



**A new future for social security:  
Consultation on social security in Scotland**

**Response from Crisis  
October 2016**

**About Crisis**

Crisis is the national charity for homeless people. We work with politicians, policy makers and the Scottish and Westminster governments to bring about change and share good practice, using our expertise from working with single homeless people and our understanding of the issues they face to shape policy and practice. We provide learning and coaching support to single people who are homeless or at risk of homelessness to enable people to move on with their lives. We work with local authorities across Scotland to improve access to the private rented sector for people threatened with homelessness.

**Key points**

We welcome this opportunity to respond to the consultation on a new Scottish social security approach. Our response focuses on the parts of the consultation of most relevance to the clients we work with and represent, specifically those aspects of the social security system relating to housing. Our recommendations are highlighted in bold in each section. In summary they are:

- Develop a Scottish Discretionary Housing Payment scheme including a clear national framework, set timescales and a clear appeals mechanism and coherent links with other forms of support
- Universal Credit recipients should be able to have their direct paid directly to a private landlord if that is their choice. They should also be able to choose to split payments within a household.
- Scottish Government should investigate the value of redefining Broad Rental Market Areas (on which Local Housing Allowance levels are set) to better reflect local housing markets
- Exemptions to the Shared Accommodation Rate should be made consistent and protect people at risk of homeless. Scottish Government should consider reducing the age of the SAR back to 25.
- People who are homeless should not be classified as non-dependants for the purpose of non-dependant deductions.

**2. Outcomes and the user experience**

*How can the Scottish social security system ensure all social security communications are designed with dignity and respect at their core?*

Crisis welcomes the focus on dignity and respect at the heart of a Scottish social security system.

A Scottish social security system should ensure that people are treated as individuals. Some claimants may have previously had negative experiences of engaging with welfare benefits, but an open and honest relationship between social security staff and the claimant can give the claimant greater confidence, including to disclose their personal circumstances and any particular vulnerabilities<sup>1</sup>.

Staff training will be critical. Staff should be equipped to recognise and understand the range of challenges and issues that individuals might encounter, particularly those in severe poverty, as recommended by the Scottish Government's poverty adviser<sup>2</sup>. Crisis has previously worked with DWP and Atos to develop training on homelessness for staff delivering the Work Capability Assessment to ensure staff had a thorough understanding of people's experiences, and this has been adopted by the new provider Maximus. The training module covers the wider health issues associated with homelessness and includes case studies exploring the complexity of homeless people's conditions and needs, and it is important for staff working on disability benefits to understand the wider health issues associated with homelessness.

Advisers should also have a knowledge of and be able to signpost on to other relevant support where appropriate to support individuals in a holistic way.

*How should the Scottish social security system communicate with service users? (for example text messaging or social media)*

Communication with service users should be flexible according to people's needs and wishes. Some homeless people will not have settled addresses and may need to use "care of" addresses. Others may prefer to communicate through text or email. While digital communication works well for many people, there are many people who are not able to make use of digital technology for a wide range of reasons including physical access, skills or literacy issues.

## **11. Discretionary Housing Payment**

*Could the way that DHPS are currently used be improved?*

Yes

*Could the administration of DHP applications be improved?*

Yes

*Does the guidance for local authorities on DHPs need amending?*

Yes

Discretionary Housing Payments (DHPs) are an invaluable source of support for many people on housing benefit. Originally a relatively small fund providing discretionary support to cover housing benefit shortfalls to protect people from homelessness, increasingly DHPs are now used to cover long-term gaps between

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<sup>1</sup> Batty, E., Beatty, C., Casey, R., Foden, M., McCarthy, L., Reeve, K. (2015) Homeless people's experiences of welfare conditionality and benefit sanctions. London: Crisis

<sup>2</sup> Eisenstadt, N (2015) Shifting the Curve

rent and the amount of housing benefit received as a result of welfare reforms. Despite being discretionary, these payments have become a necessary part of the social security system<sup>3</sup>.

DHPs will never be able to counter the full impacts of welfare reforms, but a well-functioning Scottish system of support must ensure national consistency in how such support is provided. There is variation in how they operate across the country, and we would like to see a national scheme that gives a level of consistency and transparency across the country in how DHPs are allocated, while allowing for local circumstances.

We note that while there has been a major focus on the use of DHPs to mitigate the bedroom tax, there has been less attention paid recently to the more traditional use of DHPs to support people who need other kinds of support with their housing, including people who need help to move into a new home and exit homelessness.

We believe there are opportunities to use DHPs more innovatively to address homelessness, for example to support people who are homeless to gain their own tenancy in the private rented sector for example, through help with deposits or rent in advance.

