



BRIEFING PAPER

Number 7008, 29 March 2018

Can private landlords refuse to let to Housing Benefit claimants?

By Wendy Wilson

Inside:

1. Is it unlawful to refuse to let to Housing Benefit claimants?
2. Why do private landlords refuse to let to Housing Benefit claimants?
3. The extent of landlord refusals



Contents

Summary	3
1. Is it unlawful to refuse to let to Housing Benefit claimants?	4
2. Why do private landlords refuse to let to Housing Benefit claimants?	5
2.1 Housing Benefit reforms	6
Direct payment of Housing Benefit to claimants	6
The gap between rent and Housing Benefit levels	7
Other benefit restrictions	10
The housing element of Universal Credit	11
2.2 Impact of tax and other regulatory changes	15
2.3 Mortgage and insurance restrictions	16
3. The extent of landlord refusals	18
Surveys of private landlords	19
Claimant surveys	21

Summary

This briefing paper considers evidence on why private landlords might refuse to let to Housing Benefit (HB) claimants and the extent of the problem.

It is not unusual for private landlords to advertise properties to let stating that they will not accept applications from HB claimants. This often raises the question of whether such restrictions amount to unlawful discrimination. It is unlikely to amount to *direct* discrimination as income and employment status are not protected characteristics under the *Equality Act 2010*.

Historically, landlords were reluctant to let to HB claimants because of delays in processing HB applications, but since April 2008 a key factor influencing landlords has been the introduction of the Local Housing Allowance and the requirement that this, except in certain specified circumstances, is paid to claimants rather than landlords. Restrictions on the level of LHA paid to claimants were introduced by the Coalition Government in April 2011 – these changes led various housing bodies, including representative bodies of private landlords, to argue that HB claimants were being priced out of the market.

Further restrictions have been introduced; for example, LHA rates have been frozen with effect from April 2016 for four years. This has added to landlords' concerns about the gap between LHA and market rent levels. Evidence of disparities between actual rent levels and LHA rates payable submitted to the Communities and Local Government Select Committee's inquiry into homelessness (2016) led the Committee to recommend that "Local Housing Allowances levels should also be reviewed so that they more closely reflect market rents."

Other factors cited as reasons for landlords' reluctance to let to HB claimants include:

- uncertainly around the roll-out and implications of Universal Credit;
- the payment of Housing Benefit in arrears;
- restrictions in mortgage agreements and insurance requirements; and
- tax changes resulting in landlords focusing on "less risky" tenants.

There is no definitive information on the extent to which landlords are refusing to let to HB/LHA claimants. Reported landlord survey evidence suggests that there has been an increase in the proportion of private landlords who are unwilling to let to HB claimants.

1. Is it unlawful to refuse to let to Housing Benefit claimants?

Where a landlord refuses to let to a prospective tenant because they are in receipt of Housing Benefit/Local Housing Allowance this is unlikely to amount to *direct* discrimination as income and employment status are not protected characteristics:

Sarah Teather: To ask the Deputy Prime Minister what (a) legislative and (b) other measures are in place to prevent private landlords discriminating against letting to tenants in receipt of housing benefit; and if he will make a statement.

Yvette Cooper: Anti-discrimination legislation does not extend to the practice of refusing to let to benefit claimants and it would be impracticable to do so. However landlords often refuse to let to tenants on housing benefit because of the historical delays by local authorities in administering it. In 2002 the Government implemented a comprehensive strategy to improve delivery and now the average time taken to process new claims has been cut by over two weeks, with the greatest improvements seen in the poorest performing local authorities.¹

Although the receipt of benefits is not one of the *protected characteristics* as set out in the *Equality Act 2010*,² the Act also protects against *indirect* discrimination. Indirect discrimination occurs where a policy, which is not discriminatory in itself, is likely to impact disproportionately on people who are protected under the 2010 Act.³ So; for example, if Housing Benefit claimants are predominantly female or from an ethnic minority group, a refusal to let to Housing Benefit claimants *might* amount to indirect discrimination against these groups with protected characteristics. However, indirect discrimination can be lawful if it can be reasonably justified. A landlord whose mortgage lender has imposed a condition not to let to Housing Benefit claimants *may* have grounds on which to argue a reasonable justification.

In February 2018, the [BBC reported](#) that that a woman denied a home in Birmingham after the lettings agent found out she was receiving Housing Benefit had “won compensation”.⁴ Ms Keogh brought a claim against the agents for indirect sex discrimination on the basis that women were more likely to work part-time and claim Housing Benefit, such that a blanket ban on benefit recipients would have a disproportionate effect on women. Ms Keogh received £2,000 compensation from the agents but the matter was settled before it reached court and thus does not form a precedent.

¹ HC Deb 7 December 2005 c1437W

² [Equality Act 2010](#)

³ The protected characteristics under the 2010 Act include: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

⁴ BBC, [Landlords who say “no DSS” breaking equality laws](#), 26 February 2018

2. Why do private landlords refuse to let to Housing Benefit claimants?

There has always been a reluctance on the part of some landlords to let to Housing Benefit (HB) claimants for reasons such as administrative delays in processing claims and receiving payment, the risk of HB overpayments being reclaimed from them and the perceived risk of tenants on HB being more likely to accrue rent arrears. Landlords also associate anti-social behaviour and damage to property with HB claimants and often cite these factors as reasons for not accepting benefit claimants. Landlords may be prohibited from letting to HB claimants as a condition of their mortgage agreement and/or insurance policy.

