Scotland

Guidance for social landlords

PREPARING FOR THE BEDROOM TAX AND BEYOND

Produced with financial support from the Scottish Government

The Chartered Institute of Housing

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Introduction

This practice guidance, which has received financial support from the Scottish Government, is aimed primarily at Scottish social landlords – i.e. local authority landlords and registered social landlords. CIH Scotland fully expects to be producing further guidance in 2013 as more becomes known about the detail of the welfare reforms and, in particular, about how Universal Credit will operate.

The guidance focuses primarily on the under occupation penalties – or what has become known as the bedroom tax. This is because this major change comes in April 2013, six months before commencement of the phased introduction of Universal Credit. In any event, much of what we consider to be appropriate preparation for the bedroom tax will also help landlords prepare for the wider reforms.

The guidance is of course purely advisory and is in no way intended to be prescriptive. It will be for each landlord to decide its approach to welfare reform, including what resources it invests, what changes are made to arrears, allocations and other policies, and what partner organisations it seeks to work with.

The guidance is in three parts:

Part One Overall Approach to Preparing for Change

Part Two Bedroom Tax – Policy and Practice Dilemmas

Part Three Model Questionnaire for Visits to Tenants

Part One

Overall Approach to Preparing for Change

The context - should I stay or should I go?

From April 2013 many working age tenants in social rented housing claiming Housing Benefit will confront this difficult question. Landlords also face new policy and practice dilemmas and difficult decisions.

Designed to contain Housing Benefit expenditure, promote increased mobility and improve work incentives, under occupation deductions (or the 'bedroom tax' as this change has been dubbed) will affect around 95,000 households in Scotland who will be under-occupying social rented housing based on DWP definitions. Affected tenants could lose up to £20 a week from their Housing Benefit: 14% of the full HB-eligible rent for one bedroom 'too many', and 25% for two or more bedrooms.

The measure does not apply to claimants who have attained state pension credit age or certain claimants in supported or sheltered housing. An additional room is allowed for overnight carers, but there are no other exemptions to this measure which means it will affect:

- separated families where the parent without care (usually the father) requires a spare room for the children to visit or stay at weekends
- the parents of foster children
- disabled tenants – including where the property has been adapted or purpose built.
- tenants who are waiting to move to a smaller property.

There will be grace periods – where the penalties will not be applied – as follows:

- 13 weeks for anyone who could previously afford their rent (i.e. without Housing Benefit, and have not claimed it for the last year)
- 52 weeks if the reason now under occupying is that have suffered a bereavement in the household.

In Scotland, if most tenants choose to accept responsibility for this cost and remain in their home, annual savings to the Treasury are estimated at £50m-£80m, and with significant costs for social landlords.

Faced with the cut, which will come as a particular shock to those tenants who previously have had the whole of their rent covered by Housing Benefit, some may decide to try to move if neither household budgets nor financial support from family and friends can sustain this new and unexpected rental commitment. But the undersupply of suitably sized social rented units is familiar to social landlords, and probably to many tenants and housing applicants, including homeless households.

Nonetheless, there is some scope for downsizing within the social sector, and in some cases tenants may even seek support to access smaller sized private rented housing, despite the irony of this costing the Treasury significantly more in benefit.

Many tenants who, either in the short or long term, make an economic decision to try to move will experience unavoidable financial penalties if their landlord cannot meet their transfer request quickly. There is a real risk that rent arrears, the length of time in arrears and the risk of eviction will grow according to the availability timescale of suitable alternative housing, something that neither tenants nor their landlord have any control over. The risk of increasing personal hardship for tenants will be matched over the long run by cumulative risks to landlords' rental income, compounded by the cost of diverting staff resources to income maximisation, housing options advice and void management.

Overall, the DWP is expecting that in excess of 80% of affected tenants will *not* move (thus bringing the savings). This does indeed seem to be the likely outcome, as in the great majority of cases a move is either not requested or proves impossible.

Managing risk and preparing for change

The financial and budgeting pressure on tenants affected by this change presents a significant business risk to social landlords. Where tenants have to make changes to their personal budgeting, work patterns, and/or living arrangements to address the bedroom tax, social landlords will equally have business plans to revise, i.e. organisational, policy and practice changes to help develop their resilience to the business risk: this guidance aims to provide guidance on those changes.

