to take the local authority to court before the proper procedures are put in place.

Q50 Miss Begg: In the light of what you have said, for some tenants, vulnerable tenants perhaps, or tenants who are drug addicts, my own CAB has come to me pleading that that their Housing Benefit is paid directly to their landlord. In those cases, are some of these tenants being set up to fail?

Ms Collier: Yes.

Q51 Miss Begg: Are you the ones picking up the pieces, because it is not until they have been in arrears for some time, and by that time it is too late—I cannot remember if it was CAB that said that—because before you blink you are £1,000 in arrears and it is impossible ever to catch up?

Ms Collier: Yes.

Mr Irvine: One of the biggest issues—and I think you are touching on it—is that many of these people have fallen through the council net. They were council tenants and they have then moved on to being a housing association tenant and fallen into arrears there, and now what happens is the private sector is picking up the casualties of that. I am not saying they all are, but some of them are because they carry that baggage with them. If you are on benefit, if you are on Income Support, Jobseekers Allowance Income Based or one or other variations of the same theme, and you have a cheque for £1,000 or £1,200 that you can then cash, and you take it along to one of these cash converters and they take a percentage of that as well and you then run away with the money and move on to another person, the landlord in that situation will have very, very little chance of ever getting back that money. In many instances where the individual does that type of thing and there has been a failure on the part of the council to make the payment directly to the landlord, landlords are now referring these cases to the Ombudsman. In Edinburgh recently, Edinburgh City Council had to pay a further payment out to someone who had got the money, cashed it. The council, because they had failed in their duty to pay it to the landlord, had to make a duplicate payment. I suspect that unless those issues are addressed they are the types of things that will happen more often in the future.

Q52 Miss Begg: I have to say that when campaigning in Glasgow at the two recent by-elections, the thing that struck me was that within the poorest areas you have these cash converters, but I represent Aberdeen South and there is not a single one in my constituency, strangely enough. There is that

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pressure on them. Do you think, therefore, there is a case to be made that for some tenants there should not be the choice? They already have a history of rent arrears, not necessarily with a private landlord but perhaps with social rent housing or whatever, but that is their background and that is perhaps why they have been evicted at some stage, and, therefore, in those circumstances the tenant really should have the choice taken from them because of their past history, and then you would not have all the bother that you have just described.

Mr Irvine: There are provisions in the regulations for people who carry rent arrears. If they come with a rent arrears situation and they are having deductions from their Income Support or Jobseekers Allowance, then in those cases the payments should go to the landlord. I have to say it does not probably in 99 % of the cases, but, again, if the regulations were being properly used by councils, then a lot of these things could be at least addressed and the problems reduced. I am not saying it would take them away.

Mr Gordon: To back Bill up, the system is not geared towards tackling the issues before they become problems, before the tenancy starts to become untenable, before it gets into a real fix. Again, it is the guidelines and regulations and the way the local authority administers the regulations.

Ms Collier: I would say it is really a problem if tenants are almost entrapped into messing up because they do not have the tools to do the job in managing their finances for whatever reason. Sometimes it is quite tragic, because it is not just the tenants, it is their family, their young children who then move school, and lose their friends and their social connections. There is a huge social cost to the state in having these rolling stones moving around. It disadvantages the children at the bottom of the pile and it is just not right. There should be some way of loss-stopping on a tenant who is accident prone.

Q53 Miss Begg: Because of all of this, do you have evidence that there are a lot of landlords that are now refusing to have tenants that are dependent on the Local Housing Allowance? Are landlords moving out of that sector in large numbers?

Mr Gordon: We had a survey in early 2009 that found that 52 % of the landlords we surveyed were put off having LHA tenancies. They were now cautious about doing it. I think other organisations have reported similar figures.

Mr Irvine: My experience is that many landlords are now walking away from this. What percentage that is, I do not know, but the people I come into contact with, many are doing that very thing.

Q54 Miss Begg: We have evidence that, while that may be true, there are other landlords coming in and filling the gap behind, so that the supply of such tenancies is still there, it is still sufficient.

Ms Collier: There will be. You will be swapping the professional, well-informed, well-organised landlord with the chancer who is going into a situation which is unstable. They do not perhaps

know the risks and they are going to fall flat on their face, just as the previous landlord has, because the system is not fit for purpose, unfortunately.

Mr Gordon: The local authorities, as well, are not collecting the information as to who the people coming into the system are. It may well be that some of the people who are coming into the system and renting their properties are not simply chancers. It may well be that they are reluctant landlords who perhaps cannot sell their house and are renting the house out. We do not have that information.

Q55 Miss Begg: That could be true just in the last couple of years because of the economic downturn. You do not have the evidence to suggest that there are a lot more *ad hoc* landlords, if you like.

Mr Gordon: We could say that probably it is more likely the professional landlord who is now wary of LHA tenants, and therefore you are going to get the inexperienced amateur, the reluctant landlord, even the chancer who may well fill a gap.

Mr Irvine: As you know, in Scotland there is a formal registration for landlords. Certainly my experience is that where you have those registered landlords, many of them who previously provided tenancies to people on benefit, some of them are now withdrawing from that, many of them because they have repeatedly—not just once, but repeatedly—had the same problem of the £1,000 being paid to the individual, the person walks away from that tenancy and they then are left with the debt and little chance of recovering that debt.

Q56 Miss Begg: You have just reminded me of something in Scotland. I know landlords are obliged to be registered, but I have a feeling that quite a few of them just have not. Perhaps their tenants have been there a long time and so they have never registered.

Mr Irvine: Yes, I suspect you are right. That is a concern I have expressed before as well. I think, however, it comes down very much to the local authority and how they administer it. I know for a fact that in Scotland there are some local authorities that have taken on board this responsibility and seem to be doing a really, really good job. They have a lot of contact with landlords. They have set up forums with landlords as well, to talk about good practice issues. They deal with the issues: “When people fall into arrears how will you deal with it? When you are seeking repossession, which actions will you take?” These are the types of things that most people would like to see extended.

Q57 Miss Begg: The reason that was brought in in Scotland was to improve the quality of the housing stock, to make sure the things that were being rented were of a sufficient quality. The Department has said that it would consider reinstating landlord payment, if the claimant agrees, on condition that the quality of the accommodation is improved or if certain energy efficiency standards are met. Do you agree that safeguards need to be in place to protect

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customers/tenants to make sure that they are getting value for money and they are getting good quality housing?

Ms Collier: This is Grand Old Duke of York-ism on the part of the Department for Work & Pensions, because they just removed, with this, all elements where the rent officer assessed the quality of the property. That has been removed on the basis of simplicity. That has good arguments for it but if we are now going to put the same thing in by the back door, adding a further bureaucratic challenge to already challenged local authorities, it does not seem to fit with the agreed targets. I am all in favour of energy efficiency. All my properties have their insulation up to standard and everything, and there is not a problem for me and for most landlords. They want the properties in good condition because the better property gets the better tenant, whether it is a Local Housing Allowance tenant or not. Broadly speaking, landlords want their properties improved. That is not the issue. As to whether that should now be put in as a further confounding factor in something which is already wobbling and failing, I would say leave that to the Treasury or to the Energy Saving Trust, whoever. Do not start muddying the waters here with that.

Mr Gordon: We all want better standards, of course we do, but I do not think these sorts of restrictions are going to solve the problem of landlords moving away from LHA. The standards that the Government are talking about are not the issue why tenants are not paying their rent. Landlords can carry out improvements, but they do rely on the rental income usually to carry out the improvements. Who is going to police this stuff? The already under-resourced local authorities we have heard about?

Ms Collier: The local authorities will be reduced to doing the same sort of tick-box exercise that they are doing on licensing. Unfortunately, look where that has got us with Baby Peter. You do not want tick-box exercises; you want random inspections. That is how you will be able to hold people to account: physical, realistic inspections, not encouraging people to have another round of paperwork.

Q58 Miss Begg: I presume that, because you are landlords who take a pride, you want landlords to be doing their job well and provide good quality accommodation. But we do know that out there are people who are providing appalling, overcrowded accommodation. Sometimes it is ex-council houses that have got into the sector as well. Is there anything that your organisations do outwith your own membership to try to raise the game of those landlords that are perhaps less scrupulous or are you just looking at making sure that in your association your members abide by a code of conduct and make sure that the accommodation that they provide is of good quality?

Ms Collier: The trouble is that the less scrupulous landlords are there underneath the waterline. They do not want to be seen by the regulators or the Inland Revenue, so they keep a very low profile.

Miss Begg: They are not paying tax either.

Q59 Chairman: The non-members of your organisations represent probably two-thirds of the private rented market.

Ms Collier: Yes.

Mr Gordon: But the rogue operators, as Margaret said, wish to stay below the radar, the waterline. Landlord associations provide advice, information, expertise, training, and online training now, of course. We will provide that. The people who bring the sector into disrepute are the rogue operators. I think we would all say that the way LHA is administered should in no way deflect LHA tenants from the respectable landlord and somehow inveigle them downwards into the rogue sector. That is a concern. We do not want to give any option to the rogues. As much as you do, we want the rogues gone.

Ms Collier: I still have tenants on the old system, and I have worked with the old system for some time. When you got the hiccups and the noise in the system, you could stay with the tenant. You could say, "We know you are having difficulties with Housing Benefit," and you would know that the money would come eventually and you could take a longer view and support the tenant through. But if what has happened is that the tenant has got the money and spent it, you are in a different position, and you are forced into a different position by this Direct Payment. I would like to raise one issue, this issue of sending the first cheque to the tenant payable to the landlord. There is supposed to be a system where the landlord is simultaneously notified. That does not happen with me. 100% of my tenants that have started on LHA have not had a parallel letter. Whatever one says about the local authority, they are not helping the tenant by doing this because it is helping the tenant to misuse that money or play tunes on the system.

Q60 Oliver Heald: How does the cash converter you mentioned work? If the cheque is made out to Bill Irvine and it says "Payee only", how could you convert it into cash?

Ms Collier: I do not know, but I can only imagine that you turn up with some bogus sort of identification, which is not scrutinised carefully by the people who make their money by taking a percentage of the value of the cheque. If someone comes along with a cheque for £1,000 and they only get £900, that is a little earner for whoever is doing this. Unless the landlord is sufficiently determined, this thing goes on forever and the landlord picks up the bill.

Q61 Oliver Heald: They are pretending to be Bill Irvine. Is that the scam?

Ms Collier: Yes.

Miss Begg: Obviously Oliver in his posh constituency does not know about this!

Chairman: Let us move on.

Q62 Harry Cohen: Could I pick up on this point about the first cheque being given over to the tenant but made payable to the landlord, and that being a potential halfway house. Notwithstanding the points about fraud and the simultaneous

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notification that should happen not happening, could that be a sort of halfway house? Could you do more than the first payment, whereby you use that system rather than direct to the landlord or the tenant?

Ms Collier: I would say that if you are going to go for halfway houses—and this would introduce complication—you should not give them the whole of the rent, you should give them an escalating scale, starting with 10%, and, if they can manage that, move up. To give them what the CAB identified as “double your money” in money in their hand—because the rent money equals all the rest of the money that they have to spend that week—is not a helpful thing to do to a hard-pressed tenant who has no margins, who needs to buy a pair of shoes next week. It puts them in difficulties, unfairly in my opinion, and I am not talking as someone who is making a fortune out of the system, I am talking as someone who stands by their tenants and does not like to see them tripped up by the system.

Mr Irvine: I believe that if that was happening on a regular basis that would address many of the concerns of landlords. I believe the new guidance refers to a period of eight weeks where, if someone has been put forward as a vulnerable person, then there is always a need to assess whether that is genuine or not. During that period of eight weeks the benefit could be paid to the landlord to allow that determination to be made. If you can nail that issue, which creates in many instances the rent arrear, then in some cases you can then stop the other problems that arise further down the line, because many of the landlords are going to find themselves £1,200 or £1,500 or more in debt, and they will then start the process of recovering the property because they are fearful that if they do not do that, then they will end up having even more debt than they have at that present time. If you can address the issue of the debt, then it may not resolve it but it certainly would reduce the extent of the problem. Another issue is doing payments on account. Payments on account are not new issues. They have been around for as long as the Housing Benefit scheme has been there, but invariably are not used by councils. The reason for that is that if the person makes a claim, the council has 14 days effectively to make that payment, unless the delay is created by the individual by not providing authentication of their income, their details or themselves. If it is down to the council, then they should make a payment on account. They do not do it, because it creates, if you like, an additional payment, so it is an additional administrative burden. They have been criticised by the Audit Commission and by other organisations as well, and yet that does not happen. I would say that within the regulations themselves—Shelter knows this, the CAB knows this, the councils know this themselves, to go back to one of the questions that was asked earlier on about the need for maybe help for landlords—if you could get the likes of NLA and the Scottish Association of Landlords working with councils and working with the likes of Shelter to address the concerns, because they are not everywhere, and they may be to different degrees as

well in different areas, you could address that collectively and try to pick up the issues of malpractice.