A 2010 Department for Communities and Local Government (DCLG) Private Landlord Survey found:

The most cited reasons for not letting to HB or LHA recipients were disturbance or anti-social behaviour (19%), expected delays in payment (17%), unpaid rent and damage to property or furnishings (both 16%).⁵

Since April 2008 the introduction of Local Housing Allowance (LHA) has been a major concern for landlords as the default position is that HB is now paid to claimants rather than landlords. Prior to this date, private landlords often required prospective tenants on HB, as a condition of granting a tenancy, to submit a request to the local authority for their HB entitlement to be paid to the landlord. Furthermore, the LHA rate has been set at a level which is significantly below market rents in some areas. The level of change in the system has created some confusion and caution amongst private landlords.

Research published by the Department for Work and Pensions (DWP) in 2013 found:

A majority of landlords said they were being more cautious about letting to Local Housing Allowance (LHA) tenants for various reasons, including the LHA measures; this attitude was more pronounced among buy-to-let landlords concerned about their future income stream.⁶

The following sections provide more detailed information on HB changes and other factors that influence landlords in deciding whether or not to let to HB claimants.

⁵ [Private landlords survey 2010, DCLG](#)

⁶ [Monitoring the impact of changes to the Local Housing Allowance system of Housing Benefit: Interim report](#), Research Report 798 (2013)

2.1 Housing Benefit reforms

Direct payment of Housing Benefit to claimants

A key concern for landlords is the requirement, since 7 April 2008 (the date on which the Local Housing Allowance (LHA) was introduced), that HB is paid to claimants rather than landlords. Survey evidence gathered by Shelter indicates that claimants would also prefer to have their HB paid direct to their landlords in order to help them manage their finances and reduce the temptation to spend LHA on other bills.⁷

LHA was introduced in part to simplify the Housing Benefit system and to empower recipients to take responsibility for their finances. LHA is not a benefit in its own right – it is the way in which the rent element of Housing Benefit (HB) is calculated for tenants living in the deregulated private rented sector.⁸ It applies to new claimants after 7 April 2008, claimants who have had a break in their claims since that date, or those who have changed their address. The implementation and background to this reform is explained in Library briefing papers: [Paying Local Housing Allowance direct to tenants in private rented housing \(03211\)](#) and [The reform of Housing Benefit \(Local Housing Allowance\) for tenants in private rented housing \(04957\)](#). The only circumstances in which LHA can now be paid direct to a private landlord are:

- where the claimant is in arrears of 8 weeks or more; or
- where the claimant is unlikely to pay their rent; or
- where the claimant is deemed unable to manage their own affairs.

The 2010 DCLG survey of private landlords found:

Twenty-one per cent of those landlords who would not be happy to let to HB or LHA recipients would be encouraged to do so if the payments were not made directly to the tenants, but 55% stated they could never be encouraged to let to these tenants.⁹

The new system was trialled in nine “Pathfinder” areas from November 2003 and was extended to a further nine areas from April 2005. A baseline survey to collect ‘benchmark’ information on the characteristics and attitudes of the private landlords and agents in the nine original pathfinder areas found the following results in relation to direct payments:

- A particular concern regarding the implementation of LHA is the matter of housing benefit being paid direct to tenants. More than eight in ten of the survey respondents said that they preferred housing benefit to be paid directly to themselves rather than to their tenants, and amongst the small minority of landlords who preferred to let to housing benefit tenants this was most commonly because they could receive the benefit directly.
- Almost one half of respondents who had let to housing benefit tenants within the past two years had in fact made

Since April 2008 the default position has been that Housing Benefit is paid direct to tenants in the private rented sector.

⁷ Shelter Campaigns Briefing, *Local Housing Allowance and direct payments - giving claimants a choice. What do claimants prefer?* (undated)

⁸ Tenancies created after Part 1 of the *Housing Act 1988* came into force.

⁹ [Private landlords survey 2010, DCLG](#)

7 Can private landlords refuse to let to Housing Benefit claimants?

payment of the benefit directly to themselves a condition of a tenancy.

- Not surprisingly, therefore, almost two thirds of landlords and agents thought that they would be less likely to want to let to housing benefit tenants if they were no longer able to receive payments of housing benefit directly.¹⁰

The Communities and Local Government Select Committee conducted an inquiry into homelessness (2016) during which the increase in homeless applications arising from the termination of private sector tenancies (assured shorthold tenancies) attracted attention. The Committee was concerned that the direct payment of LHA to claimants was “having a direct impact on levels of homelessness” and recommended:

All recipients of housing support should have the option of having their housing benefits paid directly to their landlord, reducing the likelihood of them falling into arrears and increasing landlord confidence and willingness to let to tenants at risk of homelessness.¹¹

Termination of an assured shorthold tenancy is the most significant cause of homeless acceptances by local authorities.

The gap between rent and Housing Benefit levels

One reason for not letting to HB claimants is purely to do with market forces. In some areas rents are significantly higher than the corresponding level of HB/LHA.

The LHA is a flat rate allowance for different sizes of properties within a Broad Market Rental Area (BMRA).¹² The Rent Officers from the Valuation Office Agency determine BMRAs in England. A BMRA comprises two or more distinct but adjoining areas of residential accommodation, within which a person could reasonably be expected to live.

Prior to April 2011, within a BMRA the LHA for different sizes of properties was calculated by reference to the median rent (where half the rents are lower and half higher). Since April 2011, LHA rates within BMRAs have been based on the 30th percentile of local market rents (rather than the median). In addition, LHAs for different sizes of properties are subject to national caps.

In 2012 it was announced that increases to LHA rates would be capped at 1% in 2014 and 2015 (with an exemption for areas with the highest rent increases¹³). Housing bodies highlighted the impact of LHA rates failing to keep pace with actual rent levels over time.