How to reach tenants and support them is not just about being a social or charitable provider, it is about good business. Managing these new risks will require the sector to be sufficiently open minded to be able to consider how it might adapt to an altered customer/landlord relationship, to a redesigned operating model and to a policy and practice framework not yet fully defined or developed.

This guidance has been put together to help social landlords prepare for the changes prompted by the bedroom tax. However the introduction of Universal Credit from October 2013 through to 2017 is also clearly in our sights and this guidance inevitably looks ahead to this subsequent, flagship reform. Many preparations for bedroom tax are highly relevant to preparations for Universal Credit.

(a) Assessing the risk

Many landlords, working in conjunction with their local council benefit office, may already have sought to identify which of their tenants will be affected, either by a 14% or a 25% deduction, enabling accurate estimates of the maximum potential annual loss to rental income. From this, landlords are carrying out informed risk assessments of the potential for new rent arrears and associated bad debt provision.

Where landlords have found that their housing information systems have *not* held the type of information necessary for these initial assessments, they may have resorted instead to working from the basis of which tenants they know are *not* affected, i.e. those over 61, anyone living in a one bedroom or bedsit unit, and anyone not on Housing Benefit.

This initial, rough assessment is only a very small part of a process of preparation for social landlords who recognise the need for a measured, longer term approach to this rental income risk. The wider business, asset management and new supply implications, which may increase cumulatively following the phased introduction of Universal Credit from October 2013 through to 2017, necessitates a project management approach to managing risk and preparing for change.

(b) Investing in change

Some social landlords may be well down the road of project managing the business risks and change management implications of welfare reform generally, including the impact of the bedroom tax. Some have allocated and deployed specific resources to help minimise the rental income risk, looking ahead to the start of the phased introduction of Universal Credit in October 2013. The risk to rental income from the bedroom tax deduction is high, hence investing to manage the risk can be seen as a rational, 'preventative spend' approach to business risk.

The key message from social landlords who have made notable progress in their preparations is to avoid making assumptions about how tenants will respond to the bedroom tax. This is consolidated by early learning from the Direct Payment Demonstration Projects, which show that social sector landlords may not know their customers as well as they may think (for example, many tenants with bank accounts still want to pay rent by more traditional methods).

Equally, landlords in the Demonstration Projects are learning that their housing systems do not yet hold customer profiling information helpful for the inevitable redesign of operating models, policies and procedures that welfare reform is bringing. To find out more about the progress being made by social landlords on these issues, you can join the Direct Payments Demonstration Projects Learning Network. Find out more and join here[1].

(c) Project management approach

It is hard to see an alternative to committing staff and financial resources in a project management approach to preparing for the bedroom tax and subsequent Universal Credit. Examples range from stand alone bedroom tax action plans to discrete projects within wider preparations for Universal Credit. Activities related to dealing with the bedroom tax project are likely to be ongoing beyond its introduction in April 2013, following which it will form part of the landlord's wider Universal Credit mitigation plan.

CIH believes that planning needs to be clearly scoped, normally with a designated lead officer who has access to existing staffing resources for delivering the project's objectives. A systematic and coordinated approach to gathering the business

[1] http://www.cih.orgdirectpaymentslearningnetwork

intelligence is critical for managing risk and change and to inform the landlord's subsequent policy and practice responses.

It is important to include the full range of landlord functions in the project plan – the Scottish Social Housing Charter may be a useful prompt here. Some areas of landlord services are clearly impacted more, and sooner, than others, not least rent arrears and allocations: the moral and policy dilemmas that the bedroom tax creates for arrears and allocations policies are covered later in this guidance, but there are many more implications across the full spectrum of landlord provision.

A landlord's ICT support staff would normally need to be integral to the project team to design any system requirements arising from the questionnaire and/or to support recording and analysis of data collected at the home visits. Where existing ICT design is not yet able to store, extract or provide analysis of the customer profile information, an alternative may be to consider transferring questionnaire responses onto a free web tool such as Survey Monkey.

As well as considering our guidance on policy and practice dilemmas (see Part 2 of this document), earlier this year CIH's UK office produced **'Making it Fit': A guide to preparing for the Social Size Criteria'**[2]

(d) Face to face contact

As a follow up to the provision of basic information in newsletters etc., CIH believes that a key element of the project approach has to be a programme of home visits for face to face conversations with tenants. Again, early learning from the Direct Payment Demonstration Projects shows us that written methods of communication have been relatively unsuccessful in developing tenant awareness that the welfare reforms will specifically affect them. Experience is showing that tenants are unlikely to regard themselves as the target audience of benefit change until faced directly with the reality that this applies to them.