Ms Collier: One other area where a landlord can get help is by using a managing agent, but in our area one managing agent is withdrawing from managing properties on LHA because of these hiccups. What happens is that he gets paid a percentage of the rent that comes in, but if the rent does not come in, he is working for nothing.

Q63 Chairman: That is the reason he gets the fee, which is usually around 16%. It is to collect the rent, is it not?

Ms Collier: Yes.

Q64 Chairman: That is part of his task.

Ms Collier: Yes, but if the rent is not collectible because of the problems with the LHA, he just says, “I don’t want these people,” so that leaves the novice landlord in an even worse state.

Q65 Harry Cohen: I would like to address this next point to the NLA. You did this survey which indicated large amounts of arrears, I think £4,442 per landlord and £368 per LHA tenancy. How does that compare since the implementation of LHA? Is the trend up? By how much are those figures up? Clearly, those figures are huge figures and relate to amounts in advance. If the rent is due on the first day, that is treated as “arrears” in the survey, is it not?

Mr Gordon: Yes.

Q66 Harry Cohen: The other issue is evictions. Are they going up as a result of that trend?

Mr Gordon: Remember that of course landlords do not evict; the courts evict. It is difficult to say on evictions. The Ministry of Justice do not break down court applications by tenure or recent application, so I cannot say about the evictions re LHA. Certainly our experience is that landlords are contacting us when faced with rent arrears and no support from the local authority, and are looking to cut their loss and looking to end the tenancy. On your first question, I would have to double-check on that, Mr Cohen, but, yes, the arrears have certainly gone up from the old Housing Benefit system. But I will get back to you on that with a specific figure.

Q67 Harry Cohen: To see the trend and the scale of the trend would be useful. Thank you for that. One of the things that has been mooted is that the eight-week period before Direct Payment can kick in should be reduced to a four-week period. Would that not mean, in effect, that landlords could ask for Direct Payment straight away, because they could almost say that the rent was due on the first day and if it is not paid within a month they could then claim that they should have Direct Payment. Would that not be the situation if it was reduced to four weeks or do you favour that it be reduced to four weeks? The information we have is that quite a lot of landlords want Direct Payment and are pressing for Direct Payment.

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Mr Gordon: We have always thought that eight weeks is too long. In most cases, by the time local authorities take action, the landlords are suffering three or four months of mispayment. We think the problem with safeguards is that it does not focus on tackling the rent arrears until the problem has become so great that a landlord is faced with the prospect of going to court for possession. It does appear that the Government has taken this on board and that the threshold should in effect be reduced to four weeks (after this recent case in Coventry, which you may know about) but, again, we need local authorities to act more quickly as a result of this.

Q68 Harry Cohen: Would that not mean that Direct Payment would kick in virtually straight away?

Mr Irvine: If you apply the decision in Coventry, then you are right. Effectively, what the tribunal decided—it was a first tier tribunal, not an upper tier—not only has an effect on that particular case but is persuasive elsewhere, and I believe that the LHA guidance has been amended to reflect that, so you would have effectively the situation where payment should actually be made directly to the landlord immediately. I would go back to what was said earlier on: if the local authority gets this right, if they can be geared up to pay when they should be paying so that there are no delays or very little delays—and payments have been better over the last few years. I get back to what I said earlier about the complexity of the overall scheme: the Housing Benefit scheme per se is now tortuous, I would say. If you add to that all the other competing factors, things like Income Support, Jobseekers Income Based, Employment Support Allowance, and I think there is another one as well that I have forgotten about. I am old enough to remember the old Supplementary Benefit Scheme, when you had one means-tested scheme that was designed to pick up the tabs. I am not suggesting to you that it was by any means a great scheme, but when you look at what is happening now these regulations have been changed recently to affect people over 60 and that has created a raft of new regulations and amendments to the previous regulations. That is something that the DWP policy unit have to embrace and try to explain in the DWP circulars, those then go out to local authorities, and this heaps more and more work on to staff who are already struggling to comprehend what used to be a relatively straightforward scheme. There used to be a consolidated piece of legislation for Housing Benefit. Now we have a disparate piece of legislation which, as I said earlier on, is a lawyer's paradise.

Ms Collier: It might be interesting when you have the local authorities before you if you get their opinion on how much time and effort is being spent on catching up with the previous amendments that are coming through. When I go to landlords forums in Manchester and the Housing Benefit people come in and give a little update my impression is that they usually tell you how many more people they have recruited to Housing Benefit staff and this is because they regularly lose them because it is such a horrible job. If the people who are in there can get a better

job, they get one and move, and so there is a continual process of re-educating the staff who are at the workface of the system. The system, I would say, is not fit for purpose, I totally agree with Bill, and that is a problem.

Q69 Chairman: Could I just say, because you have made that statement about nine times now, not fit for purpose, that there are around five million Housing Benefit Local Housing Allowance claims in payment, and with the vast majority of those, probably 99 %, there is not a problem. The problem is most often not the Housing Benefit administration, it is the deficiencies of either a rogue landlord or a rogue tenant. It is not the case that the system is not fit for purpose; it is the abuse that it is put to.

Ms Collier: I have—

Chairman: I am sorry, I do not want you to come back in because we are getting desperately late for time.

Q70 Harry Cohen: I want to pick up this issue about vulnerable claimants. It is really about the implementation of it by the local authorities in this way. There is a provision under the guidance, when they know from past experience that a tenant is likely to abscond or is likely to have big rent arrears or has a medical condition or difficulty in managing their income because of drugs and alcohol, for example, that their Direct Payment can kick in. That might be interpreted differently in different areas. Presumably that would be a provision that you would support and want implemented uniformly across the country, would it not? Is that working all right, or is it too soon to say?

Mr Irvine: The guidance was only issued on 4 January, so it is a bit early to see whether it will be implemented properly.

Q71 Harry Cohen: We have to wait and see on that. The last point is: is there something perverse, in the sense that landlords will want tenants with rent arrears because then they can get the rent payments easily?

Mr Gordon: No, I do not think so. The professional, responsible landlord wants a good relationship with their tenant. Landlords are just like anybody else: they do not want anything troublesome. Just as tenants want a quiet life, landlords want a quiet life. I am not trying to paint a ridiculous picture here, but the average landlord does not want problems with their tenants, they want the tenancy to proceed in a contented, businesslike way, and the overwhelming majority of tenancies in this country do end amicably, simply when the tenant moves on. That is something I think we have to emphasise.

Ms Collier: I would say that the problem with the LHA is that the Direct Payment comes only once the landlord is in arrears by the eight weeks. My concern is not about the professional tenant who messes about with the system. My experience is that the tenant who gets themselves into arrears is full of shame and embarrassment and realises this cannot

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carry on. They do not wait to be pushed. The more decent of them go of their own accord, having become tangled up in the system.

Q72 Greg Mulholland: I would like to ask some questions on the impact of the Broad Rental Market Areas, BRMAs. We have received mixed evidence on the benefits and the downsides of large versus small BRMAs, looking at the size and what is appropriate. What is the experience from landlords about the current sizes of the BRMAs and the boundaries? If you think they should be changed from what they are, how would you recommend them being set?

Mr Gordon: The results to do with BRMAs do seem very mixed. We would echo the Cambridgeshire instance, Cambridge in Cambridgeshire, that there do seem to be damaging effects where you price people out of city centres. The NLA would accept that the BRMA regime too easily creates areas with distorted rents. The Rent Service, the VOA, needs now to see BRMAs less as an exact science. It is not. It is not going to be able to design them like that and they have to take into account local circumstances when they review individual BRMAs. That is the position we would take.

Mr Irvine: In Scotland it does not seem to be a big issue for the landlords associations. There seem to be a number of issues around the country that have been alluded to this morning, and one of the issues was raised at an NLA conference a couple of months ago, the fact of councils not paying to the LHA levels but effectively capping LHA. I think most of that was happening in the London boroughs, where the council was taking a view that they should not pay it to that level. Whether that was right or wrong, I do not know, but I know that these are issues that are likely to end up in litigation. These are things that will be tested. Things like the upper tribunals, et cetera, will take a view on those types of things. But from a Scottish point of view, I have consulted with some of our members, and they do not seem to have any big concerns from that.

Q73 Greg Mulholland: If you agree with that, you do not need to comment as well but do if you wish to.

Ms Collier: Perhaps the main justification for the BRMAs being large may be a statistical one, I do not know. It is difficult to understand why such large areas were chosen but, having chosen them, I am not really in favour of altering everything at once in this, because if you are altering several things in the system, you cannot see the cause and effect. I would say, broadly speaking, leave the BRMAs as they are and have the individual review programmes that are being done to look at the ones where there are clear problems but I would be tempted to leave those as they are. Despite that, the *Heffernan* case, which was under the old regulations, was for an area, on average, half the size of the BRMAs and it was said to be too large by the House of Lords. It does cause problems, but it should be fairly even-handed: it should cause, to my mind, gains and benefits. I cannot see that there is a big issue, other than where you have an area where, whether the city centre is

disadvantaged or advantaged, you have areas where you are effectively ghettoising benefit tenants within the system.

Q74 Greg Mulholland: Thank you. Evidence suggests that some landlords are using the Local Housing Allowance figure to set the rents that they will charge, and some people have expressed concern that this is meaning that landlords of some poor quality properties are charging more than they could get on the open market from a non-LHA claimant. Is that something that you are aware of? How do you respond to that concern?

Ms Collier: Personally, if I were to change my tenants on to LHA, which I could do, then I would get a slightly larger rent, but the instability that would be created is not worth the candle for me. I do not think that people look at it in those terms. They look at the overall return on the system. Now obviously anybody coming into the system new has no alternative but to go on LHA and the rates are there. It may inflate the rates in some areas, but it should disadvantage them in others. I cannot see how there is an overall advantage. It is swings and roundabouts, I would have thought.

Mr Gordon: I think the Government did advertise LHA to benefit tenants, to allow them to trade quality for price in order to keep the difference. We do not think they should trade quality for cost when it comes to housing. Of course, landlords have to set rates that allow them to cover their costs. They do use BRMA figures as a guide, and adjust according to the local market. We have heard of cases where, if there is a problem, landlords have reduced their rents to keep good tenants. They will do that because the relationship is established. You do not want to lose a good tenant.

Mr Irvine: I would say that if you listened to what Shelter and CAB said this morning there is anecdotal evidence that is happening. If you go back to what has happened in the past, when this type of thing happened to Supplementary Benefit, when they raised the levels for the borders, it was the case that many of the landlords raised them up to those levels, so I think it would be wrong not to acknowledge the fact that this happens. But where you have registered landlords, where you have people who have been doing this for a good number of years, I suspect you will find that they have not changed them, they have not raised the rents. Again, it comes back to the point that was made earlier on about the people who are operating under the radar. That is where you would probably find that they will be raising them. Where you do not have the inspections—and that has been alluded to as well—you will probably find that the tenants are paying well over the odds for the accommodation. That is something that I believe should be addressed, but again it involves manpower going out and doing those types of inspections. That is something that over the last number of years the likes of the DWP has walked away from, mainly because of costs, I suspect.

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Q75 Greg Mulholland: I have one brief final question. What are your views on the proposed abolition of the £15 excess entitlement?

Ms Collier: Dishonourable. If you invite tenants to trade quality for price and then you say, "Actually, we are taking the price advantage from you and you are left with the bad quality", I think that is just quite wrong.

Mr Gordon: It is very difficult to see what this achieves from a policy point of view. It seems to undermine the initial idea that was behind the policy.