The relative reduction in HB/LHA has reinforced the concern that claimants may struggle to pay rents in the future. The prospect of tenants accruing arrears, or the pressure to lower rents for benefit claimants, acts as a disincentive to private landlords. This is particularly

¹⁰ [Landlords and Agents in the nine LHA Pathfinder: summary report](#), DWP, 2006

¹¹ HC 40, [Homelessness](#), August 2016, para 34

¹² The actual amount of benefit paid to an individual depends on their personal financial circumstances – HB/LHA is means tested.

¹³ The 1% cap in 2014 and 2015 was announced in the Chancellor’s Autumn Statement on 5 December 2012. 30% of the savings arising from this measure was used to pay for higher increases in more expensive areas.

the case in areas with a buoyant market and high demand for rented properties.

In 2013 the DWP reported:

Landlords thought that the high demand for private rented sector (PRS) properties meant that there was little market pressure to stabilise or reduce rent levels in the market.

Those landlords who stated that they would continue letting to tenants receiving LHA often had properties in areas with high concentrations of LHA tenants and had few alternative sources of demand, although many were now attempting to diversify. Local housing market conditions and, specifically, alternative sources of demand, were central to many landlords' calculations about whether to negotiate over rents with tenants and about whether they would be willing to let to HB claimants. However, respondents were often unable to attribute changes in their priorities and decisions solely to LHA changes.

The gap between the contracted rent and the LHA rate in higher demand areas encouraged landlords to reduce their lettings to LHA tenants.

[...]

In terms of future priorities for lettings, rent setting and property acquisition or disposal, the predominant response was to 'wait and see'. This was not true, however, of landlords in the three high value London areas, (Brent, Hackney and Westminster) where landlords were already acting to reduce the proportion of lets to LHA tenants.

[...]

It is important to note that the issues on the horizon that shape future landlord behaviour most may not stem directly from the ripple effects of LHA measures but from one or more of three other factors: even a slight increase in interest rates would, according to many respondents, place intolerable pressure on margins and force some out of the market if increasing rent levels was not an option; the perceived shift towards HB being paid direct to the tenant rather than the landlord was seen as introducing further uncertainty into the reliability of future income streams; and many landlords were very nervous about the introduction of Universal Credit from autumn 2013 onwards, and what they saw as the end of a discrete benefit to pay for the rent.¹⁴

The Work and Pensions Select Committee's 2013-14 inquiry into [Support for housing costs in the reformed welfare system](#) concluded:

Reforms to Local Housing Allowance (LHA), paid to Housing Benefit claimants in the private rented sector, have led to a growing discrepancy between the average area rents and the amount of LHA that households can claim. As a result, there is evidence that private sector landlords are becoming increasingly reluctant to rent to LHA recipients and evictions and non-renewal of tenancies are increasing, leading to an increased risk of homelessness among Housing Benefit recipients. Private sector

¹⁴ [Monitoring the impact of changes to the Local Housing Allowance system of Housing Benefit](#), Interim Report – summary, DWP 2013

9 Can private landlords refuse to let to Housing Benefit claimants?

properties which remain affordable to LHA recipients are increasingly of poor quality.¹⁵

Richard Lambert, chief executive of the National Landlords Association (NLA), warned that the 1% cap “could render private accommodation unaffordable for many tenants in receipt of housing benefit and will deter landlords from investing in much needed housing for those receiving support.”¹⁶

Freezing LHA rates for four years

As part of the [Summer Budget 2015](#) the Chancellor announced that LHA rates would be frozen for four years from April 2016:

Since the financial crisis began in 2008, average earnings have risen by 11%, whereas most benefits, such as Jobseeker’s Allowance, have risen by 21%. To ensure that it always pays to work, and that earnings growth overtakes the growth in benefits, **the government will legislate to freeze working-age benefits, including tax credits and the Local Housing Allowances, for 4 years from 2016-17 to 2019-20.** This is forecast to save £4 billion a year by 2019-20.¹⁷

This has added to landlords’ concerns about the gap between LHA and market rent levels. The Communities and Local Government Select Committee’s inquiry into homelessness (2016) highlighted evidence of the gap between LHA rates and actual rent levels in the private rented sector in certain areas:

Many witnesses pointed to the disparity between LHA rates and the actual rents charged by landlords. South Cambridgeshire District Council for example highlighted that “A significant barrier to accessing the private rented sector is the difference between LHA rates and typical rent levels. Typically rents are at least £250pcm more than the LHA rates across all property sizes, making the private rented sector unaffordable for those on a low income.” Westminster City Council has the largest private rented sector in England with very high rents, and there is a £536.54 disparity between the average weekly rent of a three bedroom home and the capped LHA rate.¹⁸

The Committee recommended that “Local Housing Allowances levels should also be reviewed so that they more closely reflect market rents.”¹⁹ The Residential Landlord Association (RLA) submitted evidence to the inquiry describing how landlords in high demand areas would react to the freezing of LHA rates:

Unfortunately, the reality is that in areas where there is high employment there is no need for landlords to rent to claimants. The high demand generally for PRS properties means that in some areas landlords can be more selective. The Government cannot realistically expect Landlords to freeze rents for 4 years if inflation increases and interest rates rise alongside upward pressures. The freezing of allowances means a real term reduction. The long term nature of the proposal is therefore worrying for landlords,

The CLG Select Committee recommended that LHA rates should be reviewed.