Face to face contact is therefore strongly recommended as the best method of communicating with tenants, with evening and weekend visits likely to be important in helping to maximise the rate of success at first call.

Some landlords have found that a significant proportion of tenants have indicated that they are intent on finding the money they will need to make up the rent. This information can only come from direct engagement with tenants, and the likelihood is that responses will vary according to a range of localised circumstances and expectations that cannot be predicted.

Equally, landlords will want to avoid assumptions about how many tenants want to move in response to the bedroom tax, how many will face financial hardship, and how tenants want to pay their rent (e.g. how many will require a suitable transactional bank account to pay rent for the first time).

[2] http://www.cih.org/publication-free/display/vpathDCR/templatedata/cih/publication-free/data/Making_it_fit_a_guide_to_preparing_for_the_social_size_criteria

(e) Trained and knowledgeable staff

Staff need to be sensitive to the personal and lifestyle choices that tenants and their families are unexpectedly facing through this reform. If a face to face approach is the best method of delivering the bad news about bedroom tax, so too is it the best method of talking through the options and making decisions about whether to try to find the money, move house when that had not previously been planned, try to find work when a tenant may not feel ready or able to, work more hours when family logistics may already be at a stretch, or share the home with a stranger to help make ends meet.

Visiting staff need to be well trained and knowledgeable to help tenants understand the personal impact, the extra costs and what support is available to help make choices. This includes some knowledge of existing Housing Benefit non-dependant deductions, how lodgers are currently treated for Housing Benefit purposes, Discretionary Housing Payments, as well as awareness of the proposed welfare reform changes from 2013.

(f) Structured questionnaire

CIH strongly recommends use of a structured questionnaire for home visits, to collect and record the customer intelligence needed to support preparations for change. A suggested model questionnaire for bedroom tax visits is included at the end of this guidance, for adaptation by individual landlords. It includes what many landlords and tenants may feel are quite sensitive questions covering 'vulnerability factors' (as currently being piloted in the Direct Payments Demonstration Projects) that are likely to be essential for:

- supporting claims for discretionary housing payments
- targeting future referrals for 'Payment Exceptions' under Universal Credit (i.e. criteria for making housing cost payments direct to the landlord, at least for a given period of time, thereby offering short to medium term stability of rental income). Some estimates are that potentially up to a third of tenants could be covered by Payment Exceptions: this information is fundamental to an improved understanding of how Universal Credit will impact on rental income.

The questionnaire also includes questions enabling landlords to determine the level of financial and digital inclusion among tenants affected by the bedroom tax, and for this reason is helpful for quantifying and assessing the extent to which it may be in the landlord's business interest to think through how much investment might be made in activities that look ahead to Universal Credit migration (for example, one landlord found that 10% of its tenants needed help to set up a bank account).

A few of the questions may be able to be answered by staff in advance of the visit to interview the tenant.

On a cautionary note, it needs to be clearly stated at the beginning of the conversation, for the benefit of both parties, that if any information is uncovered during the process of the 'face to face' contacts that suggests that the current Housing Benefit might be incorrect (for example, an undeclared non-dependant, undeclared earnings, an undeclared partner, and so on) the housing officer is legally required to pass this

(g) CIH welfare reform impact tool and individual calculator

CIH has developed a Welfare Reform Impact Tool[3] to help landlords model the effect of welfare reform on their business plan, including modelling the effect of anticipated rent transaction volumes and costs. The latest version also includes an individual tenant calculator that can be used by staff as part of face to face visits. Once purchased by the landlord, the individual tool can also be accessed by tenants through a link to it on a landlord's website, or can be sent out as a link to tenants to use on their smartphone to check for themselves (though CIH recognises that the most likely use of the tool is through staff visiting tenants and going through the calculations together). The more data is gathered on individual tenants - whether by staff helping tenants, through the website or by smartphone - the more a landlord can amend the original estimates it has made on the overall impact of the changes.

More generally, investment in mobile technology may be very worthwhile to help staff record questionnaire responses (and, where applicable, to show tenants the impact calculator), and in the longer term may be part of a landlord's investment for revised methods of rent collection that may be needed under Universal Credit.