Mr Irvine: Going back to what was said by Shelter and CAB, the numbers are probably very, very small, and, in the scheme of things, to me it is not as big an issue as some of the other things that have been spoken about this morning.

Greg Mulholland: Thank you.

Chairman: Thank you very much for giving us your time and for the evidence you have given today. You will see most of that reflected in our final report. Thank you.

Wednesday 3 February 2010

Members present

Mr Terry Rooney, in the Chair

Miss Anne Begg
Mr Oliver Heald
John Howell

Mrs Joan Humble
Greg Mulholland
Jenny Willott

Witnesses: **Mr Sam Lister**, Policy and Practice Officer, Chartered Institute of Housing; **Cllr Tony Newman**, LGA Environment Board Member, Local Government Association; and **Ms Julie Holden**, Head of Revenues and Benefits for Tandridge District Council, Surrey, Institute of Revenue Ratings and Valuation, gave evidence.

Q76 Chairman: Good morning everybody and welcome to this final evidence session in our inquiry into the Local Housing Allowance. It is good to see so many people here. Welcome to our witnesses and thank you for joining us. It is good to see you. If I can kick off. To what extent do you think the objectives for the Local Housing Allowance have been achieved?

Mr Lister: We think overall that in very broad terms the policy has resulted in small positive benefits, but we do not make any great claims for it. It is a small step in the right direction but not a massive leap forward. Looking at the individual objectives, I think it is fair to say that probably the biggest gain has been extending tenant choice. The evidence from the Pathfinders suggests that those areas where the gains have been less evident are in helping people back into work and reducing fraud. The reason why we say that extending tenant choice has been one of the biggest gains is that one of the things that is not often discussed about the Local Housing Allowance is that the extra amount that people are allowed has helped reduce some of the rent shortfalls in some areas. Obviously, the amount that people receive is a bigger determinant of choice than the form in which they receive it, in other words, the form in which they are paid. The other greatest gains are in terms of the overall transparency of the system. Local Housing Allowance is very easy to explain to claimants. One of the problems that you have when people are starting back to work is they understand that they might get some help with the rent but they are not sure how that is calculated and it is easier to start with a flat rate amount to explain that. There were some gains in terms of overall processing times which were found in the Pathfinders. The baseline for the Blackpool Pathfinder was processing times were 32 days before the start of it and by the end of the programme that had been reduced to 20, but those have somewhat been offset by the extra administration involved in terms of payments.

Ms Holden: If I can pick up a little bit there. Looking at fairness, one of the areas that we feel a lot of authorities have experienced is that the BMRA's are a little too broad in many cases. They are very large in a lot of instances. The flat rate figures which are used across the entire BMRA can result in some disparity, and therefore fairness with regards to the individual benefit claimant and recipient is a little skewed, so we are not sure that fairness has

necessarily been achieved through the objectives of the LHA. An example we would give perhaps would be Oxfordshire where almost the entire county is one BMRA, which does not allow for the difference between the cities and the rural areas at all. We would agree that it is relatively transparent and the figures are available each month to help landlords and tenants to understand what maximum amounts of benefit will be paid and that can help them with their choice in determining whether to take on a letting or not. Previously we had the pre-tenancy determination system so I am not sure that it has particularly moved forward from there but it certainly is transparent from that point of view.

Q77 Chairman: But nobody used the pre-tenancy determination, did they?

Ms Holden: It certainly had use. Whether it had enough use would I suppose be a case of having a look at the figures, but it certainly did have use. In my experience, in my authority, we had a lot of PTDS which would come through and we certainly did recommend it and encourage tenants to use it, but I accept it probably could have had better use. It is certainly transparent from that point of view. The area that we would say is potentially the biggest success of LHA is the promotion of personal responsibility. We think it is still too early. LHA rolled out across the entire country only from April 2008. We are not quite two years into the scheme yet and, as a result of that, we think that through culture change with regard to tenants receiving their benefit direct and then paying it to the landlord, paying the shortfall, the relationship between a landlord and a tenant can be strengthened quite dramatically through this. We think there is a lot of evidence in the past whereby landlords saw the council as the responsible body for paying the rent, and that they did not necessarily in cases have a relationship with their tenant, and they were not necessarily carrying forward their landlord responsibilities. We feel that LHA, through the direct payment, actually makes quite a significant contribution to that. Where it is working well in authorities we have found that that is certainly the case. Where authorities are struggling with direct payments—and there does seem to be a mixed reaction across the country—perhaps that is an area that still needs to be developed. We feel in time that a culture shift will come there and that is the biggest positive that has actually come from this.

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Cllr Newman: From the Local Government Association perspective we very much supported the introduction of the scheme. I agree with the comments that have been made around choice and transparency and the link between the tenant and a greater knowledge of the rent levels. There is a clearer line that can lead to a greater personal responsibility. There is also some evidence from some councils that they can reduce administration costs. However, there are some concerns where some tenants say that they would prefer the rent to be paid direct still. There is an issue about whether a greater local flexibility from some councils' perspective could be brought into parts of the scheme to improve it further.

Q78 Chairman: There will be specific questions about direct payment and BMRA's later on. Tony, you have mentioned the administrative burden on local authorities. To what extent is that impacted by the continuous issuing of new regulations and what is the staff turnover like in housing benefit departments?

Cllr Newman: It is obvious but there is a link. The more the regulations are changing, it is a new set of skills that have got to be learned, but local authorities have invested heavily around the wider area of benefits and debt advice. I think there has been a 47% increase in investment across the country in staff in benefits in delivering and improving the service. I think there is a clear commitment there from local government to deliver both this and the wider agenda. I have forgotten the second question you asked.

Q79 Chairman: Staff turnover?

Cllr Newman: I have not got figures for staff turnover on a national basis. I am aware that there are relatively low levels in some councils but within some London boroughs I know there is a higher turnover. That would relate to the area and would be a mixed picture.

Q80 Chairman: Do you have any overview as to what training provision is being carried out in local authorities?

Cllr Newman: Yes, there is a lot of investment from authorities in training. I think there is a commitment from local government in terms of the Local Housing Allowance to make this work. One of the views reflected back to us, as I said earlier, is almost if there could be some greater local flexibility in how some of this is delivered which may empower the local officers, if you like, further.

Q81 Chairman: In my experience, bringing in flexibility usually finishes up in the European Court from somebody who has not got it. Mr Lister, did you want to say something?

Mr Lister: I was going to say in terms of actual rule changes I think it depends on whether you have got an overall direction that you are going in and you can see a plan or whether it is reactive changes to press reports or whatever about things that are wrong with the scheme. To be fair to the

Government, over the last 10 years they have done a pretty good job in terms of simplifying the scheme, so if changes are brought in that actually simplify the administration, I do not think anybody objects to that, and I think there are still discussions that are going on all the time in terms of when new regulations are proposed about whether there is anything that can be done to simplify it. There have been a lot of rule changes over the past 10 years which have simplified it considerably. For example, the abolition of benefit periods has made a big difference, and obviously LHA is another step in that direction as well. I can remember coming to the predecessor of this Committee 10 years ago and the problem was then that there were huge delays in processing times and the average processing times were, I think, something like in excess of 50 days, and in some authorities much longer than that. A system that cannot deliver benefit on time is of no use to anybody at all, so if you have got an overall plan and direction that you are going in, government will always want to make changes to achieve its policy objectives, but so long as they are not reactive, then I do not think that change in itself is necessarily a problem.

Ms Holden: Can I add a little bit on staff turnover which you specifically asked about. In my experience, it varies quite considerably from authority to authority. In most cases, from experience and anecdotally, this is where there are different terms and conditions and where you have authorities relatively close together where staff can find it easy to move around and to be more mobile. They tend to be the authorities that have the highest staff turnover. Local terms and conditions of employment are also a big issue. I hear a lot of people saying, "We have gone through an extensive training scheme; we have trained the staff up, and then within a few months of completing our training they have moved on to a neighbouring borough because they pay more." There does seem to be an element of that, so it certainly is an issue, and with regards to some authorities it is a big issue and in other authorities there is very little movement so they have a much more stable workforce. With regards to simplification, as Sam mentioned, there were over 60 circulars issued last year on housing benefit and this has not reduced over the past few years, and although we welcome simplification and we certainly look for easements of the scheme that make it easier to administer—and I think it is fair to say in a lot of ways it is easier to administer with LHA—we are still getting a huge number of circulars and a large number of small changes to legislation, and sometimes big changes to legislation which result in further guidance and advice coming out from central administration. That all takes time to assimilate and then pass out through staff and obviously does take a degree of time, but most authorities have good on-going training programmes in place and, again, in my experience and that of many of my colleagues who have contributed to the IRRV submission, there are some excellent examples of on-going training and initial training in place.

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Chairman: Thank you. Oliver Heald?

Q82 Mr Heald: In moving from welfare into work it is important that the individual should be able to budget, manage their financial affairs and so on. Part of the thinking behind changing from direct payment was that it would encourage personal responsibility and financial inclusion if the tenants had to make their own financial arrangements. Do you agree with that viewpoint, which is what underlies Government policy? Do you also agree that if you go back to the system of direct payments to landlords you are really encouraging a culture of dependency on welfare?

Cllr Newman: I largely agree with what you are saying. I think there has been evidence of some success that there is personal responsibility involved with the money going to tenants. It should be the way to go. However, there is a question where in some circumstances having the flexibility to make direct payments, there could be specific issues around somebody's circumstances where that may be advantageous, and I think we are saying that the direct payments should be an important thing to maintain.

Mr Lister: I think it is worth noting first of all that the vast majority of tenants do manage themselves. In the Pathfinders the rate of payment varied between 73 and 94%, so there is quite a lot of local variation there but that still means that on the whole 70% of tenants are managing. I think there are questions around the other groups who are more vulnerable and then the issue is whether they receive the right support to help them to manage the changeover. Some people will not have much experience of that at all now. I am not sure whether the Post Office Card Account is still going, but most people now are either paid direct into their bank account or the post office card account. There are some people who have only got post office card accounts so for them the changeover is more difficult. It is not really an account at all. It is a way of picking up money, you cannot do standing orders, transfers, that kind of thing, and so I think there is a group of people there that will need the additional support and the question is whether that is in place in each of the local authority areas. There are some very good examples of schemes that are up and running.

Q83 Mr Heald: You would agree as well, Julie?

Ms Holden: We very much believe that direct payment to the tenant, the benefit recipient, is most certainly the right thing to do and the right way to go to promote financial responsibility and personal responsibility for paying the rent. I absolutely agree with that. Sam mentioned the POCA, the Post Office Current Account. That has never been able to accept housing benefit payments and we find that very frustrating at an administrative level. It is the payment account set up mostly for pensioners (but not just) with the idea of paying in pension credits and other welfare benefits but it has never accepted housing benefit, which I have to say, if it could, it would make a huge difference in helping people to

manage their budgets and to help them to understand what they should be doing. There has been a lot of advice specifically in the Pathfinders. Pathfinders were given funding to set up financial information, to assist with basic bank account setting up, and there is a lot of evidence of working closely with the banks. Almost every local authority will have an individual leaflet to promote basic bank accounts and how they work. There is a lot of good evidence of people working in credit unions locally where they exist because they operate budget accounts. I think that payment of housing benefit mixed in with all those available options, if properly explained, with people being able to access them, which certainly in the vast majority of cases everybody has been able to get access, it is literally one or two people who struggle to open an account, otherwise we are able to facilitate and get them open, I think it makes a huge difference with regards to making them responsible. As I mentioned earlier, it promotes the relationship between the landlord and the tenant, and that is only a good thing.

Q84 Mr Heald: With the small percentage who are not capable of having their payments made direct to them, is part of the problem that they are simply unable to budget because they are innumerate; they are people who have been failed by the educational system? Is that part of the problem?

Ms Holden: In my experience not necessarily. It is people who have learning difficulties and people who have tremendous other pressures in their lives which make dealing with a budget one final problem which is just simply too much. What we do find and a lot of authorities find is that we have used our safeguarding scheme very well, we have introduced payment directly to the landlord for people who cannot cope, but that is reviewed, and where somebody is being assisted towards more independent living where they are able to start managing, then there are examples whereby the tenant has been moved on to direct payment so they will receive it directly themselves. In those cases they are then monitored and if there is a problem the authority works well with the landlord, the care provider and the individual to make sure that the rent payments are being made appropriately. I think it is more to do with learning difficulties and vulnerability of individuals for many reasons.

