

## **PE1638/A**

Scottish Federation of Housing Associations (SFHA) submission of 18 May 2017

### **Who we are**

The SFHA leads, represents and supports Scotland's housing associations and co-operatives. We want to see a thriving housing association and co-operative sector providing sustainable and affordable homes.

The SFHA welcome the opportunity to offer its views on the petition PE1638 (Local Housing Allowance (Bedroom Tax 2)).

### **Executive summary**

The SFHA is objects to the imposition of the Local Housing Allowance (LHA) cap for a number of reasons:

- The local housing allowance is based on local market sector rents in 19 Broad Rental Market Areas (BRMAs) covering Scotland, which are predicated on supply and demand: if there is a scarcity, rents are higher; if there is a surfeit, rents are depressed. Conversely, housing associations base their rents on the loan repayments associated with the cost of construction and the ongoing costs of investment (for example the Scottish Government's EESSH requirements which have raised energy efficiency standards), management and maintenance of their stock; so a national or regional association which will charge similar rents for similar properties irrespective of location, but the degree of support that their tenants can expect from the social security system will depend on where they live. This is inequitable. It will also undermine the financial sustainability of housing associations whose building programmes are based on estimates of rental income and will undermine their capacity to support tenants on benefits.
- The Local Housing Allowance was set at the 30th percentile, so at the lower end of rental market prices. This was challenging enough, but in addition the UK Government has frozen LHA rates for four years, from April 2016. As a result the LHA is more often than not less than the 30th percentile – the most extreme example being in the Lothian area, where the LHA for 3- and 4-bedroom homes is over £20 per week less than the 30th percentile<sup>1</sup>.
- Single people under 35 can only get the shared accommodation rate, which is considerably less generous than the one bedroom rate. Apart from the issue of age discrimination, this poses particular challenges for housing associations, as the Secure Scottish Tenancy, that associations use, does not allow for sharing of accommodation.
- The LHA cap is, at the time of writing, also to be applied to supported housing which by its very nature will see rents in excess of LHA rates, because of the

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<sup>1</sup> The LHA rate in the Lothian BRMA for a 3 bedroom property: £186.47. 30<sup>th</sup> percentile figure £207.12. LHA rate for 4-bedroom property £276.92; 30<sup>th</sup> percentile figure £298.03. Source <https://beta.gov.scot/publications/local-housing-allowance-rates-2017/LHA%20figures%202017-2018.pdf?inline=true>

need to provide extra housing association staff support and facilities to enable vulnerable tenants lead independent lives. The UK Government has proposed a top fund up to cover the difference between the LHA and the additional cost of the supported housing tenancy, but this approach has been roundly condemned in the report of the Inquiry into Funding for Supported Housing, published jointly by the House of Commons Work and Pensions and the Communities and Local Government Select Committees<sup>2</sup>.

- Entitlement to the LHA rate is dependent on household size, not on the property size. For example, a couple would only be entitled to a 1 bedroom LHA rate even if they live in a 2-bedroom flat. The Scottish Government is seeking to effectively abolish the bedroom tax, but a different mechanism will be required if it is to mitigate the restrictions in the LHA rate; **in effect the LHA cap is a bedroom tax by the back door** - hence the reason that some have dubbed it Bedroom Tax Mark Two.
- The current bedroom tax is only applied to working age households. The LHA cap will also apply to pensioner households. Given that there will be large numbers of pensioner couples living alone in family sized housing since their children moved away, their entitlement to LHA for only a 1 bedroom property may result in them being in breach of the LHA maximum. That means that they will not be eligible for sufficient financial support to pay their rent.

## Main Report

In his Autumn Statement of 2015, the then Chancellor, George Osborne MP, announced that payments of Housing Benefit and Universal Credit housing costs would be subject to the Local Housing Allowance maxima for claimants living in social housing. The cap would be applied from April 2018 for any tenancy that started since April 2016<sup>3</sup>. Subsequently, the Secretary of State for Work and Pensions, Damian Green, made announcements in the latter half of 2016 modifying the initial announcement<sup>4</sup>. The LHA cap for social rents was now to be deferred until April 2019, but unlike the original announcement, any tenant in receipt of Universal Credit would be subject to the LHA cap, irrespective of when their tenancy started.

Funding for supported housing was to be a combination of Universal Credit/Housing Benefit for the costs up to LHA level, supplemented by additional funding. The exact mechanism has yet to be decided. A joint Inquiry was set up by the House of Commons Work and Pensions and Communities and Local Government Select Committees to look at funding for supported housing, to which the SFHA gave both

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<sup>2</sup> <https://www.publications.parliament.uk/pa/cm201617/cmselect/cmcomloc/867/86702.htm>

<sup>3</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/479749/52229\\_Blue\\_Book\\_PU1865\\_Web\\_Accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479749/52229_Blue_Book_PU1865_Web_Accessible.pdf)

<sup>4</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-09-15/HCWS154/> and <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-11-21/HCWS273/>

written and oral evidence<sup>5</sup>. The Inquiry report was especially critical of the use of the Local Housing Allowance and advocated that it should be replaced by a Supported Housing Allowance, based on services provided rather than local market vagaries.