(h) Preparing for Discretionary Housing Payments (DHPs)

Social landlords have an opportunity to collaborate with the local council on how DHPs are prioritised and allocated. Bedroom tax hardship data, as collected through the model questionnaire that forms part of this guidance, is a first step into this. Indeed, CIH would urge social landlords to work in partnership on DHPs, both in terms of working with tenants to support and monitor their claims for the purpose of safeguarding rental income, and with the council to help influence a suitable priority scheme that targets those most in need.

There is no guarantee that the value of the DHP fund in an area will meet the pressure of all tenants facing reductions in Housing Benefit through the bedroom tax.

The DWP sets a limit on each authority's annual DHP expenditure and partly reimburses expenditure through the allocation of grant. The expenditure limit is set at two-and-a-half times the authority's grant allocation – in other words a local authority can boost its allocation by a further 150% from its own resources. In practice it is uncommon for any authority to spend more than its grant allocation as any excess up to the limit has to be financed through its General Fund.

The DWP has injected additional funds into the overall grant allocation to (supposedly) take account of the particular impact of the bedroom tax on foster carers and disabled households, although the authority is entirely free as how it allocates its entire DHP allocation (e.g. it may choose to use the money solely to assist private tenants). There may be some scope for other households experiencing bedroom tax hardship to claim DHP payments, assuming there is capacity and landlords have worked to justify the need for this.

[3] http://www.cih.org/welfarereformimpacttool

Local authorities normally award DHP for short, fixed periods during which the tenant will be expected to find a more permanent solution to their immediate financial difficulty. Ongoing awards of DHP, except for under occupation by foster parents and for houses with adaptations for disabled people, are unlikely to be made.

DHP can also be used to help a claimant with removal costs, for a rent deposit and/or rent in advance (the latter two of which are common requirements in the private rented sector). If a smaller house is available from within the social landlord's own stock or from a neighbouring social or private landlord then DHP could/should be sought to help with such associated costs.

An issue for social landlords is whether to provide a passive 'hands off' signpost to DHPs, and await the outcome, or whether to more proactively support tenants to claim DHP as a way of improving the tenant's resilience to the bedroom tax and consequently creating greater stability in rental income for the landlord.

Additionally, a more proactive approach in supporting and monitoring DHP claims also provides the social landlord with a record of households who can be referred for safeguarding/Payment Exceptions under Universal Credit – meaning that housing costs would come direct to the landlord as under the HB system.

The overall DHP budget will be marginal relative to the expected savings from the welfare reforms. There have been some suggestions that one way of making the pot reach more people affected by the bedroom tax is to use DHPs to cover part of the charge, leaving individual tenants to pay the balance. This has the potential to limit the damage to tenants and landlords in the short to medium term, and could be a fair and consistent approach if, as we suspect, the DHP pot will be insufficient to fully cover bedroom tax charges on an ongoing basis.

(i) Rent payment and collection

Both in response to the bedroom tax and the wider prospect of direct payments of Universal Credit to tenants, landlords should be seeking to maximise the range of payment options, including considering the use of mobile technology. CIH Scotland expects to be producing further guidance on payment options in the coming months.

However tenants choose to pay their rent, transaction costs for landlords will increase significantly. Direct debits from bank accounts will be one of the obvious options but it seems to be the case that many tenants do not want to pay rent this way. One drawback of direct debits is the risk of the landlord getting no money because the full amount is not available for collection from the tenant's bank account. The temptation to promote direct debits should be weighed against the costs of supporting alternative payment models which support suitable budgeting accounts.

Social landlords may want to consider brokering incentives through their own lender to support customers with suitable accounts and so increase security of rental income. This could include payment via mobile technology, which could complement the increasing use of text messaging in rent arrears management as part of a wider approach to digital inclusion. The challenge for social landlords is setting that investment against the cost of doing nothing at a time when the communications environment is changing quickly.

Part Two

Bedroom Tax: Policy and Practice Dilemmas

1 Introduction

This guidance, which is intended to be advisory rather than prescriptive, is based on the following realities:

- Bedroom tax arrears are different from conventional arrears
- Some types of bedroom tax arrears may need to be treated differently from other types of bedroom tax arrears
- Reviewing allocations policies and procedures in light of the bedroom tax means difficult decisions about which transfer applicants are prioritised over others, the impact on lets to other groups, and how new allocations to potential under occupiers will be dealt with.