Q85 Mr Heald: The Department has said that it would consider reinstating landlord payment on condition that the quality of accommodation was improved and certain energy efficiency standards were met. What do you make of that idea?

Cllr Newman: I think there is an issue here around the motivation of landlords. I am very keen that we want to see it and we are very keen across the LGA that those landlords who do need to should improve the standards because this should in no way be a reversal to enable landlords to operate who perhaps do not focus on the best conditions for tenants. If there is going to be the flexibility to have the option of direct payments, and whether that goes even a stage further in terms of the licensing of private

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landlords in some areas, I do not know, but what we certainly do not want to see, and I do not think anyone would want to see, is a return to a minority of landlords who, frankly, abused the system and got the direct payment and left tenants living in unacceptable conditions. That suggestion there is fine but for me that would be a minimum starting point.

Q86 Mr Heald: Do you accept the idea of the linkage or should they not be doing this anyway?

Cllr Newman: The direct payment?

Q87 Mr Heald: No, improving the quality of the property and ensuring it is energy efficient.

Cllr Newman: Absolutely I think if the state is paying housing benefit to landlords there should be a clear link that the accommodation provided is of the highest possible standard.

Q88 Mr Heald: Do you all agree with that?

Mr Lister: I think there are several things here. I think everybody wants to achieve a driving up of standards and obviously improving energy efficiency is an important overall Government target, so generally anything that can help improve that we would be in favour of. It is just a question of whether it is the right tool for doing so. We actually supported the proposals in the Rugg Review for a national low level landlord registration scheme and we thought that would be a better way of achieving it in that you tied housing benefit to that scheme itself. Instead of just picking out one part of the sector, local authorities would then have the information to look at the overall kind of stock in their borough and to target their resources accordingly. I think the proposal in the Rugg Review is you would have a low level licensing scheme, but there would be certain things which landlords could not get unless they had actually registered, so they would need their registration number in order to make a claim for housing benefit and to do various other things as well such as get a mortgage and register insurance and that kind of thing. We think that would be a better way of achieving it. I think there are two problems with tying housing benefit directly to standards. One is that then becomes part of the administration of the scheme and the question is do you then go backwards from where we have gone with the LHA where we actually took out a step. Either the housing benefit officers have got to do the assessment of whether it is up to standard or not, or you have to have some other process whereby it is taken out and somebody else does that and then it comes back again, which is pretty much like what the rent officers were doing beforehand. We want to see ways in which standards can be improved and we are not entirely convinced that it is the right model.

Ms Holden: I would agree largely with what Sam has just said there. I would be very concerned that it could be simply seen as a retrograde step back to a landlord putting into their tenancy agreement that any housing benefit payments were made direct and there would be no discussion and that would simply happen and we would be back to paying landlords

all the time. That would concern me. One of the areas that direct payment to landlords has always concerned me as a practitioner is that I think it is very difficult for us to know the true level of rents that are accepted by landlords where their tenants receive 100% housing benefit. What I mean by that is quite often there is a small shortfall. Maybe housing benefit is paying 80 to 90% of the contractual rent. It has always been difficult, if we look at the number of cases that go through investigation, to be 100% sure that when a tenant receives less than 100%, the landlord is collecting the shortfall and asking for the difference. If we go back to a large number of landlords receiving benefit direct again, we could well go back to a hidden amount of changes in the rent levels that are collected, and that would concern me because that artificially pushes up the cost of the benefits bill and it is something at the moment we are able to deal with by making sure that the payment is being made to the tenant and the landlord is then collecting the difference; at least we hope that is the case. With regard to energy efficiencies, I think we agree in principle that improving the standard of properties has got to be a good thing, and we will look for work in that area, but housing benefit officers are not property inspectors, they are not specialised in that field, and I would be concerned about the increase in the administration if that were to become part of the scheme and, as Sam has said, it could potentially elongate the process for payment or for withholding payment if there was an investigation on-going. Potentially also we would have more going through the appeals process arguing whether it was acceptable or not. It is not an area at the moment I would feel comfortable in arguing at tribunal.

Q89 Mr Heald: Of course, one thing that is said by landlords and by tenants is that they prefer direct payments to be made to the landlord. To what extent do you think this view of the tenants is coloured by the attitude of landlords, in other words landlords are saying, "I would like the rent to be paid direct," or do you think this is a genuine view of tenants that it would be easier?

Mr Lister: I think there was some evidence from the Pathfinders that tenants' views were coloured a little bit by the landlords. Tenants' views were also coloured by what they are used to. I think that is what the Pathfinders found in that they did find a small difference between people with claims who had been on the pre-LHA system and new claims who had to go through the LHA system itself. Those who were new claims and had only ever experienced the LHA were more likely to approve of the new system. I think it is partly an issue about change for people and getting used to it.

Q90 Mr Heald: Natural inertia.

Cllr Newman: Just to clarify, no-one is saying we want to go back to direct payments to landlords as the alternative. There are some exceptions where that may be what is required but direct payments to tenants is working. It is still relatively early days. As everybody said at the start of this, the transparency

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and responsibility and greater choice—there is evidence that this is what is working out there. I think it would be a regressive step to go back to direct payments to landlords as the starting point.

Q91 Mr Heald: Do you agree, Julie?

Ms Holden: If I turn it on its head a little bit and say that among people who are not currently in the LHA scheme, so who are social tenants with registered social landlords and council tenants where we still have housing stock, there is still a great deal of opinion and attitude that comes from our claimants in those sectors, “You’re the council; you pay our rent.” That view is there and that view certainly was always there and used to be there from the private sector as well. We have moved away from that over the past couple of years by making the payments to the tenants and saying, “You are the one to take on a tenancy; it is your responsibility and we are assisting you to make payments by giving you the money.” It will take time to come to fruition. It is convenient for a landlord to have the money paid directly. It is convenient for a tenant not to have to deal with that amount of money, but it is abdicating responsibility, and my view is that in many cases what we see is our tenants saying, yes, they prefer that because then they do not have to deal with it, they do not have to bother about it. As a practitioner for over 20 years, I have heard so many customers say to me, “You pay my rent; the council pays my rent” and they do not see the link themselves. To me that is where it comes from. It is a cultural thing and it will change and I suspect in time the majority of tenants will say, “No, I prefer to take the responsibility myself.”

Q92 John Howell: I want to move on to some practicalities around direct payments and I want to pick up a point. I did not quite understand, Julie, what you were saying in terms of the education that had gone on in terms of finance, particularly bank accounts, because we have had evidence that claimants have had problems in opening bank accounts. I got the impression you thought that was a problem that had been solved.

Ms Holden: I think we are working through it. Some authorities are still experiencing more trouble than others with it. Most authorities will have leaflets on how to open a basic bank account. The majority of authorities have worked with their banks and they have spoken with their local banks in their districts, in their boroughs, in their areas, in order to ensure that the banks are on board with basic bank accounts and how they work. There has been resistance in the banks, certainly in the early days, and some of the Pathfinders found this particularly and had to go and speak directly with the banks in order to get them on board. There is not a great deal of incentive for a bank necessarily to have a basic bank account which does not pay them much of a dividend and I fully accept that. The credit union budget accounts are becoming much more popular and with the basic bank accounts we have certainly found that very, very few tenants have had a problem. I would use my own authority as an

example. I have one person who is struggling to open a bank account and it is more to do with that individual rather than the bank in his case and we are working with him and we are trying to take him through it. None of my other claimants have that problem. My own authority is a relatively small one and obviously if you take that problem to a much more urban London borough for example, there are going to be more customers and more claimants but it is still a very, very small minority and putting the effort into those individuals is actually showing that we can make a difference. Again, it is a matter of time and it is a matter of being able to keep pushing, keep educating the individual and the banks and we should be able to get the two to match up.

Q93 John Howell: The best education you are suggesting there is on a one-to-one basis rather than endless leaflets?

Ms Holden: The leaflets help certainly for new claimants. They tell them what to do and how to do it and we know that they are using them. Where they are struggling we encourage people to come and talk to us, as I know many authorities do around the country, and if necessary we will intervene personally.

Q94 John Howell: I have another question on banking arrangements but I will give Sam and Tony the opportunity if they want to comment on it.

Mr Lister: I think there are some areas where people experience difficulty. There have been examples whereby people have been caught in a trap with a local bank in terms of proving identity. I think there was one example in some of the Pathfinder evidence where the bank were asking for proof of benefits for the proof of identity where it should be the other way round. I think I am right in saying that the identity proof is a higher standard than that used for benefits but I am not sure and perhaps Julie might know that.

Ms Holden: It is very similar.

Mr Lister: It is very similar, right. You do get instances whereby the information does not get down to bank staff locally about how to treat customers, so it is not necessarily just a process for education of the individual claimants. There is a process to be done there of educating landlords as well. DWP are actually funding financial inclusion champions and two of those are in post within CIH. They are helping to address this problem whereby we are going out and speaking to the landlord groups and demonstrating to them what can be done and what financial inclusion services are out there. I think there is a lack of awareness in some landlords as to what help and services are out there and that is an area that needs to be tackled as well.

Cllr Newman: The councils have increased expenditure on this. It is not just about leaflets and how effective they can be. There are one-to-one conversations with and advice to tenants around the options. I do think there is more work to be done in terms of greater use of credit unions and other potential accounts that can be used, but there has been a very clear focus in terms of an increase in expenditure on debt counselling and the wider issues

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perhaps around this area. On the specific housing benefit many councils are doing one-to-one conversations with tenants.

Mr Lister: Can I just add one other point and that is local authorities do have discretion as to the form in which they pay. There is no reason why they have to pay into a bank account.

Q95 Chairman: Cost.

Mr Lister: Yes, there are reasons why it is preferable and a lot of those are very good reasons. It is cheaper, it is quicker, it is less prone to fraud; those are all very good reasons for paying into a tenant's bank account, but sometimes people do get into difficulties. Again, there are examples in the Pathfinders where people did not want it paid into their account because they already had debts with the bank and they were worried that the payment would just be swallowed up by the bank and they would not be able to get access to it in order to pay the rent. That would be an example of a good reason for not paying directly into somebody's bank account. The importance is that local authorities need to be flexible in terms of their policies and when they do pay, and have some exceptions, but broadly, for the most part, payment into a bank account will be the best way.

Ms Holden: We just have to go back to the safeguarding and vulnerability policy as well. If somebody is really struggling, there are potentially other issues there as well, and it may be the case that direct payment to the landlord is more appropriate, but obviously we would not do that just because they do not have a bank account. Third party payments tend to work quite well as well where there is another nominated person who will receive the payment for them and that can help them if they are in difficulty.

Q96 John Howell: Let me take you on to another issue that has arisen from the evidence that we have and that is the mismatch in the timing of the allowance payments and the timing of the rent, in that landlords want their rent on a calendar basis normally and that does not necessarily match up to the arrangements for payments. Is that a problem that you recognise and is there a consequential knock-on in terms of unauthorised overdrafts making it difficult to claim, making it difficult to budget?

Ms Holden: I think I would start by saying this is not an LHA problem, particularly, because LHA payments are the same as all allowance payments so whether it is the LHA scheme or otherwise it all falls under Regulation 92 and therefore the payment frequency is in that way.

Q97 John Howell: But if you have a bank account that has got nothing in it except for this then the potential problem there is magnified even greater. If you have already got a float in there you probably do not notice it but many people in this situation do not have that float.

Ms Holden: Again, I think perhaps this comes down to individual authorities as regards to the way that they use the scheme. Payments can be aligned with

the rental frequency so it should not actually be a major problem. We do have a requirement to pay in arrears. That potentially is the issue, I suspect, whereby somebody is required to pay out the money before the housing benefit is paid and the majority is paid four weekly in arrears, so I do accept that, but I cannot say it is a problem that has been raised by other practitioners and myself as being something that has been brought to their attention as a particular problem. I do not know whether colleagues can add to that.

