Local Government and Communities Committee

Homelessness

Submission from the Child Poverty Action Group (CPAG) in Scotland

CPAG in Scotland’s Early Warning System gathers information and case studies about the impact of welfare reform on children and families across Scotland and we have used these case studies to illustrate our responses to some of the key areas being considered by the Committee.

Through the Early Warning System, CPAG has gathered evidence of:

- The problems of identifying the private rented sector as a housing option for tenants because of the benefit cap making rents unaffordable.
- The large shortfalls in rent faced by homeless people in temporary accommodation because of either the benefit cap or the local housing allowance restriction in universal credit.
- The mismatch for some EU nationals between entitlements to homelessness assistance against lack of entitlements to benefits.
- Delays or error by agencies administering social security benefits, including universal credit, leading to tenants losing their homes. (A third of all cases added to the Early Warning System include administrative error, maladministration or misinformation).
- Variation in the mitigation of the benefit cap, through the use of discretionary housing payments, across different local authorities.

Areas which could contribute to increased risk of homelessness in the future

- Lack of flexible allocation policies by social landlords preventing families affected by the benefit cap who may be technically overcrowded to move from expensive private rented sector to the social rented sector.
- Increased likelihood of more tenants accruing rent arrears through ongoing welfare reforms which will destabilise tenancy arrangements and leave tenants lacking a minimum income to live on and pay their rent.
- Families subject to the two child limit in child tax credits and housing benefit or universal credit, may struggle to pay their rent due to the fall in their income.
- In April 2019 the maximum amount of rent that universal credit and housing benefit will cover in the social rented sector will be capped to the relevant local housing allowance, including the shared accommodation rate for single claimants under 35 who do not have dependent children - and parents with minority shared care of children. This will apply to both new and existing tenancies, (with some transitional protection for claimants moving from housing benefit to universal credit. This might require a rethink about how housing to under 35s is delivered if their only option is shared accommodation.
- Rents in temporary accommodation are much higher than in permanent social tenancies and the funding of both temporary accommodation and homelessness services overall may need reviewed to avoid crisis.
How do you feel housing options and homelessness prevention is working in practice? Are there examples of good practice?

The housing options approach includes the private rented sector as a possible tenure option, however there is an increasing issue with affordability in the private rented sector in light of the lower benefit cap.

- Client is a lone parent with five children. When she separated from her husband she went through housing options and was advised her best option was the private rented sector, however this is no longer affordable as the client is affected by the benefit cap. Client has accrued rent arrears resulting in the landlord harassing her and telling her she has to move out. She packed up and was ready to leave before being advised that the landlord could not evict her without a court order. Disability living allowance (DLA) applications have been completed, which may exempt the client from the cap. She is happy in her private sector home and does not want to leave. #Mii199

Temporary Accommodation

Do you have concerns about the funding of temporary accommodation? If yes, how should temporary accommodation be funded?

Some homeless people in temporary accommodation are facing large shortfalls between the rent they are charged and the maximum housing costs that can be included in their benefit award, either due to the application of the benefit cap or the local housing allowance restriction in universal credit.

- A client on universal credit (UC) built up substantial arrears in temporary accommodation because his UC housing costs element was £283 per month, but his rent was £1600 per month. #11496

- Due to a delay in being rehoused by the local authority when he became homeless, client's claim for housing benefit (HB) stopped while he was staying temporarily with his friend. By the time he was offered temporary accommodation by the local authority, it had become a full service area and he had to claim UC, with the housing element capped at local housing allowance (LHA) levels. #10847

- A single male refugee was placed in temporary homeless accommodation by the local authority at a cost of £305 a week. He was in receipt of jobseeker's allowance (JSA), so this meant his HB was reduced by £28 a week to comply with the benefit cap. After the new benefit cap limit was introduced, his HB was reduced by £120. Even if he used his JSA (£73 a week) there would still be a shortfall and he would have nothing to live on. #Mii172

Many EU nationals who are not working may not be entitled to any benefits, or not be entitled to HB exclusively, however this is often at odds with homelessness
legislation which is not aligned. There are some instances where EU nationals will be entitled to homelessness assistance but not the benefits to pay for it. As benefits for EU nationals is a complex area of law, they are often denied incorrectly.