2 Bedroom tax rent arrears

The bedroom tax will surely throw up challenges to any tendency for a landlord to think that 'rent arrears are rent arrears and should all be treated the same'. Arrears policies generally set out a number of categories of rent arrears, so as a sector we already recognise that there are some different causes of rent arrears which require to be treated differently. One obvious example is technical arrears due to misalignment of Housing Benefit administration with rent debit cycles: in purely legal terms, such arrears are recoverable. But in practice, in the social rented sector, this type of technical arrear tends not to be treated as recoverable (and in the case of RSLs, is separately reported in annual regulatory returns to ensure they are distinct from actual rent arrears arising from clearer cases of non payment).

On the other hand, arrears due to overpayment of Housing Benefit are seen as recoverable, though would not normally be counted as arrears of rent in an action to recover the tenancy.

From April 2013 there will effectively be a new category of rent arrears – non payment of bedroom tax. The unique circumstances of the bedroom tax suggest that a debt recovery approach that takes account of the cause of this arrear will become more prevalent. Approaches will normally seek to respond within the context of tenancy sustainment/homelessness prevention, taking account of any local housing supply challenges, and making sense in terms of best use of resources.

Bedroom tax arrears are, of course, recoverable. The question is the extent to which, or when and in what circumstances, the housing sector in Scotland will consider recovery of a tenancy as a reasonable and/or cost effective approach to managing this particular type of arrear.

In the social rented sector there is a long standing consensus that the majority of arrears are caused by an inability to pay or bad budget management, rather than simply wilful non payment. DWP, courts and professional money advisors have always treated rent arrears as a priority debt, and improved preventative approaches to rent arrears management have become the standard amongst social landlords.

But the bedroom tax is essentially a regular, permanent deduction from benefit. The dilemma for the social rented sector is that collecting bedroom tax deductions immediately gives a serious problem to the tenant, with the tax effectively having to come from existing resources already accounted for in household budgets. Whilst non-payment clearly threatens tenancy security, enforcement of payment, central as it is to arrears prevention, could in some cases bring with it the risk of homelessness through tenants giving up or abandoning the tenancy.

In response, some landlords have acted to increase bad debt provision because of the potential financial loss they will face. This is likely to be done 'quietly', lest it give any public impression that the landlord is already throwing in the towel and does not expect to collect much of the bedroom tax due.

Some landlords are exploring transferring bedroom tax arrears out of rent accounts into separate 'debtors' accounts as a way of separately quantifying, monitoring and recovering the charges. Following a similar thread, others are thinking through whether there is a way to separate charges *within* the rent account, in the same way as service charges can be separately identified, as a way of supporting different debt recovery approaches to different types of arrears within the same rent account. Investment in ICT rent accounting system development is likely to be necessary in these circumstances.

Landlords who are exploring alternative legally enforceable debt recovery methods for bedroom tax arrears will recognise the need to clarify any legal or technical issues. CIH Scotland would hope to be able to issue further advice on this issue in subsequent welfare reform guidance.

Some landlords, in the meantime, are focusing on supporting tenants into work through work programme or skills development initiatives which will help build financial independence and therefore resilience to the bedroom tax. In the long run, investment in, and promotion of, employment opportunities can be viewed as good asset management: if tenants are more financially independent and more able to pay their rent, there will be less of a risk to rental income.

2(a) A tough approach to arrears?

What is clear is that enforcing the debt through the threat of eviction as an approach to bedroom tax arrears may not necessarily be a solution to the business risks presented by the tax. Furthermore, there is real concern that tenants who are subject to tough action from the landlord may feel they have little incentive to pay *any* of their rent, particularly when they migrate to Universal Credit and are receiving their benefit directly.

That said, based on existing LHA arrangements in the private rented sector, tenants who are subject to the bedroom tax would appear to be suitably eligible candidates for future safeguarding/Payment Exceptions referrals which will (for a limited period) lead to direct payment of housing costs to landlords under Universal Credit. As far as we currently understand, arrangements for safeguarding/payment exceptions under Universal Credit are intended to be time limited, meaning that direct payment to the tenant will resume after a certain period. It is difficult to see, though, how living with bedroom tax deductions over time will improve someone's ability to manage on less money.

The obvious dilemma for social landlords is whether they would wish to apply the ultimate sanction of eviction action in the case of bedroom tax arrears. Evictions have been estimated by national charities to cost organisations an average of £6,000, notwithstanding the social and personal cost. In addition, there are real questions over:

- How likely is it that a sheriff would grant decree in such cases, and
- Whether any tenant evicted for bedroom tax arrears would be assessed as intentionally homeless.