¹⁵ [Support for housing costs in the reformed welfare system](#), 2 April 2014, HC 720, 2013–14, Summary

¹⁶ Inside Housing, “[Benefit cuts raise homelessness fears](#)”, 7 December 2012

¹⁷ [Summer Budget 2015](#), July 2015, para 1.137

¹⁸ HC 40, [Homelessness](#), August 2016, para 17

¹⁹ *Ibid.*, para 21

particularly as there is no automatic review mechanism written in to the regulations.²⁰

In March 2017, Shelter published an [analysis of Local Housing Allowance rates](#) and concluded that:

Private rents have been rising consistently for several years, between 2011/12 and 2015 they rose in 79% of the country.

[...]

Since 2010 housing benefit levels have not risen in line with rising private rents, and current freeze means that they will remain frozen at their 2016 levels until 2020, regardless of how much private rents have gone up by in each local area.

This means that most private renters who need their income topped up by housing benefit will face a monthly shortfall between the actual cost of their rent, and the support available. Our analysis reveals just how dramatic those shortfalls can be for three different household types: families with 1 or 2 children, couples and single people.²¹

Shelter's 2017 analysis highlighted significant shortfalls between HB levels and real rents.

Other benefit restrictions

In addition to the freezing of LHA rates, the Government reduced the benefit cap threshold with effect from 7 November 2016 to £23,000 in London and £20,000 outside of London. This cap limits total benefit entitlement²² for a household and can result in a claimant facing a reduced level of Housing Benefit where their total weekly benefits exceed the cap. The lowering of the threshold was expected to 'bite' in areas with higher housing costs.

The Government is also restricting support provided to families with more than two children through tax credits with equivalent changes to Housing Benefit:

...so that any subsequent children born after April 2017 will not be eligible for further support. An equivalent change will be made in Housing Benefit to ensure consistency between both benefits. This will also apply in Universal Credit to families who make a new claim from April 2017.

In addition, those starting a family after April 2017 will no longer be eligible for the Family Element in tax credits. The equivalent in Universal Credit, known as the first child premium, will also not be available for new claims after April 2017. In Housing Benefit, the family premium will be withdrawn for new claims from April 2016, to ensure fairness between those who receive Housing Benefit and those who do not.²³

[The Housing Benefit \(Abolition of the Family Premium and limiting backdating\) \(Amendment\) Regulations 2015](#) (SI 2015/1857) abolished the family premium for all new Housing Benefit entitlements after 30 April 2016 and for those who cease to have responsibility for any children or young people after 30 April 2016.

²⁰ [Residential Landlords Association - written evidence](#), 22 February 2016

²¹ Shelter, [Local Housing Allowance Freeze](#), March 2017

²² Some benefits are excluded, see: [GOV.UK](#)

²³ [HC 264](#), July 2015, paras 1.146-7.

11 Can private landlords refuse to let to Housing Benefit claimants?

Commenting on the impact of these wider changes, the RLA said that they represent “big disincentives” for landlords to let to low income and benefit claimants:

Landlords have to assess the risk of their return on investment against massive benefit changes including Universal Credit allowances limited to support for two children for new claims after April 2017, with the ‘family element’ also removed from tax credit and Universal Credit allowances for all new families after that date; income thresholds for Universal Credit reduced by cuts to the levels of the ‘work allowance’, alongside the lowering of the benefit caps noted above; and, crucially, benefit rates (including Local Housing Allowance rates) frozen for four years from 2016/17.²⁴

Entitlement to the housing element of Universal Credit was withdrawn, with certain exceptions, from 18-21-year-olds from April 2017. The RLA commented:

A recent survey conducted by the RLA found that 76% of over 800 Landlords agreed that these changes make them generally more reluctant to rent to the 18 – 21 age group altogether. This could have serious implications on supply of housing to this age group given how much Local Authorities rely on the PRS to house their homeless service users.²⁵

However, in a Written Statement on 29 March 2018 the Government announced a reversal of this policy:

I am today announcing that the Government will amend regulations so that all 18-21 year olds will be entitled to claim support for housing costs in UC.

Currently, 18-21 year olds who make a new claim to UC in UC Full Service areas need to meet certain requirements in order to receive housing support. The change I am announcing today means that young people on benefits will be assured that if they secure a tenancy, they will have support towards their housing costs in the normal way.²⁶

The housing element of Universal Credit

As a rule, Universal Credit is paid as a single monthly lump sum to claimants, including any housing element that might apply.

The DWP’s 2013 interim report on the impact of changes to the LHA reported that:

... many landlords were very nervous about the introduction of Universal Credit from autumn 2013 onwards, and what they saw as the end of a discrete benefit to pay for the rent.²⁷

The Work and Pensions Select Committee’s 2013-14 inquiry found:

Both private and social sector landlords are concerned about how tenants will manage direct payments of housing costs under Universal Credit. There was particular concern that vulnerable

²⁴ [Residential Landlords Association - written evidence](#), 22 February 2016

²⁵ Ibid.

²⁶ [Written Statement – HCWS611, 29 March 2018](#)

²⁷ [Monitoring the impact of changes to the Local Housing Allowance system of Housing Benefit](#), Interim report, DWP, 2013

tenants may not receive help until they have accrued unmanageable levels of rent arrears.²⁸

The NLA also expressed concern:

“Change spells uncertainty,” said the NLA’s policy spokesman, Chris Norris. “Many landlords have adjusted to LHA and are now happy – but ongoing welfare reform and doubts about universal credit introduce too much risk for some.”²⁹

Carolyn Uphill, Chairman of the NLA, commented: “Benefit payments simply haven’t kept up with rents over the past few years as the Universal Credit programme has progressed and cuts to welfare payments have been made. This has led to concern among many landlords that tenants will fall behind on rent as their finances become increasingly squeezed. “If tenants don’t fully understand what Universal Credit is or haven’t even heard of it, more and more landlords will lose confidence that letting to this market is financially viable, especially with the high demand and availability from other types of tenants. “Our findings show a significant number of tenants would prefer their housing support to be paid directly to their landlord. If this was an option from the beginning of the tenancy it would avoid the build-up of arrears in the first place, give landlords the confidence that rent would be paid on time and lead to fewer tenancies ending prematurely.”³⁰

According to the latest research* from the National Landlords Association (NLA), landlords remain concerned over the impact of Universal Credit on the private-rented sector. 70 per cent of landlords who let to tenants in receipt of Local Housing Allowance (LHA) are worried about the implications of the welfare changes. In addition, nearly half (43 per cent) of all landlords are concerned about the changes.