- An EU lone parent who has lived in the UK for more than 10 years including periods of working and studying, applied for income support but was refused, it would appear incorrectly as she may have a right to reside as a dependant of an EU worker. The client is fleeing domestic abuse and is staying in temporary accommodation with no means of paying her rent. #10571

**Permanent Accommodation**

**How do social landlord’s allocation policies prioritise applications from homeless households and how does choice based lettings work in practice?**

Landlords may wish to consider having more flexible allocation policies to allow families affected by the benefit cap to move from the private rented sector to the social rented sector even though they might be technically overcrowded.

- Client moved into the private sector after her husband left her. She has moved twice because she was affected by the higher benefit cap reducing her rent from £895 a month to £645 a month. Following the lower cap she is now receiving 50p a week. Her DHP application has been refused and is using her credit card to pay the rent. She has applied to the local housing associations but needs a 5 bedroom property which are incredibly rare and she would still be affected by the cap. One housing association has accepted her application and agreed that she could be allocated a 4 bedroom property if it becomes available even though she would be overcrowded according to their allocations policy, however another association said she could not be considered for a smaller property and that it was highly unlikely that a 5 bedroom property would ever become available. #Mii196

**Other**

**What are the reasons behind why people become homeless?**

There have been a number of social security reforms which have undermined the principle of claimants having a minimum amount to live on and pay their rent. These include the benefit cap, lower LHA levels and restricting benefits for EU nationals. Without sufficient income to cover rent payments it is inevitable that tenants will accrue rent arrears destabilising tenancy arrangements.

- Lone parent with five children has been referred to court for eviction. Her housing benefit was reduced to 50p a week following the application of the lower benefit cap in November 2016. She was awarded a discretionary
housing payment (DHP) from January 2017, but had existing rent arrears exacerbated by the lower cap. The client has anxiety, depression and an eating disorder. The family have cut back and are struggling to survive. #Mii186

- A client had a court order for eviction due to rent arrears which resulted from an overpayment that occurred following her relationship breakdown. The client’s adviser managed to halt the eviction by offering a repayment arrangement, but the client's housing benefit reduced when the lower benefit cap applied. The client now has no means of paying her rent deficit or arrears. #Mii191

- An EU national couple with a toddler failed the genuine prospect of work test, which ended their entitlement to JSA and HB. They are about to be taken to court for eviction because of their rent arrears. They have been living off child benefit (CB) and child tax credit (CTC), which appears to have been paid in error since their JSA and HB stopped. #10941

Error by the agencies administering social security benefits can also lead to tenants losing their homes. A third of all cases added to the Early Warning System include administrative error, maladministration or misinformation.

- Failures in UC administration led to a vulnerable client being evicted. When the client applied for UC his adviser requested that he be noted as vulnerable. He received his first payment six weeks later (after Christmas and New Year) but it did not include the housing element. He did not receive the next month’s payment of UC at all. The next two months payments included the housing element, despite an arrangement for the housing element to be paid direct to the landlord as there were pre-existing rent arrears. The client had no understanding of the housing element being included in the award and did not pass the money onto his landlord. He was evicted and became homeless. The missing month's money is yet to be paid five months later. #9619

**Are there any problems with people accessing their housing and homelessness rights? If yes, how can access be improved?**

We have a number of examples of homeless people being denied access to temporary accommodation, either because they do not have access to benefits or due to a misunderstanding of the social security legislation for people who have come from abroad in relation to homelessness legislation.

- Irish lone parent with five children came to Scotland fleeing domestic violence in Ireland. She tried to make a homeless application but was mistakenly advised that she could not register as homeless as she was not on JSA. #3288

- A British citizen who returned from the Middle East with her two teenagers was been denied homeless assistance on the basis that she had no recourse to public funds and was advised that she could not present as homeless until
she had been in the UK for three months and was entitled to apply for benefits. No recourse to public funds only applies to people who are subject to immigration control and have this restriction placed on their visa, not returning British nationals. Furthermore the three month test only applies to JSA, CB and CTC but not HB which she may have been entitled to if she established a right to reside relatively quickly. #2667

What are the barriers to providing homeless people with sustainable housing solutions and how can these barriers be addressed?