It is impossible to predict whether the legal system will consider it reasonable to evict for bedroom tax arrears. Even before the introduction of Pre Action Requirements, evictions in the social sector were reducing significantly. In the case of bedroom tax arrears, the sheriff is likely to consider issues such as:

- Whether the tenant has made a transfer application
- Whether they have been made any offers of suitably sized alternative housing
- The proportions of other households in the same circumstance who have been made offers
- Whether any offers have been refused, and whether the landlord considered the refusal reasonable
- Whether the level of rent arrears has been used as a reason to by-pass the transfer application at shortlist stage
- Whether the arrears could have been minimised had a suitable offer been made sooner
- Whether the use of the 'housing debt' suspension criteria in the Housing (Scotland) Act 2001 in relation to offers of housing are relevant or reasonable in the case of bedroom tax arrears.

Existing tenants versus new tenants: Where, after April 2013, a landlord continues to allocate to under occupying households (see later section on allocations dilemmas), landlords need to decide whether they will treat arrears of new under occupying tenants differently from how they treat arrears built up by existing tenants. It could be argued that where a new tenant was thoroughly advised beforehand and then knowingly accepts the tenancy of an under occupied home, they are accepting full responsibility for paying the rent. In reality, of course, applicants on housing registers who have been waiting and competing for social rented housing for some time might claim that their need at the point of offer was more prominent to them than liability for costs and that they did not fully understand the pressure this would place on their household budget.

Notwithstanding whether any changes to the allocations policy are planned, landlords should already be carefully advising applicants about bedroom tax liability and making clear references in offer letters and tenancy acceptance letters.

It is common knowledge there is insufficient social rented stock of the right size to meet the demands of the bedroom tax, but landlords will still need to question the appropriateness of successfully supporting some tenants out of this circumstance by transferring them, while seeking recovery of possession against others whom they have not been able to transfer or who have quite reasonably chosen not to seek a transfer. The ability of the landlord to demonstrate a consistent and fair approach to bedroom tax recovery is likely to be seriously undermined by such variables, and may limit whatever inclination a sheriff might have about the reasonableness of granting decree for recovery of possession in the first place.

For any tenant evicted for bedroom tax arrears, even if they were to be assessed as being intentionally homeless, the duty on local authorities to provide temporary accommodation, added to the cost of the eviction, may not represent value for money, quite apart from the impact on the household.

Technical evictions, where the secure tenancy is ended and the tenant remains in occupation on a short secure basis while being supported to deal with the problem which led to the eviction, may be a rational approach in the case of traditional arrears. But it would appear to be rather less appropriate in the case of bedroom tax arrears, not just because of the administrative, legal and staffing costs, but also because the notion that the tenant just needs to change their behaviour and pay the rent is far less applicable.

Fundamentally, the dilemma that the bedroom tax confronts the social housing sector with is that there may be a need to review the connection between non payment and eviction, and look to other ways of collecting rent which does not risk the tenancy in the same way that traditional non payment would. New approaches need to ensure that the responsibility to pay the cost remains and is not played down, yet will not normally result in the ultimate hardship of eviction, with all the associated resource impacts for the landlord and other organisations.

3 Allocations

3(a) Should allocations policies be aligned with DWP criteria?

The initial temptation to align allocation policies on house size eligibility with the DWP criteria may be significant for some landlords. Suitable applicants for voids would be selected by DWP defined criteria, households would not be put into under occupied property and the landlord's rental income would not be at risk. However, CIH Scotland senses that many landlords are reluctant to take what they feel is a backward step, even if they have the right range of suitably sized stock. Furthermore, many in the sector may feel that such an approach is the thin end of a wedge which may lead to full blown means testing for access to and allocation of social housing.

In practice, the bedroom tax stands to inflate existing excess demand for one bedroom properties because some households will make an application to transfer for the first time. Demand for this property size is also under pressure from other welfare reform changes, such as the extension of the shared accommodation rate (SAR) to people under 35 in the private rented sector from January 2012. Homelessness charities are already commenting on the rise in failed private sector tenancies arising from this.

Social landlords are experienced in having to deliver negative messages to the majority of housing register customers, which is partly why the more positive and constructive advice and information focus of the housing options approach is so appealing as an operating model. Aligning house size eligibility with DWP criteria not only keeps the emphasis on delivering negative messages to housing applicants, but is likely to further increase the number of customers to whom such a message will need to be delivered.