Cllr Newman: Some payments are made up to four weeks in arrears and you are suggesting that can lead to problems, and I think that comes round to whether it is discretionary payments or flexibility in terms of what an individual local authority might be able to do in individual circumstances. It is an area that could be looked at. I do not know where that is coming from. It is not something we have had as a major issue.

Q98 John Howell: It is interesting to get that view. Moving on to a last question, which is to try to get some feel for the dynamism of the private rental sector, because we have had submissions from landlords suggesting that some have left the HB sector because of the LHA but there are also suggestions that others have come into the market there. Do you have a feel for how the dynamism of that sector is working?

Ms Holden: I think I would start off by saying housing benefit rent allowance caseloads have been increasing. We have certainly not had evidence brought to us of tenants having difficulty acquiring housing so I do not think there is a lack of private landlords willing to make properties available to benefit claimants. Of course, with payment of LHA direct to the claimant, the landlord does not necessarily know the person is receiving benefit, so that is another factor. Yes, there certainly are from time to time threats from landlords that they have had enough of the system, they do not like the system, they have had a problem with an overpayment or a problem with the benefit scheme itself and they have decided they are not prepared to let again to a benefit payment, there are lots of examples that is happening but, again, it is very much a minority, it is a very small number of landlords. In my experience, those landlords will refuse to let to a benefit claimant and then when they cannot achieve another tenant they will let to a benefit claimant again and they will come back and maybe have a more positive experience and not a problem.

Q99 John Howell: The threats are idle?

Ms Holden: On the whole. Some leave, some come back, new ones come in, and I do not think on balance it causes a problem.

Mr Lister: If the Committee are interested I have got some caseload figures here which I can distribute.

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Q100 Chairman: We will deal with them afterwards.

Mr Lister: I would call reference in our written submission to figure 1 which is on page 10, which shows the caseload in the London Borough of Wandsworth. It is interesting that the shape of that graph is very similar to the shape of the growth of the private rented sector itself, so the sector has been expanding over the last 10 years and expanding at an accelerating rate. The caseload profile has been going on the same curve. If you look at the caseload figures all in all, in the last year and a half the overall number of housing benefit recipients has grown by about 9.5%, on the figures from November 2008 until October 2009. If you look at the private rented sector, that growth in caseload has been 25%. There may well be other reasons for that. We know that the caseload is growing because the number of unemployed claimants is being added, and it may be to a certain extent that the social sector is already saturated with unemployed claimants but, still, there does not appear to be any evidence at all that it is actually affecting access. I would also ask you to take a look at table 6.3 in our written evidence which was from the caseload figures during the Pathfinder stage and the comparator areas, and the actual change in caseload when you compared it with the comparator areas was almost identical. I think in the comparator areas it shows a 16.1% increase during the Pathfinder phase and a 17.7% increase in the Pathfinder areas. That is remarkably similar. That does not mean of course that individual landlords are not pulling out, but what it shows is that where they are their places have been taken by somebody else. I think any good social scientist will tell you that there is a difference between attitudes and behaviour and consistently if you ask landlords the question something like, "Would you consider moving out of the sector because of the LHA payment rules?" then you get at least a 60%, "Yes, that is the case" but the actual evidence from the crude caseload figures on behaviour do not support that.

Cllr Newman: The LGA would certainly support that. There is no evidence of any significant landlord flight. There may be a few but, as has already been said, there are others coming into the sector.

Q101 Mrs Humble: Can I move on to ask some questions about rent arrears and vulnerable claimants. Just as in your earlier answers about landlords, and some moving out and some moving in, we have had contradictory evidence about the level of rent arrears that may have resulted from direct payments to tenants. I wonder what your experience of the matter is. Have you seen an increase in rent arrears where the LHA has been paid in direct payments to tenants?

Ms Holden: The main contributors who put the IRRV response together had quite a mixed response on that where some said yes, they had seen increases and they said that evictions were more so for rent arrears since LHA came in, and there are other authorities who are saying there is absolutely no change, nothing seems to be going up. My own authority has had fewer applications through to homelessness in the past year or so. Looking at the

trends and figures we find that we had, as I said, less experience of homelessness and less experience of evictions due to rent arrears that came to our attention. Obviously we do not know about everybody. Tenants do leave benefit and we do not necessarily know all the details behind their vacation. If they are leaving and there are arrears, yes, we probably will know about it. I cannot say that I have seen an increase of requests for direct payments because of rent arrears. It is about the same level it has always been. Then I have colleagues in other parts of the country who have said that, yes, they have seen this. Notably, some of the areas in Scotland said that they found it was a problem for them and South Wales has seen some examples where they have said there have been increases in rent arrears and more evictions as a result of it. I am afraid the answer I can give is it is a mixed bag from the practical experiences of the different authorities.

Q102 Mrs Humble: You are not helping me at all with that answer!

Ms Holden: Sorry!

Mr Lister: In terms of national figures overall and national statistics, you will see from our supplementary evidence that that does not appear to come through, so looking at the statutory homelessness figures for England over the past three years, Julie was right, there has been a fall in the number of acceptances. It has roughly halved.

Q103 Mrs Humble: Do your statistics differentiate between those who are intentionally homeless?

Mr Lister: I was coming to that. No, what I was going to come to was within those statistics there are also breakdowns of reasons for people having been accepted as being homeless. The overall caseload number of acceptances has broadly halved in the three-year period from 2006 to 2009, from 20,000 to 10,000. There are various reasons collected in the official statistics and if you just look at the figures for rent arrears those have actually gone down by about the same proportion, and it is only a small proportion of those. One of the other reasons where they might be hidden is loss of initial and shorthold tenancy, so the landlord might not have gone through a formal eviction process but just got rid of them because of the loss of initial and shorthold. They do not show in that either. In fact, the drop there is even steeper than the halving, so certainly on the national statistics that does not show. We have also got some figures here from the Ministry of Justice in terms of court level data. I pulled out one of the Pathfinder areas. It shows all claims. That does not distinguish between rent arrears at all or not, but just looking at that one area, there does not appear to be any noticeable effect there at all, but I will hand those to the Committee.

Cllr Newman: There is not a direct link from the LGA perspective between the Local Housing Allowance and an increase in evictions, but there may be, and some people are saying that there is possible patchy evidence of an increase in rent arrears, but that is more anecdotal; there is not an increase in evictions.

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Q104 Mrs Humble: Have you looked at it in a geographical sense because Julie has said that there are certain areas and certain local authorities that are not identifying an increase in arrears but there are other areas that are. You have mentioned Scotland and parts of South Wales, but do you have any evidence that either some local authorities are implementing the system better than others and supporting landlords and vulnerable tenants better than others or is it because of the particular issues to do with that local authority? You mentioned earlier some London boroughs have different sorts of figures to more leafy suburbs. Is it that sort of complex picture that leads to the uncertainty of the evidence that is given to us about whether or not rent arrears have gone up?

Cllr Newman: Yes, there are going to be regional variations. In my own London borough, the London Borough of Croydon, the Director of Finance there is saying that they are seeing some increase in rent arrears, but there is no evidence that that is leading to an increase in evictions. I think I am right in saying if there are rent arrears after eight weeks the landlords can trigger the direct payment mechanism, so there is possibly patchy regional evidence. Others can come in here around arrears, but there is no regional evidence of which I am aware that there are significant evictions in one part of the country and not in another. That seems to be, as referred to as well, not the case.

Mr Lister: It may well be a mixture of both reasons that you have suggested, so in some cases local authorities may not necessarily be employing the best practices that are being developed by others. There may well be some local factors as well. Obviously practices do vary from borough to borough and there may well be some peculiar local demographics which mean that rent arrears are going up in that area, but again that does not necessarily mean that is due to the Local Housing Allowance. That may be due to something else.

Q105 Mrs Humble: Tony, you mentioned the eight-week rule and we have had lots of submissions to say that that period should be reduced to, say, four weeks and thereby reduce the amount of rent arrears. Do you think that that would substantially help the problem?

Cllr Newman: I think that takes us back to the discussion that we started with around personal responsibility. It is still early days and I am not sure there is a yes or no answer to that. I think it is early days and I am not sure that you would want to be triggering that, say, after four weeks.

Mr Lister: I think it is worth clarifying just what the rules say here. The eight-week rule is when direct payments become mandatory. The point is there is lots of discretion in the system already for direct payments to be made beforehand. First of all, it is up to the authority to decide whether they consider it unlikely that someone will pay their rent. They have also got that discretion in deciding whether somebody is vulnerable at all or not. There is also a rule which allows them, if they suspect that either of those two might be the case, to be paid on that basis

for up to eight weeks. So, in other words, if they get evidence, say, from a landlord that that is happening they can immediately change the decision and go on to landlord payment whilst they investigate. What they found in the Pathfinder areas, for example in the Blackpool Pathfinder, was relatively few cases overall, of those that they had put on landlord payment, very few were due to the eight weeks' rent arrears, and, in fact, by the end of the Pathfinder evaluation in November 2005 there were no cases of their caseload where they were paying the landlord which were due to the eight weeks' arrears.

Ms Holden: I think that is absolutely fair. As Sam said, the legislation requires eight weeks to change the payment direction if the person is eight weeks in arrears, but prior to that we do have an awful lot of discretion. That discretion is used and certainly exercised in authorities. One of the contributors to our submission made a comment that a lot of landlords came forward, certainly in the early days of HLA, when we had the full roll-out after Pathfinder from April 2008, stating eight weeks' arrears and asking therefore for payments to be changed. I suspect there was quite a lot of this with regard to landlords who wanted the direct payment making an approach, saying, "They are in arrears; can I please have a payment direction." According to that benefit manager, when challenged to provide the evidence, in many cases, the evidence did not come forward. Again, it was early days in the scheme, people were testing the waters and trying to get the payments directly back to the way they were most comfortable with; receiving it direct and not having to be involved themselves. I think there is probably a degree of that that has been involved in it. I do not think it is necessary to change the law for the compulsory payment prior to eight weeks because we already do have that safeguard in there if used effectively by authorities, and I believe it is.

Q106 Mrs Humble: Your answers to that question all are relying upon local authorities correctly identifying vulnerable claimants. As one of the Blackpool MPs, I had lots of dealings with my local authority when it was a Pathfinder area and asking them questions about how they can properly identify vulnerable people. Again we have had some contradictory evidence about the degree of flexibility in the system. The Government issued new rules in December last year looking at the safeguards and rules under which local authorities operate in identifying vulnerable claimants. Do you think that the rules are too strict or do you think that you really do have flexibility? Are local authorities actually doing the job properly identifying vulnerable claimants and not sometimes over-estimating people's vulnerability in order to satisfy landlords' demands for payments direct to them?

Ms Holden: I think there is a difference between vulnerability and the tenant falling into arrears. They are not necessarily one and the same thing. When it comes to safeguarding and identifying the vulnerable claimants and those who should have payment direct, I think that we are getting very good at that and there are some very good examples

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around the country of policies which are being implemented which really are very good and hopefully picking everybody up. I cannot say everybody is picked up but hopefully everyone is. There is also an awful lot of very good liaison between housing benefit services and local landlords, and this is certainly something that has grown over the last 10 years or so with a lot of landlord forums, a lot of one-to-ones, a lot of conversations with private landlords as well as social landlords to ensure that the landlord understands their part in the housing benefit scheme and how it works. The result of that is that landlords are not shy at coming forward if they have a tenant who has skipped the payment. They will come forward and say, "I've got a tenant here. They are four/five/six weeks in arrears, whatever. We are not at the eight weeks yet but I am flagging it up to you." Very often we will go back and talk to that landlord and say what has the pattern been, can we see the rent book, can we see what has been happening? If there is a real problem there then we will look at it from a vulnerable category. If it is simply a case where the tenant is regularly late and this is causing the landlord a problem, then we can start making direct payments to the landlord, and it does not have to be on the vulnerability of the claimant, but on the fact that a landlord is not getting their money, so we can look at it from that side.