*712 online interviews. Fieldwork took place 22nd March – 10th April 2013.³¹

The RLA’s evidence to the Communities and Local Government Select Committee’s inquiry into homelessness (2016) highlighted some difficulties landlords had faced when letting to tenants in receipt of UC:

The roll out of Universal Credit to families is also more complex than the payment of single claimants and is very much in its infancy which causes concern amongst landlords. We are finding that due to other reasons explored in more detail later in this report, Landlords are more reluctant to rent to tenants in receipt of benefits and do not have positive experiences when working with DWP requesting help if their tenants have fallen into arrears. Our survey found that 32% of respondents whose tenants are receiving Universal Credit, described DWP as ‘not very helpful at all’ when processing applications for direct payments to be made to them.³²

The RLA’s evidence to the Work and Pensions Select Committee highlighted landlords’ concerns about the impact of UC.

The RLA submitted [updated written evidence](#) to the Work and Pensions Select Committee inquiry into the roll-out of UC in September 2017. This evidence contained the headline results of a [survey of RLA](#)

²⁸ [Support for housing costs in the reformed welfare system](#), 2 April 2014, HC 720, 2013–1, Summary

²⁹ [“Why landlords are shunning profitable benefit tenants”](#), Daily Telegraph, 11 January 2014

³⁰ [Universal credit continues to confuse, NLA, 3 February 2014](#)

³¹ [Landlords wary of Universal Credit, 12 June 2013](#)

³² [Residential Landlords Association - written evidence](#), 22 February 2016

13 Can private landlords refuse to let to Housing Benefit claimants?

[members conducted in August 2017](#), the findings in relation to welfare reform were described as “stark”. Of those landlords who let to tenants on UC or Housing Benefit:

- 38% of landlords reported that they have experienced universal credit tenants going into rent arrears in the past 12 months
- This is especially concerning with the finding that on average, landlords were owed £1600.88 in rent arrears
- 53% of landlords successfully request an Alternative Payment Arrangement
- 45% of landlords reported that the DWP were unhelpful when contacted
- The issue of rent arrears for universal credit tenants, is also one of the leading reasons for a landlord attempting to regain possession of the property (64% of landlords).³³

The RLA’s submission called on the Government to:

- Introduce Tenant Choice – the right for a tenant to elect to have UC paid direct to their landlord.
- Permit arrears to follow a tenant so that if a tenant receiving UC leaves a property owing rent arrears then these can be recouped from subsequent benefit payments.
- Improve data sharing between DWP and landlords where the tenant consents or without the need for consent where it is in the claimant’s interests. This includes information about the progress of applications for direct payment to the landlord. Standing consents should be permitted for the duration of a claim for housing costs for a particular property; not just for “a particular piece of business”.
- DWP should send landlords proper written notifications of their decisions which affect the landlord.
- Improve the arrangements when a claimant’s housing benefits is switched to UC.
- Provide a standardised script for Job Centre interviews around rental payment issues, and improve work coaches’ knowledge and training relating to housing costs issues.
- Improve the availability of advance payments of UC.
- Change the rules so that a history of rent arrears becomes a Tier 1 reason for direct payment of housing costs to landlords.
- Improve the arrangements for dealing with landlords’ applications for alternative payment arrangements, i.e. for housing costs to be paid direct to the landlord where there are arrears (APAs). This includes improving and streamlining procedures for landlords when they submit applications.
- Suspend paying UC housing costs pending investigations of claims by landlords for direct payment to them when there are arrears. This should be done automatically as soon as

³³ RLA, [Written Evidence to the Work and Pensions Select Committee](#), September 2017, UCR0028

the application form itself is received, even though DWP may be waiting for further information.

- Make sure that landlords are always told if direct payment to the landlord is to cease for any reason.
- Introduce a trusted person scheme for private landlords.
- Improve ways in which landlords can communicate direct with DWP.
- Continue to allow the landlords to pursue complaints about DWP service under the DWP Complaints Procedure. Compensation should be payable where landlords suffer financial losses as a result of mal-administration by DWP. DWP should not hide behind the argument that this is a simple contract dispute; nor expect landlords to waste money pursuing fruitless claims against tenants for rent arrears in this situation.
- Set up a specific UC complaints procedure, including appropriate provisions for landlords to complain. Set up a specific UC complaints procedure, including appropriate provisions for landlords to complain.
- Vitally, there is a need to ensure that DWP's staff follow the correct procedures and that sufficient resources are in place to process APA claims in particular.

More information can be found in the RLA's report, [Welfare Reform and Universal Credit - The impact on the private rented sector](#), August 2017.