Under the existing Housing Benefit/Universal Credit system, the entitlement to housing costs is predicated by the size of the property compared to the household composition. If a household's income is low enough to entitlement to full housing cost support, but they are deemed to be underoccupying their property by one bedroom, 14% is deducted from their housing cost entitlement; if they are deemed to be underoccupying by 2 or more bedrooms, 25% is deducted from their entitlement. The advantage of this method is its simplicity and transparency – if the rent is known and the household composition is known, the amount of bedroom tax is easily calculated – and if it is easy to calculate it is straightforward to mitigate, either via Discretionary Housing Payments (DHPs) as is currently the case, or by reducing the 14% one bedroom and the 25% two+ bedroom underoccupancy rates to 0%, thereby effectively abolishing the bedroom tax.

With the LHA cap the calculation of housing cost entitlement is predicated on the household size and the location of the home. It promises to be more complex to administer, with winners and losers, and therefore more complex to mitigate should the Scottish Parliament wish to do so, as the following examples illustrate<sup>6</sup> :

- The average rent for a housing association 4+ bedroom property was £96.55 in 2016/17. A household with just a one bedroom need – so underoccupying by 3 rooms or more – would get their rent paid in full in 5 of the 18 BRMAs; those living in one of the 13 remaining BRMAs would face a shortfall of between £4.49 and £24.55 per week.
- The average housing association rent for a 2 bedroom property is £80.01. A household with a one-bedroom need will face a shortfall if they live within either the Scottish Borders or the Dundee and Angus BRMAs. In the other 17 BRMAs the one bedroom LHA is higher than the average housing association 2 bedroom rent.
- If the claimant is single, without dependents and under 35, living in a 1 bedroom property with an average rent of £73.99, they will face a shortfall of housing costs in all but one BRMA (Aberdeen and Shire). The shortfall will be between £5.71 and £17.03 per week.

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<sup>5</sup> <https://www.sfha.co.uk/mediaLibrary/other/english/6638.pdf> and <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/future-of-supported-housing/oral/47914.pdf>

<sup>6</sup> It should be pointed out that these example are based on 2016/17 rent levels – which are likely to be higher in 2019/20; the LHA cap will on the other hand be no higher, because of the four year freeze introduced in April 2016.

The tables below<sup>7</sup> illustrate the potential distortion that the use of LHA can cause. Tables 1 and 2 show the average rents charges by housing associations working almost exclusively in one particular BRMA – either Aberdeen and the Shire (the most generous BRMA) or Scottish Borders (the least generous BRMA). For those associations working in the Scottish Borders their rents are far closer to the LHA cap, which may have a negative impact on investment and well-being of tenants in future years. Table 3 shows the effect of the shared accommodation rate in the 2 BRMAs

**Table 1: Comparison of average housing association rents and LHA in Aberdeen and Shire BRMA**

Property Size	Average Rent	LHA	Rent expressed as percentage of LHA
1-bedroom	£75.00	£120.82	62.1%
2-bedroom	£83.50	£161.10	51.8%
3-bedroom	£92.37	£184.94	49.9%
4-bedroom	£105.84	£235.97	44.9%

**Table 2: Comparison of average housing association rents and LHA in Scottish Borders BRMA**

Property Size	Average Rent	LHA	Rent expressed as percentage of LHA
1-bedroom	£67.92	£72.00	94.3%
2-bedroom	£75.13	£92.05	81.6%
3-bedroom	£82.00	£109.31	75.0%
4-bedroom	£92.38	£138.46	66.7%

<sup>7</sup> Source 2015-16 ARC returns. The sample associations in Aberdeen and the Shires were Castlehill, Grampian, Langstane and Tenants First; the sample associations in the Scottish Borders were Berwickshire, Eildon and Waverley.

**Table 3: Comparison of LHA shared accommodation rates and one bedroom rents.**

BRMA	Rent for 1-bedroom property	LHA Shared accommodation entitlement	Shortfall tenant has to meet
Aberdeen and Shire	£75.00	£75.63	£0
Scottish Borders	£67.92	£56.96	£10.96
Median	£69.93	£60.70	£9.23

There are added complications to the implementation of the LHA cap, the main being that the LHA cap regime will run in parallel with the existing bedroom tax system, with working age claimants only being entitled to the lesser amount. The running of the two systems will add to the complexity of the implementation as the DWP will have to determine which is the most disadvantageous for the claimant. Moreover, given the difficulties already experienced under Universal Credit for data sharing, it will be administratively complex to mitigate.