Mr Lister: There is one thing which is particularly difficult to deal with for local authorities and that is where you have somebody claiming for the first time because the rules are that there is an assumption that you pay the tenant and, if there is no evidence there to suggest that it should be paid to the landlord, then payment has to be made to the tenant, so I think that is a really difficult issue to deal with and I am not sure quite how you get round that, apart from local authorities rolling out all the best practice in terms of making sure the message gets out there and that both landlords and tenants know generally what they need to do if they want the payment to go to the landlord or they think there is a case for that to be heard. Where local authorities have already got a past record of somebody claiming, so, for example, they can pay direct, they can continue paying direct payments after somebody has reduced the arrears below eight weeks if they were on mandatory payments beforehand, so they can actually continue that and they might pick up a record where somebody has had a break in the claim and that information comes out, so where they have a claimant history, it is very easy to deal with, but it is much more difficult where there is not that claimant history. Just to clarify what you said, the rules have always been the same, the rules have not changed, so the Regulations have not changed at all, but the guidance has, so the guidance about safeguarding has been reissued a number of times, and Julie will probably know more about that than myself, but it is important to point out that the Regulations actually have not changed at all. They have been consistent and I think they were exactly the same in the Pathfinders as well.

Mrs Humble: We have run out of time, so I am not going to ask you a question about your opinion on the possible abolition of the £15 excess. If you have not included it in your written submissions though, could you just drop us a note on how you think that might affect the situation.

Q107 Miss Begg: The theme of this morning, it seems to me, is that we are getting contradictory evidence in almost every area and, Julie, in your remarks to the Chairman, you said that the BRMAs were too broad and you quoted Oxfordshire and we have had evidence from Cambridgeshire, but at the same time Crisis say that actually the broad BRMAs are helpful because it means that people can make the difference by choosing cheaper accommodation and getting the benefit from that as well. I suppose I really want to ask the other two: on which side of the divide do you come down? Are they too wide, are they right in most cases and actually we are looking at really only specific things where you have a large urban centre surrounded by a large rural area where there are major differences in the rent levels of the two areas within the one BRMA?

Cllr Newman: They are, I think, broadly right, but you identified exactly an issue there. There are exceptions, but I do not think the starting point should be that it is wrong across the piece. They are broadly right, but, by the very nature of the system, there are going to be exceptions.

Q108 Miss Begg: Is there a problem then with the criteria, the lack of transparency and the criteria which were used to draw up the boundaries?

Mr Lister: Well, the Regulations are relatively clear as to what rent officers are meant to do and meant to take into account, but I think it would be helpful if there were a statement of government policy of actually what they were trying to achieve, so, for example, we have said it would probably be fair if the market areas were broadly based on travel-to-work areas of low-paid people. If there were sort of a general statement out there as to what the Regulations were trying to achieve, then you could judge it against those criteria, but I think equally it is important to say, and I am going to disappoint you here again, there is no right or wrong answer as to whether large areas are good or small areas are good. You get problems with areas being too small and, if the areas are really small, then claimants who live in low-cost areas get their rents capped at what are already low-cost rents. If you make it too broad, then you have the problems of low-cost islands in areas of generally higher levels, or the other way round where you have got a high-cost island in a low-cost area.

Q109 Miss Begg: Can I just ask you, because you did mention travel-to-work areas and things, have you got any evidence that the broadness of the BRMAs are actually acting as a disincentive to work, in other words, people are forced to move out to where there is cheaper housing, but actually the reason why the housing is cheaper is because there are poor links, poor employment opportunities and things? Have

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you got any evidence that it is becoming almost a cycle of deprivation in that you are on housing benefit and, therefore, you are in cheap housing and, therefore, you cannot get a job, that kind of thing? Have you got anything on that?

Ms Holden: We have not seen any evidence to really support that theory at all. Broadly, for most of the country the BRMAs are okay and they do seem to be working fairly well for most authorities, but there are some areas of problems and, as Sam has said, there are little islands, there are clusters and there are problems where it just seems to be so very, very diverse that it seems to be going horribly wrong. I think the point I would just like to make is that, with regards to the BRMAs being an incentive or disincentive to work, we do not actually think that is a major factor and we think it is the scheme itself, the housing benefit scheme, which still has deficiencies that need to be addressed in order to improve the incentive to work.

Q110 Jenny Willott: I have a couple of questions about particular groups and the impact of LHA on them and, first of all, larger families. I am sure we all remember the problems which led to the introduction of the five-bedroom cap on LHA payments. The DWP says that, where there are large properties, they tend to be at the luxury end of the market, so it is skewing the amounts that are paid. First of all, is that your experience and how many claimants are affected by that and what impact have you seen that has had on those families?

Ms Holden: For some authorities it is a big problem. It is a very small number of authorities who seem to have a number of large families that live in their area. For most authorities I do not think that this is a big problem, but for some authorities it is a big problem because they see that they have got rents at the very high end of the market and they are for very large families, so the actual numbers I cannot give you, but again it seems to be an isolated problem. We struggle with this because the rent officer functions set out size criteria, set out what is expected for a standard of living and state that a certain number of children and age and gender of children result in a certain number of bedrooms, a certain number of rooms that they are entitled to under housing benefit, and now we are being asked almost to ignore this and to put a cap in place and we actually find this quite perverse. We feel that really other social policy needs to be looked at as a whole here and a consistent decision needs to be made as to whether or not there is going to be a cap on the size of property which will be supported by housing benefit or not. Our view is that either social housing must be available for large families or the private sector has to pay, and we do not really support the idea of capping and reducing the number of rooms when looking at other parts of legislation saying that that is the correct way of approaching it, so we feel that there is a bigger issue.

Q111 Jenny Willott: Do you have any suggestions as to how it could be handled? Could you provide a certain amount per extra bedroom or above a five-bedroom limit? Are there other ways that this could be handled?

Mr Lister: When the proposal for the five-bedroom cap came out, there was an option put other than the five-bedroom cap because what you need to remember here is that properties which have got more than five bedrooms are rare, so there is a small amount of data to collect. That actually was a problem that needed to be addressed because the problem was that, once a rate had been set for something like, say, six bedrooms, then that applied across the whole of the local authority and you were doing it for the whole of the broad rental market area and you were doing it from a very small evidence base, and that could lead to some odd results.

Q112 Jenny Willott: So are there other ways to do it?

Mr Lister: Well, the alternative in the consultation paper to the SSAC was that, because this is a small number of cases, what you could do is have a five-bedroom cap, but, if the family were able to actually find accommodation which was of the right size, then an individual assessment would be done. Now, individual assessments still apply to certain types of case, so that would then get round the problem of your using a very sparse evidence base to set the rate for a very wide area, so we actually supported that proposal. I support what Julie has said previously, that there was an issue about the actual evidence base which kind of needed to be fixed, but we think that that was a reasonable kind of solution and it would only apply to a small number of cases. The equality impact assessment which came with the five-bedroom cap did show that it disproportionately affected BME households, which is why we were opposed to the actual cap, the flat cap proposal, as it were, so we could see that there was an issue there, but we thought it could be dealt with by the alternative that was put forward.

Cllr Newman: And the LGA did raise concerns over the five-bedroom cap, which I do not know if people and colleagues have seen, that there was possibly a need for flexibility. There was obviously a wider issue which someone touched on around the provision of social housing and, frankly, not enough larger houses have been provided in that sector in recent times and there are far too many one- and two-bedroom properties, but that is a wider issue.

Q113 Jenny Willott: We have also had a number of submissions that the LHA rules can be a barrier to the independent living of disabled people. The DWP have said that their needs can be met by local authorities using discretionary housing payments, but others have raised serious concerns about how that actually operates in practice. Can you give us any evidence from your experience of how that is

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working in practice and whether, in your opinion, the rules need to be changed to allow LHA for an extra bedroom for a carer to be part of the formula?

Ms Holden: I think we would actually support the LHA allowing an extra room for a carer. There are other examples as well where an extra room is necessary, such as for a carer, medical requirements, and even situations with split families where an absent parent, in order to meet the custody arrangements, is required to have the extra room. We are finding that these people from all those three examples are coming to housing benefit and asking for long-term DHP top-ups in order to meet the rent or at least go some way to meeting the rent if they have other shortfalls due to the calculation. DHP was never intended to be a long-term solution. Over the past year to 18 months, as the country has been through the recession, we have found real calling on the DHP for short periods for people who really did need it for short periods of time while they have been job-seeking, and we have found that being able to support our long-term DHP customers has become increasingly difficult. We are very worried that the intention of DHP, that it was meant to be a short-term alleviation, it is actually becoming a split pot and that we are having to look at giving it long-term to people, such as the LHA issues with regard to disabilities, or we are then having to make decisions on whether we are going to continue making those payments or we are going to put it into the short term where we've got so many more people coming to us and asking for it. This is becoming a real problem in local authorities across the country.

Mr Lister: I think, as you are probably aware, there is a proposal in the current consultation paper to relax the size criteria where somebody has got a live-in carer, and I think broadly we would support that. Where we do have an issue with it is that the Government wants to pay for that out of savings from within the size criteria themselves. We perfectly understand the need to make savings in the current economic climate, but I think that is too narrow a base from which to recover the money back, so they are actually proposing or suggesting that the age at which a child qualifies for a room of their own should be raised from 16 to 18, and the broad justification for that is that the size criteria in housing benefit are more generous than the overcrowding standards. Well, the overcrowding standards were set in 1935 and we do not think that they are acceptable now. In fact, the ODPM in 2004 described them as being completely unacceptable, so we do not think that is justifiable. A child who is over 16 will presumably be in education, even if they are still part of the family, so they will need a room of their own in order to be able to study. We certainly support the proposal to give a little bit more flexibility there to take account of the needs of disabled households, but we do not like the proposal that it should be entirely recouped from savings within the actual size criteria themselves.

Cllr Newman: We support that proposal now and would like to see greater flexibility and an ability to use discretionary payment in these areas.

Chairman: Well, thank you. That has been a most interesting session and we are very grateful to you for the evidence you have provided to us.

Witnesses: **Helen Goodman MP**, Parliamentary Under Secretary (Commons), **Mr Paul Howarth**, Divisional Manager, Housing Benefit Strategy Division, Work and Wellbeing Group, and **Mr Neil Couling**, Benefit Strategy Director, Work and Wellbeing Group, Department for Work and Pensions, gave evidence.

Q114 Chairman: Good morning. The Department is conducting this two-year review of LHA at the moment.

Helen Goodman: Yes.

Q115 Chairman: Are there initial findings you can share with us?

Helen Goodman: Before I do that, could I just introduce Mr Couling, who is the Director of Benefits.

Q116 Chairman: He has been here many times.

Helen Goodman: And Mr Howarth, who is in charge of housing benefit policy. No, let me just say that we have not yet got the information from the review. Would it help the Committee if I just set these issues in context?

Q117 Chairman: Probably not. We do know the context. If you are unable to share the initial findings, then the answer is no and that is fine, but we are just asking.

Helen Goodman: Well, the problem that we have is that the statistics that are being collected have to reach the standards required by the National Statistics Authority and that means a long process of checking, and it is rather slow and that has not been completed yet, so it is not that I have got some numbers and some information which is available to me that I am not sharing with the Committee; I have not seen them either.

Q118 Chairman: When LHA was launched, the Government set a number of objectives for the scheme. To what extent do you think those have been met?

Helen Goodman: Well, I think the first objective, which was to make the system more transparent and simpler, has certainly been met. What we have got now is a system where LHA rates are set for a whole BRMA instead of the rent officers looking at every individual property. I think we have made some more progress on financial inclusion and personal responsibility because we have increased the number of tenants to whom benefit is paid directly, and alongside that obviously the local authorities have

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done some more work on helping people to manage their finances and open bank accounts and so forth. I think the new system is considerably fairer in that we are ensuring that people in the same circumstances also all receive the same level of benefit. We think the administration has improved and the £15 excess rules also give people some more choice, but we can come on and discuss that later.

Q119 Chairman: Do you think there has been any impact on barriers to work?

Helen Goodman: In terms of helping people manage their finances, I think that there has definitely been an improvement. I do not quite know what you mean by that question. I am not sure that LHA has specifically—

Q120 Chairman: Is there a greater awareness that LHA is an in-work benefit as well as an out-of-work benefit than there was on housing benefit?

Helen Goodman: Well, housing benefit is also an in-work benefit and that is why I was hesitating.

Q121 Chairman: But is there a greater awareness of the fact that this is an in-work benefit following the advent of LHA?

Helen Goodman: Well, I do not think it is the advent of LHA in itself that has increased that awareness because we have had campaigns across the board recently about housing benefit in general.

