

Response to Welfare Reform Committee Call for Evidence on steps to mitigate the “Bedroom Tax”

1. CPAG welcomes the Scottish Government’s investment of £35 million in discretionary housing payment (DHP) to mitigate the impact of the bedroom tax in Scotland in 2015/16. We have no doubt that this decision, along with other steps taken by the Scottish Government (such as requesting that the legislative cap on DHP spending be lifted by the UK Governmentⁱ) has had a beneficial effect on thousands of Scotland’s most vulnerable households.

2. We are also very pleased to see that good use has been made of the additional funds by local authorities. The latest figures suggest that almost 98% of the funds invested in DHP were spent by the end of the financial year 2014/15ⁱⁱ.

Concerns about the extent to which the ‘bedroom tax’ is being mitigated

3. Despite this positive progress, cases collected through CPAG’s Early Warning System¹ suggest there is still a need for improvements at local and national level to ensure that the impact of the bedroom tax can be mitigated for *all* households affected.

4. Of particular concern are those households that lose all entitlement to housing benefit once the bedroom tax has been applied. Given that DHP is only available to those in receipt of housing benefit, these households must cover the cost of the bedroom tax themselves. For example,

Anna works 25 hours and earns £194net per week. She lives in a two bedroom flat in the social rented sector. Her rent is £87 a week. In the past, once her earnings had been taken into account she would have been entitled to **£11.67** per week housing benefit¹

However, the bedroom tax means that her rent (for the purpose of a housing benefit calculation) is reduced by 14% to £74.82. Once her earnings are taken into account, she is now entitled to **£0.00** housing benefit.

As she is not eligible for housing benefit she is not entitled to access discretionary housing payments. (See Annex I for calculations)

5. Cases collected through the Early Warning System suggest that this issue is causing some households (particularly lone parents with a lesser share of child care responsibilities) to move home in order to avoid the bedroom tax. For example:

- One adviser reported working with a number of tenants who are no longer entitled to housing benefit once the bedroom tax has been applied and are therefore not entitled to DHPs. Many of them are parents with shared care of their children who may face moving to a smaller home with no room for their child to sleep in, to avoid a shortfall in their rent. **(October 2014)**
- Another client started work in December 2013 and her claim for HB stopped accordingly. When her hours reduced in November 14 she submitted a new claim. This was refused as once the bedroom tax was applied there was no entitlement (and therefore no entitlement

¹ The Early Warning System is a framework developed by CPAG to collect case studies and further information from frontline workers across the UK including welfare rights workers, housing officers and health and social care staff. To date over 900 cases have been gathered.

to DHP). The HB department advised the client that she would only be entitled to 13 weeks transitional protection where the bedroom tax would not be applied. (Jan 2015)

6. CPAG would therefore urge the Scottish Government to work with the UK Government to remove the legislative provision that requires recipients of DHP to be in receipt of housing benefitⁱⁱⁱ.

The devolution of powers in relation to DHP and housing benefit

7. The devolution of further powers to the Scottish Parliament, as negotiated by the Smith Commission includes devolution of control over discretionary housing payments. However, as the draft clauses are currently constructed, this power will be subject to certain restrictions. Draft Clause 9 currently states that the power can only be used for *“Providing financial assistance to individuals who are entitled to (i) housing benefit, or (ii) any other reserved benefit payable in respect of a liability to make rent payments.”* [i.e. universal credit]

8. Unless the drafting of this clause is changed, the Scottish Government will not be able to fully mitigate the impact of the ‘bedroom tax’ using DHPs until the rollout of universal credit is complete. However, this could take up to four years. Roll out of universal credit is ongoing in Scotland and it is estimated that all claimants will not have been transferred until 2019^{iv}.

9. Another relevant factor is, of course, how long it will take to devolve further powers to the Scottish Parliament. Under the transfer of power proposed by the Smith Commission, Scottish Ministers will have power not only to adjust DHP, but also to vary the housing costs covered by Universal Credit and potentially abolish the bedroom tax. Again, timescales for the devolution of powers and subsequent implementation of such a policy are unclear but it is unlikely to be imminent given that legislation will have to be passed at both Westminster and Holyrood to put such a scheme in place.

10. CPAG therefore believe that both current legislation and the draft clauses should be amended to ensure those who are not eligible for any housing benefit as a result of the bedroom tax can still access DHPs.

Insufficiency of DHP payments

11. Evidence collected through the Early Warning System also suggests that in some cases local authorities are not awarding large enough discretionary housing payments to fully mitigate the impact of the bedroom tax. This is illustrated by the following case:

- A male client with learning disabilities and complex mental health issues was discharged from hospital in 2002 having spent most of his life in institutions. At the time he required 24 hour care and was allocated a three bedroom property, comprising of one room for him, one room for staff sleeping over and a third for therapeutic reasons. Having developed independent living skills he now only requires 48 hours support a week with no sleepovers. He gets a DHP for a percentage of the shortfall in his rent arising from the bedroom tax but he still has to pay £22.64 (in addition to the £87.90 he contributes to his care package). The advisor feels it would be highly detrimental to his mental health if he was to move to a smaller property. (October 2014)

It appears that the local authority has taken this man’s income from disability benefits into account when processing his application for DHP. This is clearly contrary to the Scottish Government’s policy intention, which was to mitigate the bedroom tax in its entirety for all tenants^v.