The Autumn Budget November 2017 announced several measures aimed at supporting UC claimants:

- from January 2018 those who need it, and who have an underlying entitlement to Universal Credit, will be able to access up to a month's worth of Universal Credit within five days via an interest-free advance. The government will extend the period of recovery from six months to twelve months, making it easier for claimants to manage their finances. New claimants in December will be able to receive an advance of 50% of their monthly entitlement at the beginning of their claim and a second advance to take it up to 100% in the new year, before their first payment date
- from February 2018 the government will remove the seven-day waiting period so that entitlement to Universal Credit starts on the first day of application
- from April 2018 those already on Housing Benefit will continue to receive their award for the first two weeks of their Universal Credit claim
- the government will also make it easier for claimants to have the housing element of their award paid directly to their landlord³⁴

The Budget also included an announcement on Targeted Affordability Funding:

To support Housing Benefit and Universal Credit claimants living in areas where private rents have been rising fastest, the government will increase some Local Housing Allowance rates by

³⁴ [HC 587](#), 23 November 2017, para 6.14

15 Can private landlords refuse to let to Housing Benefit claimants?

increasing Targeted Affordability Funding by £40 million in 2018-19 and £85 million in 2019-20. This will increase the housing benefit awards of approximately 140,000 claimants in 2018-19, by an average of £280, in areas where affordability pressures are greatest.³⁵

2.2 Impact of tax and other regulatory changes

The Summer Budget 2015 announced changes to the tax regime for residential landlords. The relief on finance costs that these landlords can get is to be restricted to the basic rate of income tax. The restriction is being phased in over 4 years, starting from April 2017. Landlords are also facing changes to Stamp Duty Land Tax – see Library briefing paper 07050: [Stamp duty land tax on residential property](#).

The National Landlords Association said that these changes would prompt more landlords to minimise risks by letting to tenants “less prone to missing rental payments”. Tenants in receipt of Housing Benefit are identified as falling into the “riskier” category:

According to the latest research from the National Landlords Association (NLA), six in ten (60 per cent) landlords report that the Chancellor’s decision to remove mortgage interest relief from 2017 – announced in George Osborne’s July 2015 Budget – will reduce their profitability.

In order to recover costs, one in five (20 per cent) of those landlords say they will need to prioritise other tenant types over those perceived to be ‘riskier’ – such as tenants in receipt of housing benefit.

Tenants on housing benefit are typically viewed as riskier because of high incidences of missing rental payments, caused in part by the widening gap between market rents and the amount of benefit available to claimants. In the last year, two thirds (64 per cent) of landlords with tenants in receipt of housing benefit experienced rent arrears.

Furthermore, over the past four years, the proportion of landlords who let to tenants in receipt of housing benefit has almost halved, with the trend looking certain to continue.

The findings are worrying news for tenants who are increasingly unable to access social housing and rely on the private sector for a home.³⁶

The RLA’s evidence to the CLG Committee’s inquiry into homelessness echoed concerns about the tax changes and referred to the impact of other regulatory burdens on the sector:

Landlords are facing more regulatory burdens such as the roll out of immigration checks, extensive property licensing schemes with high fees, restrictions on gaining possession, compulsory improvements and minimum energy efficiency regulations from 2018. We are not necessarily opposed to all these measures, but nevertheless they inevitable come at a cost to the landlord.

³⁵ Ibid., para 5.37

³⁶ [NLA Press Release](#), 26 May 2016

We would encourage therefore that the Government considers the impact of these wider implications on the supply of PRS housing at a time when demand for this tenure of housing is at an all-time high, especially when concerned with the increased risk of homelessness.³⁷

In March 2018, the RLA published [The Impact of Taxation Reform on Private Landlords](#) which found:

...that a majority of landlords (70%) surveyed reported that the changes to mortgage interest relief would reduce their profitability as a business, with 62% of landlords reporting this would reduce their profitability by at least 20%. To mitigate the impact of these changes, the majority of landlords (67%) described that they would increase rents.

[...]

Overall, these findings indicate that these changes will negatively impact tenants through either increased rents or through the loss of supply of privately rented homes.³⁸

2.3 Mortgage and insurance restrictions

Some lenders have reportedly been reluctant to provide mortgages to landlords letting to HB claimants; in addition, it can be more difficult to obtain insurance at competitive rates:

Another factor is mortgage lending...

The biggest landlord lender, BM Solutions (part of Lloyds Banking Group), is prepared to lend to landlords whose tenants' income comprises benefits. The second biggest lender, Nationwide Building Society through its subsidiary The Mortgage Works, will also lend – but clearly has doubts. It announced in February 2013 that no new mortgages would be advanced to landlords whose tenants received benefits. Three months later, after criticism in the press, it reversed this decision.

David Hollingworth of mortgage broker London & Country, which has a large buy-to-let division, said: "Lenders continue to offer buy-to-let mortgage finance to landlords letting to tenants in receipt of housing benefit, although this type of tenancy has always restricted the choice of mortgage provider. With changes to the benefit system, some landlords may be wondering if their higher yield will be eroded to such a degree that they should turn their attention to a different market."