Under the regulations of the Welfare Reform Act 2012, the bedroom tax only applies to working age households. There has been no announcement of any such exemption for LHA. Whereas the LHA cap is in the main restricted to Universal Credit (a working age benefit) claimants, it will apply to Housing Benefit claimants whose tenancies started since April 2016, which may catch some pensioner households. With the scenario described paragraph 3.6, the system will also need to be flexible enough to manage the transition of a household from working age to pension age and different levels of entitlement.

Scottish Housing Association rents offer by and large some of the best value rents in the UK and are at the moment in the main below LHA maxima. However, some developments, in particular newly built developments with higher than average rents, may be in breach of the LHA maxima or may breach the LHA after annual rent reviews (while LHA rates are frozen). Those whose rent is likely to be in breach of the LHA maximum are tenants in supported housing and single householders under the age of 35.

In November 2016 there were in Scotland 23,856 Housing Benefit claimants<sup>8</sup> renting from councils or housing association homes who were under 35, single and without child dependants. The average award was £81.21. If all those were in general needs housing and on Universal Credit by April 2019, taking the median

<sup>8</sup> Source DWP Stat-Xplore

shared accommodation rate of £60.70, the weekly shortfall would be £20.51. The overall annual cost would be £25.5 million. This compares to the £47 million set aside in 2017/18 to mitigate the bedroom tax.

**Table 4: Single Housing benefit claimants under 35, no child dependants**

	Council	Housing Association	Total
<b>Housing Benefit Claimants</b>	13,704	10,153	23,856
<b>Mean of Weekly Award Amount</b>	£83.41	£78.26	£81.21

### Conclusion and recommendation

A stable housing environment allows households to form and it provides a saving to the public purse. It helps prevent homelessness and its consequent social and economic costs; it helps prevent some of the most vulnerable with long term conditions having to resort to expensive institutional care. How households form depends on the prevailing social circumstances – for example there are now more single households forming that have part- time caring responsibility for children. If you happen to be such a person who is single and under 35, having to live in shared accommodation could make it impossible to take on those responsibilities; it is inimical to your wellbeing and the wellbeing of those you care for.

Housing is not a consumer commodity that can be turned off and on like a tap in response to market fluctuations. It takes considerable planning and investment and is expected to last decades if not centuries. Housing Associations need stable income streams in order to plan, anticipate future needs and invest: if that income stream is uncertain it will inhibit planning and investment and reduce the number of properties that will be built – at a time when the Scottish Government has an ambitious plan for the building of 50,000 affordable homes over 5 years.

The LHA cap is but the latest attempt to try to limit the welfare expenditure bill. The Social Security Committee (and in the previous Scottish Parliament the Welfare Reform Committee) have received a series of reports from Sheffield Hallam University outlining the impact of Welfare Reform measures introduced by the 2010 Coalition Government and the 2015 Conservative Government.

The Bedroom Tax, whatever else it is, is a straightforward, unambiguous measure, which makes it straightforward to unambiguously mitigate. The LHA cap, because of its variability from one BRMA to another, is beset with anomalies which will affect, in particular, regional and national housing associations. It will not be as straightforward as the bedroom tax to mitigate. It can disadvantage claimants as much as where they live as the relationship between property size and household size. To that extent it could be argued that it is not just a bedroom tax, but it is also a locality tax.

Scottish Housing Association rents are some of the lowest in the UK, partly as a result of the subsidy of affordable social house construction by Scottish administrations. This has meant that the Housing Benefit bill has been reduced as a consequence – a saving which the UK Government benefits from.

In its written evidence to the Smith Commission in October 2014, the SFHA stated:

“The SFHA is in favour of devolving social security to the Scottish Parliament. This would allow the Scottish Parliament to exercise full authority over budgets, priorities, systems in line with the legal framework of tenancy rights, best use of stock, demand, and related to local strategies in relation to fuel poverty, regeneration and investment. Full devolution would mean that those who need support from social security would benefit from an aligned system with single administration of a range of benefits that intersect. Fiscal autonomy would also allow the Scottish Parliament to decide what income to raise and how to spend it. This would assist the coherent exercise of powers around housing.”<sup>9</sup>

It remains the view of the SFHA that social security should be devolved to Scotland in order to achieve a rational, coherent balance between housing policy and social security that will help achieve the Scottish Government’s ambitions for a Fairer Scotland.

The Enduring Settlement stated:

“The Scottish Parliament will have the power to vary the housing cost elements of UC, including varying the under-occupancy charge and local housing allowance rates, eligible rent, and deductions for nondependents.”<sup>10</sup>

The SFHA recommends that the Scottish Government uses this power to vary the LHA rates, given the divergence of the current LHA maxima with even 30th percentile rent levels.

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<sup>9</sup> <http://webarchive.nationalarchives.gov.uk/20151202171017/http://www.smith-commission.scot/wp-content/uploads/2015/01/B00064.pdf>

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/397079/Scotland\\_EnduringSettlement\\_acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397079/Scotland_EnduringSettlement_acc.pdf)