The Scottish Welfare Fund (SWF) provides a useful model for how this can work well in practice. Key elements include a **clear national framework, fixed timescales for decisions and critically, a clear appeals mechanism**.

This is an opportunity to ensure a Scottish network of support is available to people who are in vulnerable housing situations. Scottish Government should consider how DHPs should work alongside other schemes, notably the Scottish Welfare Fund and Council Tax Reduction, to provide a coherent system of support for households at risk of or affected by homelessness.

### **13a. Universal Credit flexibilities**

*Should the choice of managed payments of rent be extended to private sector landlords in the future?*

Yes. Tenants should be able to **choose to have payments made direct to their landlord if they wish**. This would bring benefits to tenants with budgeting support needs, or for those who are not experienced in paying rent themselves, especially as they get used to a different benefit with monthly payments as the default.

Crisis convenes an Expert Group made up of representatives of Private Rented Sector Access Schemes from across Scotland. The group identifies landlords'

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<sup>3</sup> Meers, J (2015) The Localism-and-Austerity Hybrid: The case of Discretionary Housing Payments' U.K. Constitutional Law Blog (21st Oct 2015)  
<https://ukconstitutionallaw.org/2015/10/21/jed-meers-the-localism-and-austerity-hybrid-the-case-of-discretionary-housing-payments/>

unwillingness to let to benefits recipients as a significant barrier in engagement. Direct payments can encourage landlords to consider letting to a group which might otherwise be considered too high risk as tenants, and mean a greater range of property is available.

Those who currently have a direct payment of Local Housing Allowance should automatically be put on a direct payment to their landlord when they are migrated across to Universal Credit.

Crisis supports local authorities across Scotland to run Rent Deposit Guarantee Schemes, which support people who are at risk of homelessness to access accommodation in the private rented sector. For some of these tenants direct payment of housing costs to the landlord would be appropriate while they establish themselves in their new tenancy, or if they have previously built up rent arrears. Being able to guarantee direct payments can be a selling point for schemes trying to recruit landlords to work with them.

*Should payments of Universal Credit be split between members of a household?*

Yes, the option to split payments between members of a household should be available. This is particularly important for people experiencing or at risk of domestic abuse to ensure that a household payment does not prevent them from escaping abuse. Considering domestic violence alone, over 4,000 homelessness applications are made a year in Scotland as a result of a violent dispute within a household<sup>4</sup>.

### **13b. Universal Credit housing element**

We welcome the Scottish Government's commitment to abolish the bedroom tax and to mitigate the removal of housing costs support for 18-21 year olds announced by the UK Government. These policies will help to protect people from homelessness.

Crisis notes that the Scotland Act 2016 effectively gives the Scottish Ministers powers over schedule 4 of the Universal Credit Regulations 2013 (concurrently and in agreement with the Secretary of State). These regulations cover the following areas where we would like to see the Scottish Government make use of the powers:

- Calculation of Local Housing Allowance
- Shared Accommodation Rate
- Non-dependant deduction

Crisis believes the changes set out here are necessary to protect people from homelessness. In terms of justifying the costs of such changes, it is useful to note the very high costs of homelessness to the public purse (as well of course as the detriment to the claimant, including their ability to lift themselves out of

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<sup>4</sup> Scottish Government (2016) Homelessness in Scotland 2015/16

homelessness). Research commissioned by Crisis<sup>5</sup> has shown that the additional costs of homelessness to public services on top of the costs of benefits can be very considerable, particularly if homelessness persists and the individual's mental health, independent living skills and overall wellbeing deteriorate.

### **Local Housing Allowance**

In the last Westminster Parliament the link was broken between actual rents and the support available for housing costs, with rate increases eventually capped at one per cent. The UK Work and Welfare Act introduced a freeze on housing benefit paid to people living in the private rented sector, called Local Housing Allowance (LHA), for the next four years. Analysis by the Chartered Institute for Housing shows that in almost eight in ten (78 per cent) areas in Scotland LHA rates are below the 30<sup>th</sup> percentile of market rents, meaning tenants will have to make up the difference.<sup>6</sup> In more than one in ten areas, there is a cash shortfall of at least £10 per week between the one bed rate of LHA and the 30<sup>th</sup> percentile of market rents.<sup>7</sup>

The LHA reforms were intended to exert downward pressure on rents, however DWP research shows that tenants are shouldering most of the burden, with 94 per cent of the shortfall between LHA rates and local rents falling on new tenants and just 6 per cent being absorbed by landlords in rent reductions.<sup>8</sup>

The Enduring Settlement set out that there would be powers to vary Local Housing Allowance (Paragraph 4.2.6). However, it is not clear from the Scotland Act how these powers could be effected in Scotland. If Scotland does have further powers in this area, **Scottish Government should examine the cap of LHA at or below the 30th percentile of market rates and consider whether this is the most appropriate rate for Scotland.**

LHA is set on the basis of Broad Rental Market Areas (BRMAs). There are currently 18 BRMAs in Scotland, covering very large areas and multiple housing markets, for example Lothian which covers City of Edinburgh, Midlothian and East Lothian, and "Aberdeen and Shire" which covers Aberdeen City and the whole of Aberdeenshire. Having one rate for such a large area can mean that in the city centres properties available at the LHA rate are very limited, while in other parts landlords may put rents up beyond the market level to maximise their income through LHA.