...and there is also the issue of insurance

Many landlords insure against tenants falling into arrears, as the cost is relatively low and can be built into the rent. The cost can be deducted from landlords' profits for tax purposes. Paying a premium of £100 a year, under a typical policy, would mean that a landlord could claim unpaid rent of £2,000 a month, after the first month, up to a maximum period of a year, plus legal and other costs associated with evicting a tenant. But all insurers insist

³⁷ [Residential Landlords Association - written evidence](#), 22 February 2016

³⁸ Simcock, T.J., (2018). *The Impact of Taxation Reform on Private Landlords*. Manchester: UK. Residential Landlords Association. Retrieved from: <https://research.rla.org.uk/wp-content/uploads/impact-taxation-reform-landlords-2018.pdf>, p49

17 Can private landlords refuse to let to Housing Benefit claimants?

on a tenant credit reference first, and many exclude those without an earned income.³⁹

The Guardian reported that:

Buildings and contents insurance premiums are often higher where a landlord lets to people dependent on the Local Housing Allowance. Sometimes insurance is refused to landlords altogether. Central government must challenge the insurance industry on whether such inflated premiums are justified by claims records.⁴⁰

In [The Impact of Taxation Reform on Private Landlords](#), (March 2018) the RLA reported on landlords' responses to a question on mortgage conditions:

While not directly related to landlord investment behaviours and attitudes, we asked landlords if they had mortgages on properties that had conditions that stipulate the maximum length of tenancy and whether the landlord can let to certain types of tenants such as benefit tenants. **A surprising finding is that over 1 in 2 landlords reported mortgage conditions that prevented them from letting to certain types of tenants, such as those on benefits.**⁴¹

A survey of landlords showed that 1 in 2 had mortgage conditions preventing them from letting to tenants in receipt of benefits.

This finding led the RLA to conclude:

If the Government would like to encourage private landlords to house tenants on benefits or provide longer term tenancies, it would be worthwhile the government exploring the conditions imposed by mortgage companies.⁴²

³⁹ "[Why landlords are shunning profitable benefit tenants](#)", *Daily Telegraph*, 11 January 2014

⁴⁰ "[The seven reasons why landlords won't let to tenants on benefits](#)", *Guardian*, 2 May 2012

⁴¹ Simcock, T.J., (2018). *The Impact of Taxation Reform on Private Landlords*. Manchester: UK. Residential Landlords Association. Retrieved from: <https://research.rla.org.uk/wp-content/uploads/impact-taxation-reform-landlords-2018.pdf>, p20

⁴² Ibid.

3. The extent of landlord refusals

There is no definitive information on the extent to which landlords are refusing to let to HB/LHA claimants. There *is* evidence to suggest that it is not a recent phenomenon; for example, a Shelter report in 2006 found:

One-third of advertisements for private rented properties barred HB claimants. This has increased over the past two years in Pathfinder and control areas alike. When landlords advertising properties that appeared to be affordable and open to HB claimants were contacted by phone, as few as one in six said they would accept a claimant. Around one-third were unsure – mostly citing a lack of experience of letting to this group, or fear of the HB system. The rest refused outright.⁴³

The then Minister for Housing, Mark Prisk, told the Work and Pensions Select Committee that around one third of households living in the private rented sector (PRS) were in receipt of full or partial Housing Benefit/LHA in 2013. He argued that this represented proof that benefit claimants were still able to access the sector:

Andrew Rosindell: To ask the Secretary of State for Communities and Local Government what steps he is taking to encourage landlords to accept benefit claimants as tenants.

Mr Prisk: The Government estimate that, at any point in time, around one third of households privately renting are in receipt of housing benefit. This suggests that it continues to be possible for claimants to access the sector. However, private landlords and letting agents operate on a commercial basis and, as for any business, it is reasonable for them to make independent decisions about who they let to.⁴⁴

The Committee questioned the Government's estimate:

The Government argued that private sector landlords were still willing to rent to people in receipt of Housing Benefit and pointed out that 30% of people renting in the private sector were in receipt of Housing Benefit. We queried this figure with Lord Freud as in our 2010 inquiry he had told us that the figure was 40%. In subsequent written evidence, **the Government acknowledged that "there are different sources of information on the proportion of the PRS that is in receipt of housing benefit. None of these gives a definitively accurate figure"**. At the time of the 2011 census, it is estimated that "there were potentially 34% of households in the PRS in receipt of housing benefit" but this was likely to be "a small overestimate because a household may include more than one benefit unit in receipt of housing benefit".⁴⁵

The Government has commissioned NatCen to undertake a national survey of private landlords and letting agents in England. The aim of the survey is "to provide information to help the government monitor progress towards its policy aims, and develop initiatives that meet the

⁴³ [The path to success? Shelter's research on Housing Benefit reform: the final report](#), Shelter, 2006, pp15-18

⁴⁴ HC Deb 4 June 2013 c1061W

⁴⁵ [Support for housing costs in the reformed welfare system](#), 2 April 2014, HC 720, 2013-14

19 Can private landlords refuse to let to Housing Benefit claimants?

needs of landlords and tenants.” The expectation is that findings will be published in late summer/autumn 2018.⁴⁶

Surveys of private landlords

Reported landlord survey evidence suggests that there has been a fall in the proportion of private landlords willing to let to HB claimants.

A 2016 survey for Crisis found that 55% of landlords said they were unwilling to let to tenants in receipt of Housing Benefit.⁴⁷

The Residential Landlord Association conducted a Welfare Survey in February 2016, the results of which were reported in the RLA’s written evidence to the CLG Committee’s inquiry into homelessness (2016):

In our most recent Welfare Survey (February 2016) 66% of 883 respondents answered that they are more reluctant to let properties to tenants who are of working age and on benefits because of the benefit cap. Our members are also more reluctant to rent to benefit tenants for reasons such as well as Caps on Local Housing Allowance rates (47%) and 4 year freeze on HB payments to working age claimants (47%). We feel that this paints a worrying picture for the Government to consider as this could indicate a substantial loss of PRS accommodation due to these changes.⁴⁸

The Work and Pensions Select Committee report (April 2014) concluded:

Impact of LHA reforms on private sector landlords

There is evidence that increasing numbers of private sector landlords are no longer willing to rent to Housing Benefit recipients. Several witnesses reported that the number of evictions of Housing Benefit recipients in the private rental sector (PRS) has increased since 2010 as a result of landlords ending shorthold tenancies with a view to re-renting properties at higher prices to tenants not in receipt of Housing Benefit. Homeless Link referred to reports from an agency which places homeless people in the private sector, which had lost 20% of the landlords with whom it had worked within the last year “specifically on the grounds that they think they can get higher rents paid by people who are not on benefits.”⁴⁹

Carolyn Uphill of the National Landlords Association told the Committee:

[...] in the last three years there has been a 50% drop in the number of landlords taking people who are on benefits. It is now down to only one fifth; 22% of our landlord members whom we surveyed say they have LHA tenants, and 52% of those surveyed said they would not look at taking on benefits tenants.⁵⁰

⁴⁶ NatCen Social Research, [The English Private Landlord Survey](#).