- In another case the bedroom tax was being applied to a mother. Her children stayed with their father during the week while she was at work so she was deemed to have extra bedrooms. The advisor reported that the client was *“subject to the bedroom tax, getting into debt and worried that she will have to move to somewhere with 1 bedroom making it difficult for her children to visit.”* **(November 2014)**
- In another case a client successfully challenged the local authority’s decision to apply the bedroom tax on human rights grounds relating to her disability. The local authority indicated its intention to appeal and did not implement the tribunal’s decision. Despite this, the claimant’s DHP was stopped in the interim. **(August 2014)**

12. These cases illustrate that there are still people in Scotland who should be receiving discretionary housing payment who are not, either because they don’t know they are entitled, don’t know how to apply or because they have been denied by the local authority. CPAG believe there is a need for local authorities to review the process of claiming DHPs and ensure they are proactively identifying all potential claimants.

Backdated DHPs

14. CPAG received numerous cases through the Early Warning System in the first half of 2014 which related to housing providers retaining backdated DHPs rather than passing them onto tenants affected by the bedroom tax. No cases of this nature have been seen since June 2014 (earlier cases can be found in our policy briefing on housing and welfare reform), although a more recent case suggests that access to backdated DHPs is still a problem in some circumstances.

- A client with disabilities has been paying her bedroom tax since April 2013 when it was introduced. Her advisor applied for a DHP in October 2014 and it was backdated to August 2014. The local authority refused to backdate further on the basis that it had sent the client two letters asking her to claim a DHP and she had not responded. The client has mental health problems and often stockpiles mail. **(October 2014)**

15. This illustrates the importance of local authorities taking a proactive approach to making sure discretionary housing payments are available to the most vulnerable tenants and not creating unnecessary obstacles to their payment.

Potential impact on allocations policy

16. Guidance produced by the Chartered Institute of Housing states that landlords should not take potential future application of the bedroom tax into account when allocating properties^{vi}. However, several cases received through the Early Warning System suggest that this is, in fact, happening. For example:

- The client's son is currently being looked after by the local authority, but both parties agree the long term aim is to reunite the family. The client is currently homeless and has recently been informed by the local authority that she is only being considered for one bedroom properties because otherwise she might be subject to the bedroom tax before she is reunited with her son **(April 2014)**.

CPAG therefore believe the Scottish Government should consider addressing the issue of the bedroom tax its Practice Guide on Housing Allocations Policy^{vii}.

Adequacy of funds

17. CPAG in Scotland is also concerned that funds allocated by the UK Government and the Scottish Government for DHPs may prove insufficient in the coming year and that this could result in

vulnerable tenants struggling to cover their housing costs.

18. In part, this is because there has been an overall fall in the amount available for DHPs. While the Scottish Government has committed to topping up funds by £35 million, the DWP^{viii} has reduced the amount it will make available for DHPs from £165 million in 2014/15 to £125 million in 2015/16. Scotland's share has been reduced by 7%, from £15.3 million in 2014/15 to £14.2 million in 2015/16^{ix}.

19. This reduction is the result of changes to the way demand for DHPs in each local authority area is calculated by the DWP and it has affected Scottish councils in different ways. In Clackmannanshire, Orkney, the Scottish Borders, Fife and the Highlands, local authorities have seen an increase in DHP funding. In Glasgow, however, there has been a reduction from £2,724,843 in 2014/15 to £1,651,754 in 2015/16^x.

20. As well as a reduction in the funds available, there is also a serious concern that demand for DHP will rise as a result of ongoing welfare changes.

21. It was estimated in 2013/14 that overall loss to Scotland as a result of the bedroom tax alone would be approximately £50 million per year^{xi}. Currently, overall funding for DHPs in Scotland is just over £49.2 million. If demand for DHP increases as awareness of its availability continues to rise, this could put real pressure on the fund. This is a particular concern given that other welfare changes are also likely to result in an increase in demand for DHPs. These include:

- Changes to eligibility for local housing allowance (LHA) which have been estimated to remove £80 million per annum from Scottish tenants by 2014/15^{xii} continue to apply. These include reduction to the level of rent that can be covered by LHA, a limit on the number of rooms a private tenant can have and changes to the way LHA is uprated. While these reforms are not new, their impact will continue to be felt and will increase pressure on low income households throughout 2015/16.
- Changes to non-dependant deductions (the amount housing benefit is reduced if you share your home with certain other people) were projected to remove £20 million per annum from Scottish tenants by 2014/15^{xiii}. The amount deducted is calculated on a sliding scale in relation to the non-dependent's income. The amounts have increased dramatically in the last 3 years. For example, in 2010 the weekly deduction for someone receiving jobseeker's allowance was £7.40; it has now nearly doubled to £14.15.
- The household benefit cap limits the amount a household can receive in means tested benefit (including housing benefit) to £350 a month for single people and lone parents and £500 a month for couples (either with or without children). In practice, application of the benefit cap results in a reduction in the amount of housing benefit (or housing element of universal credit) paid. CPAG in Scotland are seeing an increasing number of cases of families with children whose housing benefit has been reduced as a result of the cap. One case illustrates that DHP is not always being made available to cover the resulting shortfall.