Q122 Chairman: In the national roll-out of the Local Housing Allowance, the funding mechanism was different from what it was for the authorities in the Pathfinder areas. Is there a justification for that?

Helen Goodman: Well, the justification is that obviously the level of support that you can give to nine Pathfinder areas is greater than when you are rolling out to all the local authorities in the land, but we did invest £59 million at the outset in helping the local authorities to run the new system and before we went to national roll-out we were told by the local authorities that they were all ready for the new system.

Q123 Chairman: But specifically in the Pathfinder areas there was money, advice and guidance available which was not available in the roll-out.

Helen Goodman: Well, I think it is helpful to see this alongside all the other things that we are doing on financial inclusion. For example, as I am sure you know, DBIS have got much more money guidance, we have invested £20 million in that, and there are a whole range of other financial inclusion strategies, so I would not think that we would have to repeat all of those because there are other policies in other parts of Government that are dealing with that.¹

Chairman: Well, we may come back to that.

Q124 Greg Mulholland: Helen, if I can ask you again the question I asked you on Monday, hopefully this time we can actually get both an answer and perhaps a little bit more respect for members of the Select Committee. I thought it was an absolutely disdainful answer, and I want to put that on the record, and it also suggested that you did not even really understand the point I was asking, and to start saying to a member of the Select Committee what I obviously do not know, well, I would like to know what you know and what you think and I hope that we are going to find that out today, so can I ask you again: with regards to the eight-week rule, do you understand the concerns which have been raised and are you looking into this?

Helen Goodman: Yes, I realised when I sat down that you had not been satisfied with what I said on Monday in the Chamber, and I am sorry about that and I will try to explain why what I said was, I thought, a response to you. We have had a lot of complaints from people about the level of direct payments that are being made directly to the tenant rather than to the landlord and there are various ways in which it is possible or various criteria for deciding whether the payment should go direct to the landlord or not, and one of those, as you were pointing out, is if the arrears have built up to eight weeks. Now, we have taken some action in terms of setting out new guidance which went out in December. The point I was making was that I do not think the impact of shifting to direct payments is as damaging as some people have claimed, and the evidence for that is that the number of people in the private rented sector on housing benefit has increased over the year from autumn 2008 to autumn 2009 by 250,000. I am sorry, I did not have time to make all those steps clear in the Chamber on Monday.

Q125 Greg Mulholland: Thanks for that clarification, but the point is that you did not address the eight-week rule at all and you have not really done that again now. I did not ask you how many more people might be in the private rented sector, I have those figures, they were being preached at me on Monday and I do not need them being preached at me now. Can I ask you again: do you think there are concerns with the eight-week limit? In some of the evidence that we have heard, Oxford City Council said that the eight-week rule is badly implemented, that the vast majority of tenant rent is charged in advance, so by the time that HB agree that eight weeks are in arrears, the tenant is effectively three months in arrears. The North West Landlord Association pointed out that after eight weeks, if the rent is, say, £100 per week, the tenant will owe £800 before rent is paid direct to the landlord. Extrapolating that and ignoring interest costs, it would take over five years to recover a debt run up in eight weeks and that is what we are talking about, so can you now specifically tell me: are you concerned about that and are you looking at

¹ *Note by witness:* The Department has since clarified that funding for money advice was paid to local authorities at the roll-out stage of the LHA, but this was paid within the overall £59 million roll-out funding.

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reviewing that eight-week rule, because that is what I asked you on Monday and I still have not had an answer?

Helen Goodman: Well, of course it is a matter of concern if people are ramping up arrears which are very difficult for them to pay back and it is going to take them a long time to do that, and of course I accept that. I think after the tribunal in Coventry the situation in fact is not quite as bad as it may have been presented as being in that the tenant becomes technically eight weeks in arrears at the five-week point because benefit is paid retrospectively, but landlords are requiring rent to be paid in advance, so the eight-week point is in fact reached when the person has been living in the property for just over four weeks. I hope that the new guidance which we sent out in December will have made that clear, and I think probably the local authorities have not yet had time to see how their systems have improved by using the new guidance. Now, one of the things you said was that the local authorities have not always administered it as well as possible. Well, I am afraid I have to say to you that that is their responsibility, not the responsibility of the Department for Work and Pensions. Just on two other points about this, I agree with you that it is extremely frustrating for both landlords and tenants that rent tends to be charged on a monthly basis, whereas benefit tends to be paid on a fortnightly or four-weekly basis, and the problem is that only some local authorities have got the IT kit for resolving that and there cannot be a general change to tidy this up until all the local authorities have done that. Similarly, we know that, for example, in Leeds the first benefit cheque is made out to the landlord, but given to the tenant and that means that their systems work much better than in places where the first cheque is also made out to the tenant, but again that is a question of the local authorities' administrative capacity.

Q126 Greg Mulholland: It is nice to hear things are going well in Leeds, but, as a point of correction, I did not say anything actually at all about local authorities implementing this well or not. I quoted Oxford City Council who said that the eight-week rule is also badly implemented, so I make no comment about that. If I can ask you specifically, it has been suggested in our evidence that perhaps the eight-week rule should be reduced and a figure that has been suggested is that, instead of eight weeks, it would be to trigger it at four weeks. From the tone of your comments, it suggests that you are not looking at that.

Helen Goodman: Well, we issued a consultation document and, if people provide evidence to that effect and they provide evidence that that would make a significant difference, of course we will consider that.

Mr Howarth: I think it is very important to note, and I think some evidence this morning from the people from the IRRV and from the LGA pointed this out, that the local authority does not wait for eight weeks before taking any action, and the guidance is very clear on this, that the local authority should be alert to any signs of rent arrears, and of course the

landlord is perfectly at liberty to tell the local authority as soon as there are signs of any trouble and, at the outset of a claim, of course the local authority can pay the landlord while the investigations are taking place on the safeguards, so I think there are quite a few procedures in place to ensure that there is an approach taken by the local authority that will help prevent serious arrears mounting.

Q127 Greg Mulholland: It sounds from the last helpful comment you made, Helen, that you are prepared to review this and, if the evidence suggests it, you will consider reducing that limit.

Helen Goodman: Yes, if we have evidence that this would make a significant difference, of course we would consider all sensible suggestions.

Q128 Greg Mulholland: Excellent, and that was the answer I was hoping for on Monday, so we have got there and that is on the record, so that is good news. If I can ask you a question about the choice, clearly the idea of the Local Housing Allowance, as a principle that I think we would all support, is empowering the tenants, giving them more responsibility, but do you not think that that possibly could be done by giving some tenants the choice of whether to have payments made direct to the landlord rather than going through a process?

Helen Goodman: Well, what we have found in the past, unfortunately, was that what was intended to be the tenant's choice ended up, in some instances, being the landlord's choice and that landlords were saying that they would not take on tenants unless they could be guaranteed to get the payments of the benefit directly. We are really trying here to address the dependency culture and we are really trying here to build up people's financial management capacities, and I think it is helpful to look at what has happened in terms of the numbers, so before the changes about half of tenants were getting the payments direct and half were going direct to the landlord, whereas now about 72% are going direct to the tenant and 28% to the landlord, so this discussion about the issue really relates to less than a quarter of the people on LHA.

Q129 Greg Mulholland: One final, quick question is that the idea of LHA, or one of the big ideas, is to make people more job-ready and give them that sort of financial understanding, and again I am sure that is something we would all recognise as an important principle, but the Department has stated that it would consider reinstating landlord payment, if the claimant agreed, provided the accommodation is improved or meets certain energy efficiency standards, and that is quite a different thing, so does the Government believe that improving housing standards is actually more important than helping claimants to be more job-ready because the two do not seem to have any correlation?

Helen Goodman: Well, of course the Government has many policy objectives and one of the things we are trying to do is manage all of them. The problem that we have is that the private rented sector is

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particularly energy inefficient, it is below the average national standards. As you know, we have got objectives to cut our carbon and the carbon footprint of the housing stock is very significant in this and we do need to look at strengthening the policy levers, and we think this might be one policy lever. I am not saying that this is more or less important than work incentives, but clearly we have got that backstop date of 2050 and we have to make some progress on it. What we are proposing here does tackle the inherent problem where at the moment the landlord pays for the investment and the tenant gets the benefit in the lower fuel bills, so we are trying to pull those split incentives together with this proposal.

Q130 Mrs Humble: Can I move on to the issue of rent arrears and vulnerable claimants, and start off actually with how local authorities identify vulnerable claimants because, if they fail to properly identify claimants who may not be able to deal with payments directly to themselves, then we end up in the position of arrears building up and the importance then of the eight-week rule that Greg was talking about, so do you think, Helen, that the system that local authorities have to identify vulnerable claimants is working well? You did issue revised guidance in December, so do you think that that will help? We have heard from landlords who deal with more than one local authority that there are differences in the way that local authorities deal with this issue, so does your revised guidance help them and help the local authorities? There are also some local authorities who think that the guidance is too strict and that it does not allow them sufficient flexibility, so it is a horribly complicated question, but basically how can you make sure that local councils get it right?

Helen Goodman: Well, it is horribly complicated, as you say. What we are doing here is we are giving the local authorities discretion, and there are two broad categories. One is people who, it is believed, might have difficulty in managing their finances, and the other is people with a poor past record of payments. I think we have made quite substantial changes to the guidance setting out all the different criteria for making judgments about those things and we hope very much that, having set out the guidance more clearly, there will be more consistency so that the landlords will not face those dissonances that you were just describing.

Q131 Mrs Humble: Interestingly, in answer to a similar question in the earlier evidence session, it was pointed out to us that, if local authorities already have some dealings with a particular tenant, then it is easier for them because they already know if that tenant has in the past built up arrears or there are other aspects of their lifestyle which give rise to some doubts about whether or not they can cope. If a tenant arrives and the local authority knows nothing about them, and I know, for example, in Blackpool that we regularly get people moving into the town and the local authority does not know who they are, do you think that the local authorities in those

circumstances should be a little more proactive and at an early stage ask questions in order to be able to identify vulnerability?

Helen Goodman: Well, I can see that it is quite difficult in a place like Blackpool where people turn up more frequently. I think one of the things we are going to do to deal with this is look at where things are working well and we are hoping that we will be able to issue some best practice guidance to local authorities. If I might say so, the things that you have heard are contradictory because some people are saying the rules are too broad and some people are asking for it to be laid out in even finer detail, so I think it is slightly tricky to get this right.

Mr Howarth: Yes, it is very tricky, it is a balance, and obviously, for the reasons we have set out, we want to enhance personal responsibility and we want to ensure that most people handle their affairs themselves. At the same time, we do want to identify those people who fall into the categories we have set out and we want to ensure that local authorities have the tools to do that and do so as well as they possibly can. I think the situation you have outlined is particularly difficult because it is very difficult for the local authority to know much about someone who just presents themselves to them. As you say, if there is a history, then they may be able to pick up the fact that people have missed rent payments before or something like that, so it is difficult, but I think what we want to do is try and improve the guidance as we go along in a way that will try and ensure that local authorities are as proactive as they possibly can be.

Q132 Mrs Humble: Because we have certainly been told that the evaluation of the Pathfinder areas was very useful to local authorities in the roll-out because they learned from good experience there, so, if you are then looking at identifying examples of good practice, that, in turn, will help those local authorities who have not got the background of dealing with vulnerable people, certainly like the Pathfinder areas did. Can I move on to another area where again we have had conflicting evidence, and that is about the level of rent arrears. Some people tell us that the amount of rent arrears has gone up because of direct payments to tenants, but then, on the other hand, we are told that no, it is actually fairly stable. What sort of evidence does the Department have on this?

Helen Goodman: We have not got evidence of increasing rent arrears, and that is where I would like to come back to those points about how many more people are in the private rented sector now than were previously suggests that landlords are still taking people on, and we know not only that there are more people on housing benefit in the private rented sector over the past year, but a higher percentage of landlords are renting properties to people on LHA and that has gone up from nine to 24%, so, as things stand, we have not got that data. Will that data come out of the review?