⁴⁷ [Home. No less will do: Homeless peoples' access into the private rented sector](#), February 2016

⁴⁸ [Residential Landlords Association - written evidence](#), 22 February 2016

⁴⁹ [Support for housing costs in the reformed welfare system](#), 2 April 2014, HC 720, 2013–14, para 21

⁵⁰ *Ibid*, para 22

In July 2013 the **National Landlords Association reported on a particular reluctance to let to HB claimants amongst smaller landlords:**

According to the latest research* from the National Landlords Association (NLA), the number of landlords letting to tenants in receipt of Local Housing Allowance (LHA) has fallen to 27 per cent, a seven per cent reduction since quarter one.

38 per cent of ALL landlords are worried about the impact of Universal Credit and **over half (51%) of landlords actively choose not to let to LHA recipients or other benefit claimants**. The reluctance to let to this market is strongest amongst the smaller landlords, with six in ten ruling out letting to this tenant type.

*1066 online interviews with NLA members carried out between 14th and 28th June 2013.⁵¹

However, DWP research (July 2014) on the impact of reforms to the LHA introduced by the Coalition Government found that higher proportions of private landlords let to HB claimants and intended to continue:

Summary findings

In wave 2, 73 per cent of landlords said they let to out-of-work benefit claimants, down from 79 per cent in wave 1. Among Inner London landlords, it was 54 per cent, down from 66 per cent.

In terms of future plans, 74 per cent of all landlords in wave 2 (the same as in wave 1) and 64 per cent in the Inner London sub-sample (62 per cent in wave 1) said they intended to continue letting to Local Housing Allowance (LHA) tenants in the coming year. When asked in a more general way whether they were 'considering' or 'planning' to exit the market for LHA properties in the following 12 months, 35 per cent of landlords in wave 2 (compared to 31 per cent in wave 1) said they were. It is likely that a much smaller proportion than this will actually exit the market in the next 12 months.

[...]

Thirty-seven per cent of landlords had taken action to evict, not renew or end tenancies of LHA tenants since April 2011, compared to 27 per cent who had taken action against non-LHA tenants.

Thirty per cent of landlords in wave 2 said HB was paid direct to them for all their tenants and a further 17 per cent for the majority of their tenants.

[...]

In many areas outside London, especially where the gap between the contracted rent and the LHA rate was relatively small, landlords said they had adapted quickly to the new regime. In LHA Dominant case study areas, a higher proportion of landlords than in other areas said that the reductions in LHA rates had placed particular pressure on landlords' margins due to the lack of other sources of demand outside the LHA market. As a result many landlords said they had little option but to reduce their rents

⁵¹ ["Landlords exit Local Housing Allowance market," NLA Press Release, 30 July 2013](#)

21 Can private landlords refuse to let to Housing Benefit claimants?

in line with the reduced LHA rate, and/or to reduce maintenance expenditure.⁵²

Research from the [National Landlords Association's Quarterly Landlord Panel](#) (780 respondents, second quarter of 2017) found that **"just two in 10 landlords say they are willing to let to tenants in receipt of housing benefit or universal credit."** The NLA research also found that the proportion of landlords who said they were willing to let property to housing benefit claimants had fallen to just 20%, down from 34% at the start of 2013.

In [The Impact of Taxation Reform on Private Landlords](#), (March 2018) the RLA report:

A majority of landlords reported letting to tenants who were in full time employment (87%), while just over 1-in-4 landlords reported to letting to tenant son benefits.⁵³

Claimant surveys

A YouGov poll commissioned by *Who Benefits?* (2014) found that 16% of claimants had been turned away by landlords or letting agents when seeking to rent a property.⁵⁴

According to a Shelter survey (undated), 60% of respondents found it difficult to find landlords who were willing to let to LHA claimants.⁵⁵

Early DWP research on the impact of the Coalition's LHA reforms found:

62 per cent of claimants living in London, compared with 47 per cent of those living in other parts of the country, reported that landlords were generally unwilling to let their accommodation to tenants in receipt of HB.⁵⁶

⁵² [The impact of recent reforms to Local Housing Allowances: Summary of key findings](#), DWP, July 2014

⁵³ Simcock, T.J., (2018). *The Impact of Taxation Reform on Private Landlords*. Manchester: UK. Residential Landlords Association. Retrieved from: <https://research.rla.org.uk/wp-content/uploads/impact-taxation-reform-landlords-2018.pdf>, p39

⁵⁴ ["Second class citizens"? The personal impact of the public debate on benefits](#), July 2014

⁵⁵ [Campaigns Briefing. Local Housing Allowance and direct payments - giving claimants a choice](#), Shelter (undated)

⁵⁶ [Monitoring the impact of changes to the Local Housing Allowance system of housing benefit: Summary of early findings](#), Research Report 798 (2012)

About the Library

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publically available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email hcinfo@parliament.uk.

Disclaimer

This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the [conditions of the Open Parliament Licence](#).