Furthermore, any move to change policy in this way will of course require re-configuration of a landlord's allocations ICT module. This will result in changes to the ranking of need on a register, and to many individual applicants' housing need assessment. In the case of the standard needs-based points system, the points 'value' or ranking of individual households will change. As well as the damage to the customer/landlord relationship, the impact on front line resources would be considerable at a time when these very resources will require to be redirected to managing welfare reform impacts.

Aside from considering this potential resource risk, alignment with DWP criteria presupposes buoyant demand for larger sized units across a landlord's area of operation. In practice, many providers are likely to have stock in certain streets or buildings that are in the low demand to hard to let range. Social landlords are used to taking a flexible approach to allocations in these circumstances, whether through formal lettings initiatives, or simply allocating under-capacity when there is no demand from larger households.

If alignment with the DWP criteria were to lead to increased refusals, particularly in hard to let areas, it could be argued that the landlord would be better off maintaining flexibility in its allocations: a 14% or 25% reduction in rental income per unit may well be preferable to 100% void rent loss.

3(b) Transfers – under occupation as a priority need

In most needs-based allocations systems, as a category of housing need, under occupation of social housing tends to attract a reasonably high points value for transfer applicants as a way of promoting turnover of larger sized houses for families in housing need.

The bedroom tax brings a new competing group of under occupiers to think about when prioritising this category of housing need:

- Landlords need to consider how they will rank bedroom tax under occupiers relative to other under occupiers – most notably working age under occupiers not in receipt of benefit, and older households
- Landlords will want to consider whether the impact of according significant priority to under occupiers will reduce the proportion of lets going to housing list and homeless applicants
- *Within* the category of bedroom tax under occupiers, an issue is whether to give greater transfer priority to those experiencing the 25% as opposed to the 14% deduction
- A further issue is whether greater priority will be accorded to tenants who have built up arrears as a direct result of the bedroom tax.

The challenge is to make sure that, as with any allocations policy review process, there is good data and analysis to help inform and shape an appropriate policy response – one that can adequately take account of the impact on different groups.

As an interim approach, landlords may want to use any 'exceptional circumstances' category of housing need in their existing system to record, manage and allocate to bedroom tax under occupiers until such time as enough data has been collected to support a reasonable and robust review of priorities within this category of housing need.

3(c) Amending groups/quotas

The proportion of lets to housing list applicants compared to transfer applicants varies significantly between landlords, but might typically be a ratio of 70-80% housing list and 20-30% transfers. A separately identifiable quota generally exists within the housing list for allocations to homeless households. Social housing providers are used to monitoring performance of the register against the target, and may adjust the proportions to reflect change in the overall profile of the housing register or to help stimulate additional 'knock-on' supply by increased allocations to transfers.

There has always been a balance to be struck in making sure that households not yet in social housing are not kept out of social housing because of disproportionate allocations to transfer applicants. There can be particular sensitivities over allocations to homeless households, who are the only group of applicants for whom there is a legal right to a social housing outcome.

It seems likely that for many landlords the bedroom tax will have an impact on the housing register quota. The challenge may well be to resist the temptation to prioritise bedroom tax transfer households above all others such that rental income is secured but access to housing for other applicants is unduly restricted. The dilemma is compounded by the fact that some vulnerable homeless households, either through Section 5 or housing list/register nominations, may need to be offered a house size that will result in bedroom tax deductions and the possibility that DHPs will not be available (or will not cover the full deduction).

3(d) Offers, refusals and suspensions

Most allocations policies set out clear criteria on the number of reasonable offers and refusals that will apply to applications, as well as what suspension sanction will be applied following refusal of a specified number of offers. The bedroom tax could result in higher levels of refusals as applicants opt not to accept a property size which will result in a bedroom tax deduction. Increased refusals are an administration cost as well as a risk to void rent loss.

Where the landlord has retained its approach of not aligning with DWP criteria, it will be necessary to decide whether to revert to the DWP criteria in individual cases where a household refuses the offer of an under occupied property – in other words a landlord's policy would be to not compel a household to accept an under occupied property as that could not be considered a reasonable offer.

Across the overall allocations policy, some landlords may wish to reduce the number of offers they make before sanctions apply, given the anticipated pressures bedroom tax will put on stock management and void loss. Reducing the number of offers to applicants is not out of keeping with more recent approaches to housing options where households with homelessness priority are permitted one reasonable offer in response to their homelessness, and a sanction applied where the refusal is considered unreasonable.