Again a number of social security reforms mean that people are moving into tenancies without sufficient financial support to pay for them, sometimes in the short-term in the example of the six week wait for the first payment of universal credit, or because there is no two homes payment for unavoidable overlap or rent liability in UC, but also in the long-term because of the benefit cap or local housing allowance rates.

- Client is currently receiving ESA and HB at her local authority tenancy in a UC gateway area, but is about to move to a housing association tenancy in a UC full service area. Because she is moving to a different local authority, this cannot be treated as a change of circumstances for HB and she will have to make a claim for UC. She will not have to serve the seven day waiting period but will still have a five week wait for the first payment. She will be liable for rent at both properties for a month, but will not be able to make use of the two homes payment in HB for an unavoidable overlap because this doesn’t exist in UC. #11260

- A refugee family with six children are about to move into a permanent tenancy, but will be affected by the benefit cap. There is no exemption for new refugees. #10524

Are there any other issues relating to homelessness which you wish to bring to the attention of the Committee?

The benefit cap and discretionary housing payments (DHPs).

We have concerns about variation in the mitigation of the benefit cap through DHPs in different local authorities. Some local authorities appear to be restricting payment of DHPs to 13 weeks. The amount nominally allocated for benefit cap DHPs is £8million, but SFHA estimate the annual cost of the benefit cap in housing associations alone will be £8.9 million.¹

- A lone parent with five children is facing eviction because she has over £2250 rent arrears following the application of the benefit cap. The local authority decided she could not receive more than 13 weeks DHP because she was not facing exceptional circumstances. Moving to cheaper accommodation is not

¹ SFHA submission to House of Commons Work and Pension’s Committee inquiry into the benefit cap
https://www.sfha.co.uk/mediaLibrary/other/english/8769.pdf
an option. The client is already over occupied in her RSL tenancy. It is unlikely that she would find a tenancy of the correct size in the local authority and it would cost more, as would a private tenancy. She would need to work at least 16 hours a week to be entitled to working tax credit (WTC) and therefore exempt from the cap, but would have to fit that in around dropping her children at school and nursery, not to mention find suitable childcare for her youngest. The cost of evicting the family and placing them in temporary accommodation will be far more than paying the DHP. #13375

Universal credit

There are a number of measures in the administration of UC that may give rise to rent arrears and threaten the stability of housing arrangements:

- Seven day waiting period at the beginning of the claim unless you were receiving a legacy benefit in the month prior to claiming. During the seven days, you are not entitled to any assistance with your housing costs
- Six week wait for the first payment of universal credit
- UC is calculated on a monthly basis – if a change takes place between payments, it is applied to the whole of the month
- Client with a young family is being taken to court for eviction because the payment he had with his housing association was not maintained while he was waiting for the first payment of UC. He had been in short-term weekly employment, so had no savings to fall back on. #Mii165
- Client was receiving UC including housing costs for a private tenancy. He moved into supported accommodation on the 28th of the month and HB took responsibility for making payments towards his housing costs from this date. Because the client's assessment period ran from the 8th to the 7th of the month, housing costs ceased to be included in the client's UC from the 8th of the month, leaving him with 20 days where he received no financial contribution to his housing costs for his private tenancy. The landlord kept the client's deposit to cover the shortfall which leaves the client without a deposit when he moves out of the supported accommodation. #6478

People in prison can only have their housing costs paid through UC while they are in prison if they were claiming UC prior to going into prison.

People leaving prison find claiming UC very problematic if they do not have I.D. or a bank account. This can cause lengthy delay before they can make a claim where they have no income or means of paying for accommodation.

- Tenant's solicitor expects him to be imprisoned for more than 6 months. He was advised to claim UC but it is not yet clear whether he did. If not, he will not be entitled to any housing costs while he is in prison. If he did, he will only remain entitled to the housing costs element so long as he has a realistic chance of returning within 6 months. If he is sentenced for more than 6
months he will cease to be entitled to the housing costs element from that date. #8928

Alternative payment arrangements

- A housing association were incorrectly advised that they could not set up an alternative payment arrangement for a tenant who has rent arrears and at risk of eviction because she has some income from earnings. There is nothing in the legislation to support this reasoning #11354

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