We note that paragraph 25(5) of schedule 4 of the regulations defines a Broad Rental Market Area (via the Rent Officers' Order 2003) for the purposes of calculating cap rent. We would be interested in exploring with officials the possibility

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<sup>5</sup> Please, N (2015) At what costs? An estimation of the financial costs of single homelessness in the UK

<sup>6</sup> Lister, S. (2016) *Mind the gap: the growing shortfall between private rents and help with housing costs*. London: Chartered Institute for Housing

<sup>7</sup> Ibid.

<sup>8</sup> Department for Work and Pensions (2014), *The impact of recent reforms to Local Housing Allowances*

**of redefining the current structure of BRMAs to make it more responsive to the Scottish context.**

This could allow scope to vary rates across Scotland so that they are more appropriate to local housing markets, helping to ensure that benefit claimants can access a range of property in high rent areas, and that public funds are protected in lower rent areas.

### ***Shared Accommodation Rate***

The Shared Accommodation Rate of Housing Benefit limits claimants to housing costs which cover the rent for a room in a shared property and not for a property to themselves. Prior to 2011 people under the age of 25 were restricted to the Shared Accommodation Rate (SAR). This was then extended to the age of 35.

This is a group disproportionately affected by homelessness. The majority (56%) of homeless applicants, or nearly 21,000 households, were under 35 years old in 2015/16<sup>9</sup>.

There is less of a culture of living in shared accommodation in many parts of Scotland, compared to other parts of the UK and particularly London. Where there is such a culture, it tends to be limited to students and young professionals and may not be accessible to people on Housing Benefit who only receive enough money to pay for accommodation in the bottom 30% of the market. This makes it extremely difficult to find somewhere to live.

For many young people sharing is not an appropriate option because of their personal circumstances, for example if they have mental health problems or non-resident children.

The rules for the SAR, including age ranges and exemptions, are set out in paragraphs 27 to 29 of schedule 4 of the Regulations. The exemptions are inconsistent. For example

- If someone has lived in a homeless hostel for more than 3 months and are aged 25-34 then they are exempt from the SAR. If they are under 25, or have been in a homeless hostel for less than 3 months, they will have to live in shared accommodation.
- A care leaver aged 18 – 21 is exempt from the SAR, but not care leavers aged 16, 17 or over 21. This introduces unnecessary instability into their housing situation<sup>10</sup>.

Scottish Government should consider **reducing the age of Shared Accommodation Rate from 35**. We would also like to the list of exemptions

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<sup>9</sup> Scottish Government (2016) Homelessness in Scotland 2015/16

<sup>10</sup> The UK Government are consulting on extending this exemption to under 25s as part of its new care leavers strategy (Keep On Caring), a joint initiative between the DWP and Department for Education. Whether or not this applied in Scotland, it still wouldn't apply to over 25s.

provide much greater and more consistent protection to more vulnerable young people. The list of **exemptions should be extended to cover:**

- All people who have been homeless
- All care leavers
- People fleeing domestic abuse
- People with dependency issues
- Pregnant women
- Parents with non-resident children

### ***Non-dependant deductions***

Non-dependant deductions are reductions in housing costs support where there are other adults living in the household, as the government has an expectation that these adults will be contributing to household finances. In our experience this may or may not be the case.

Paragraph 16 of Schedule 4 lists groups of people who are not classified as non-dependants for the purpose of non-dependant deductions from benefit claims. Crisis would like to see **people who have been accepted as homeless by the local authority no longer classified as non-dependants** where they are sofa surfing or staying temporarily with someone who receives the housing cost element of Universal Credit. This would save on temporary accommodation costs for the local authority and can be a far better option for the homeless person.

*John recently split up with his partner and is staying temporarily with his friend Adam. John has been to the council and has been accepted as homeless. He would like to continue staying with Adam. However, Adam receives housing costs element of Universal Credit and because John is now staying with him he is subject to a non-dependant deduction of £70 per month, which makes it unsustainable for John to continue to live there. John has to move into a hostel.*

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