Mr Howarth: Yes, the two-year review will include some qualitative research which will look at that issue and that will be ready later in the year. I think it is very difficult because there is not a lot of data,

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and certainly local authorities will not of course hold data about their private rented tenants in rental arrears, so we do have to rely on statistics such as county court possessions which tell us that those have remained constant over the last few months and we do not seem to have seen any big rise there. We also rely on the statistics which were mentioned this morning about people who are accepted as homeless by local authorities and placed in temporary accommodation, and of course those figures are dropping. We look at all the evidence we can piece together on this and see if there are any trends, and there may be certain indicators and certain bits of research which have shown that there is some increase here, but we have not seen any national evidence of this.

Q133 Mrs Humble: Do you ask associations representing private landlords if they have any information about rent arrears because of course we have had evidence of landlords who write off some arrears, that they do not try to pursue their tenants through county courts and instead simply write off the rent arrears, so are you asking them for any evidence as part of your survey?

Helen Goodman: They have given us evidence and we have discussed it with them, but the number of people that they have been able to survey and so forth has been quite low so far. They have also done a lot of opinion polling. They have sort of said to landlords, "What do you think about direct payments?" and landlords say, "Oh, we don't like it", but that of itself does not demonstrate the level of rent arrears.

Mr Howarth: But what we will be going on to do is to survey landlords directly as part of the two-year review, and that piece of research is already under way, so we will get some views directly from landlords about this issue.

Q134 Mrs Humble: Finally on your review, will your review also look at people who are deemed to be intentionally homeless because they have built up rent arrears?

Mr Howarth: Well, we will take account of any evidence that we can on this and yes, we will try and use that evidence as well. Anything that we can really piece together so that we can get a full picture on this will be very useful for us.

Q135 Mrs Humble: You have said that there are more landlords and there seems to be an increased availability of private tenancies for tenants to apply to, but in your survey of the landlords did you ask them the question, "Would you stop being a landlord, or have you considered stopping being a landlord of private tenants in receipt of LHA?" since the introduction of that payment is directly to the tenant?

Helen Goodman: It is not that we have asked them particular questions, but that they have presented us with what they wanted to present us with. You were just talking about homelessness and I would just like to point out that homeless acceptances have fallen by 71% since 2003 and the number of homeless

households in priority need has also fallen from 15,500 in 2008 to 10,000 in 2009, so again the statistics which are collected by DCLG do not suggest that this is having a particularly adverse impact on that.

Q136 Miss Begg: We have also had contradictory evidence about the impact of the size of the BRMAs with some people saying they are too big and others saying that big is good because that evens out across so that people are not trapped in low- or high-cost areas, but where there is genuine agreement is that there are some areas where they are the wrong size, particularly if you have got a rich urban area surrounded by a poorer rural area and, therefore, there are disincentives to be close to work and things. What is your opinion of that? Are you looking at it to make them a bit more subtle in the areas where they are clearly not working, or are you just accepting that generally they might be the right size for most of the country?

Helen Goodman: Well, I think this is exceptionally difficult because any system that we set up will be right for one community and one geographical arrangement and wrong for somewhere else, so I do not think we are ever going to reach a solution which is going to satisfy everybody in all parts of the country because there is an inherent tension, as you have pointed out. At the moment, the broad rental market areas are set so that people can have access to health, education, recreation, banking and shopping, and they are also supposed to ensure that there is a good mix of residential properties and contain sufficient properties.

Q137 Miss Begg: The one thing that is missing out of those criteria is work or accessibility to work.

Helen Goodman: Indeed, and that is because a lot of people travel a long way to work and we think that it is completely unrealistic to say that we should have the housing market in the same space as the travel-to-work area. How far do you travel to work every day?

Mr Couling: 50 miles.

Helen Goodman: Well, we do not want to have BRMAs that size, so that is why we are not minded to go down that route.

Q138 Miss Begg: To be fair, he is not on housing benefit. If you are travelling 50 miles to work, you are not on housing benefit because all of your salary is going to go on travel, so we are actually talking about people who are at the poorest end who are probably trying to get in work. I know it is an in-work benefit, but generally most people on housing benefit will be either on a very, very low income or out of work, so the problem is exacerbated because, if they have to move, and let us take the example of Cambridge, they can only afford to live in the countryside where there are very poor travel connections and work and then actually, if they are out of work, they are never going to get in work because the way the BRMAs operate is that they will never be able to afford the house in the area where the work is.

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Helen Goodman: Of course I understand that, and I did not mean to trivialise the issue. I think it is quite useful if we compare two areas, so let us take Cambridge where the problem is as you describe it. Cambridge would very much like us to move to a much smaller BRMA where it is confined to the city boundaries and the BRMA is lined up with the local authority boundaries. In Glasgow, the BRMA does do that, it is lined up with the whole of the city, and there we have another problem which is the ghettoisation of people in the poorer areas and we have adverse impacts on mixed communities,² which is not particularly good for people either, and it also means that the level of the LHA excludes people from living in some areas. That is why I say that I really do not think on this one that there is a neat and tidy solution because the geography just varies from place to place and at some point you have got to deal with the boundary of the boundaries, as it were.

Q139 Miss Begg: The Department decided to delay the reform of the £15 excess entitlement for a year after it consulted on the proposal to scrap it, so you consulted on the proposal to scrap the £15 excess and then you decided to delay the reform of it. Why?

Helen Goodman: Well, we consulted and we got a lot of responses. A lot of responses were extremely critical of the proposal and, therefore, we decided to delay it. We have published the housing benefit consultation document, we are very conscious of the fact that we need to address the high cost of LHA and we are looking at a variety of ways of doing that, and obviously your inquiry is also an indicator that we need to look again at that. By putting reform back for a year, we have more time to consider a variety of possibilities and develop proposals which we can implement.

Q140 Miss Begg: Does that mean scrapping it, that it is now off the agenda?

Helen Goodman: We cannot rule anything out at the moment because we have not got a proposal which deals with the inherent problems as an alternative to the £15, so we are genuinely looking at the different possibilities here.

Q141 Chairman: If I can turn to particularly the impact of LHA on disabled people, the EHRC were in touch with you last year regarding the equality impact assessment and what they saw as its deficiencies. Has that now been resolved to their satisfaction?

Helen Goodman: I am going to ask Mr Couling to talk about the impact assessments. I would just like to say that the five-bedroom cap—

Q142 Chairman: No, we are not on the five-bedroom cap now, we are just on disability.

Helen Goodman: Well, one of the things that the disabled lobby was particularly concerned about was the five-bedroom cap because they were saying that they needed more bedrooms than other families. I think one of the things we have done in the

consultation document is say that we will look at the possibility of providing an extra bedroom for carers where that is needed, but obviously this is extremely expensive.

Mr Couling: The complaint we had was one that we had relied on the regulatory impact assessment to the 2007 Welfare Reform Act, and we still think that we were right to do that and clearly the relevant authorities do not think that is the case. At its substance is the debate which you touched on in the last evidence session in some of the final questions about the provision of extra rooms for carers and people who need different kinds of support and, as you know, we are consulting on that as part of the consultation which we launched before Christmas.

Q143 Chairman: Why did you feel the need to consult? Why not just go ahead and make some changes? Every time you make a change, you do not always consult.

Helen Goodman: Well, we almost always do consult, and you might be complaining about our not consulting, but I was in the House of Lords a month ago and they were complaining about us from the other perspective and they wanted us to consult more.

Q144 Chairman: For instance, one of the nonsenses in the Regulations is that, if you have a couple, they are entitled to one bedroom and, if both are severely disabled to the extent that they cannot physically share the same room, it is tough. Now, you could make that change tomorrow and nobody would complain.

Helen Goodman: Well, obviously what we are trying to do is put together a whole package of measures and in terms of the needs of those families obviously you are making a very powerful case now and we have to take account of that and we also have to take account of the affordability issues, and that is why we think it is better to have produced a document which looks at a whole range of things, some of which will inevitably involve spending more money and some of which will produce some savings.

Q145 Chairman: Are there any thoughts on potential changes to, what I still call, the 'single room rent', what you call 'shared accommodation'?

Helen Goodman: We are not currently looking at any further changes on that.

Mr Howarth: Well, we did make a change of course when we introduced the Local Housing Allowance because we now have the shared room rate, and I think what we would like to do is look at the evidence that comes from that to see what difference that has made before we consider further changes.

Q146 Chairman: Are you collating evidence on how many in the shared accommodation regime have a shortfall between the LHA and the rent?

Mr Howarth: Yes, we will be able to get evidence on shortfalls from administrative data which we can get from local authorities.

² *Note by witness:* This is as reported to the Department by the relevant Local Authority.

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Q147 Chairman: Is that likely to influence your decision?

Mr Howarth: Well, it will certainly influence our decision and it will be an important factor to take account of, but I think the principle of paying the different amount for people who are under 25 is the right one, and it is one which again has been made for work incentive reasons and, I think, reflects the general trend amongst young people to share accommodation, so I think there is a principle there which is defensible, but we do certainly appreciate that sometimes in practice it is difficult for people to access that type of accommodation, so we will be looking at shortfalls and we will be looking at availability of and accessibility to that type of accommodation.

Q148 Chairman: Will you be collating evidence on the mobility of people in this situation? My experience of this type of accommodation is that people usually stay two or three months and then move; it is a very mobile population. You look confused. Perhaps I should write to you, setting this out.

Helen Goodman: Do you mean the mobility of the person or the mobility of that bit of the market?

Q149 Chairman: No, the individuals.

Helen Goodman: Do you mean the physical—

Q150 Chairman: People do not have settled lifestyles who live in shared accommodation.

Helen Goodman: I see what you mean.

Q151 Chairman: Are you collating evidence about that?

Mr Howarth: I think the only evidence we are going to get specifically about that will be from some sort of qualitative study, although what we will be able to get from administrative data is some indication of the overall churn in the private rented sector.

Q152 Chairman: But all the evidence is that somebody has a far better chance of entering the job market if they have a stable home situation. If they are changing address every six to eight weeks, then their ability to move into work is impaired. You are nodding now.

Helen Goodman: That may be so, but it is not clear that the fact that people are moving is as a result of the structure of housing benefit or the LHA.

Q153 Chairman: Which is why I am asking. Are you collating evidence one way or the other? Are you collating the evidence which will allow you to make a judgment?

Mr Howarth: Well, we are collating what evidence we can which will allow us to make a judgment. I think what we would need to do is to look at what more evidence we might collate, and any ideas on that obviously would be very welcome.

Q154 Chairman: Is there a timetable for publishing the results of this review?

Mr Howarth: Yes, there is, and it will be published in the autumn of this year.

Chairman: We look forward to it.

Q155 Mr Heald: On the five-bedroom cap, you started to give an answer and I would just like to ask you one question about that. If you were on a moderately successful income and you both worked, a couple, you might be able to buy a five-bedroom house on a mortgage and have a very large family, but, even then, you would be overcrowded, would you not? Now, that would be a choice you had made. Is there any sort of benchmark that you are using in deciding, “Well, the five-bedroom cap is right for LHA”? What is it based on? Is it a broad-brush feel, “Oh well, it would be over-generous to go beyond five bedrooms”? Is it relating it to what you could do if you had a couple earning? What is the background to it?

Helen Goodman: Well, I think you make a very reasonable point, if I might say so. What we did when we introduced the cap was cap the amount that could be paid, so not literally cap the size of the property. As you know, the LHA is paid at the median of the rents in the area, so clearly there will be larger properties, say, six-bedroom properties, available at the five-bedroom rate. Of course, another difficulty that we had with the previous system was that there just were not enough very, very big properties for rent in order to build up a statistically valid assessment. That said, I think there is really an overriding concern here to provide value for money to the taxpayer and to be seen to be paying people levels of LHA which are reasonable and which are the kind of spend on housing which other people, as you say, in work would themselves be affording. I would just point out that across the country as a whole the average LHA for the largest properties is £300, but, in order to deal specifically with your issue, we are undertaking a big piece of research and we will get the results from that quite soon, I think before Easter, and that will tell us how working peers make their housing choices because at the moment we have got a situation where clearly some people on housing benefit are enabled to spend a lot more not just than their working peers, but than most of the population, and that is not sustainable and that is not reasonable and we are going to address it.

Q156 Chairman: Thank you very much. Challenging!

Helen Goodman: Indeed, and thank you very much. We look forward to your report and we hope very much we will be able to incorporate it in the decisions as we move forward.

Chairman: We would expect no less! Thank you.