- A lone parent with 4 children has a £332.34 shortfall in rent due to the benefit cap. When she left her husband she was advised by the local authority to look for a private let due to the shortage of social rented properties. Discretionary housing payments (DHP) were only awarded for 3 months and she was informed it would be unlikely that she would be given a further award unless she could prove she was taking steps to find work by attending work focused interviews. The local authority

also informed her that they thought her living expenses were excessive because they included counselling sessions for one child and larger than average electricity bills.

22. Each of the reforms above will have a direct impact on demand for discretionary housing payments. In addition, increased financial pressure on household incomes as a result of wider welfare changes will also affect tenants' ability to cover their housing costs. The Institute for Fiscal Studies (IFS) has forecast that by 2020 up to 100,000 more children in Scotland could be living in poverty than were in 2011/12, largely as a result of ongoing changes to the tax and social security system (particularly the 1% cap on annual uprating on family benefits and restricted access to tax credits). This increased pressure is also likely to lead to an increase in the number of families who are struggling to cover their housing costs and who may, therefore, need to apply for DHPs.

23. CPAG in Scotland therefore believe there is a need for local authorities and the Scottish Government to closely monitor the number of applications for DHPs, the number of refusals and the sums awarded to ensure that unmet need can be identified and further investment made if necessary.

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Annex I

	Without bedroom tax	With bedroom tax
Max HB	87.00	87.00 - 14% = 74.82
Applicable amount	73.10	
Gross earnings	200.00	
Net earnings	194.00	
Earnings disregard	5.00	
Net earnings – disregard = income	194.00 - 5.00 = 189.00	
Income – applicable amount = disposable income	189.00 - 73.10 = 115.90	
Disposable amount x 65%=claimant's contribution to rent	115.90 x 65% = 75.33	
Max HB – claimant's contribution to rent = housing benefit	87.00 - 75.33 = 11.67	74.82 - 75.33 = 0
HB payable	11.67	0

ⁱ Resulting in the Discretionary Housing Payment (Limit on Total Expenditure) Revocation (Scotland) Order 2014/298, which came into force on 9th December 2014

http://www.legislation.gov.uk/ssi/2014/298/pdfs/ssi_20140298_en.pdf

ⁱⁱ DHP in Scotland 1st April 2014 to 31st December 2014, Scottish Government,

<http://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/dhp/DHP31Dec2014>

ⁱⁱⁱ Section 69 of the Child Support, Pensions and Social Security Act 2000; reg 2(1) Discretionary Financial Assistance Regulations

^{iv} <https://www.gov.uk/government/news/welfare-revolution-rolls-out-to-families-universal-credit-to-be-in-a-third-of-jobcentres-by-spring>

^v See letter to COSLA from Depute First Minister, 28 May 2014

^{vi} CIH: The Bedroom Tax and Beyond 2013

<http://www.cih.org/resources/PDF/Scotland%20Policy%20Pdfs/Bedroom%20Tax/Bedroom%20Tax%20Final.pdf>

^{vii} <http://www.gov.scot/Topics/Built->

[Environment/Housing/16342/management/socialhousingaccess/allocations/Guide](http://www.gov.scot/Topics/Built-Environment/Housing/16342/management/socialhousingaccess/allocations/Guide)

^{viii} **HB Circular S1/2015**, <https://www.gov.uk/government/publications/hb-subsidy-circular-s12015-discretionary-housing-payments-government-contribution-for-tax-year-2015-to-2016>

^{ix} **HB Circular S1/2015**, <https://www.gov.uk/government/publications/hb-subsidy-circular-s12015-discretionary-housing-payments-government-contribution-for-tax-year-2015-to-2016>

^x Relevant changes include the fact that core funding is no longer based on past spending on DHP but rather the number of HB claimants in the local authority area. This is likely to have a disproportionately negative effect in areas where individual claims are higher than average. Distribution is also now linked to the number of claimants in an area whose benefit income is capped by more than £50 a week (rather than the proportion of AME expenditure saved in each local authority). This is likely to have a disproportionate effect in areas where social rents are comparatively low.

^{xi} See. <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/78651.aspx>

^{xii} See Table 1 <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/62069.aspx>

^{xiii} *Ibid.*