4 Housing options advice

The evolving model of housing options advice has become not just the accepted practice approach to homelessness prevention, but also, increasingly, to any household seeking an accommodation solution. The bedroom tax adds a further impetus for delivery of the housing options approach, regardless of the extent to which a social landlord is or is not currently engaged with this agenda. It stands to reason that a tenant facing the bedroom tax is entitled to good advice, information and support about their housing options as long as this is delivered sensitively and in such a way as to not put undue pressure on tenants to consider a move.

Of course, the reality is that with the undersupply of suitably sized smaller units in the social rented sector, options to move will be very limited in many cases. It seems unlikely that it would normally be desirable to point affected tenants in the direction of the private rented sector unless this is something the tenant specifically wants to consider. It will generally not be an option at all for tenants under 35, and for any tenant would mean greatly reduced security of tenure (and will ironically cost the Treasury more in benefit).

For any tenants who do decide to downsize to the private rented sector, Discretionary Housing Payments can normally be claimed to fund removal costs, rent in advance and rent deposits. For social landlords who have been offering downsizing financial incentives funded from rents, this is a more positive piece of news.

5 Renting out a room commercially

Although not expected to be widespread preference, one option some tenants might consider is letting out a room on a commercial basis. CIH Scotland would advise landlords to be cautious about promoting renting out a room as a way of addressing the bedroom tax deduction, without reflection on the potential risks and unintended consequences for tenants. Appropriate checks and investigations would need to be carried out prior to any consent.

An appropriate written agreement between the tenant and lodger would be necessary - one that will give both primary tenant and landlord the comfort of being able to deal quickly and effectively with any circumstances that present a risk to the personal safety of, or continued occupation by, the primary tenant. CIH Scotland intends to provide further advice on this in the next instalment of guidance in 2013.

Landlords should ensure that tenants are very clear about the differences between renting out a room whilst the tenant is still in receipt of Housing Benefit, and doing so under Universal Credit:

- Under Housing Benefit, renting out a room means avoiding the bedroom tax (or reducing it from 25% to 14% of eligible rent if renting out one of two 'spare' rooms). Of the lodger's income, the first £20 is disregarded, along with half of the remainder.
- Under Universal Credit, renting out a room does NOT mean escaping the bedroom tax deduction but ALL of the income from the lodger is disregarded. Lodgers cannot be family members.

Because of these differences, it is theoretically possible that a tenant renting out a room may seek to end their Housing Benefit claim and instigate a Universal Credit claim in order to maximise their income. It is not clear how the DWP would view this, especially if it were to start happening on a significant scale.

For tenants subject to a 25% bedroom tax deduction, it is worth noting that the renting out of both rooms, to separate households, will create a House in Multiple Occupation.

6 Non dependants

Many non dependants 'disappeared' in 2011 and 2012, following the significant increases in non dependant deductions, with households facing bedroom tax deductions as a consequence. Under Universal Credit, the system of 'Housing Cost Contributions' (as the non dependant deductions will be known) is expected to be more generous, with a lower flat rate deduction irrespective of whether the non dependant is working or not. At the time of writing, no figures are contained in the draft Universal Credit Regulations and the sector awaits clarity on this.

Nonetheless, it remains possible that some households may be better off if their son or daughter were to return under Universal Credit. Landlords can make tenants aware of this possibility to help household awareness of one way in which they may be able to build resilience to the financial pressures of the reforms, but will not at this stage be able to indicate exactly when a particular household will migrate from Housing Benefit to Universal Credit.

7 Rent increases

Some landlords have considered the option of inflating the annual rent increase for all tenants to help mitigate lost revenue from bedroom tax arrears. As well as increasing the rent of tenants not affected by the tax, this would also increase the bedroom tax deductions for those affected, making their debt even greater.

For such an approach to be done transparently, it would need to be explicitly referred to in the normal consultation with tenants. This would of course heighten awareness among tenants that the landlord expects significant arrears to accrue, and how the landlord's tenants as a whole would view this may be difficult to predict.

It is not clear either whether the local authority HB office or DWP would accept such an increase as being reasonable or instead view it as an attempt to take advantage of the system, thereby rendering it ineligible for Housing Benefit.

Social sector landlords' ability to increase the rent in the future may be compromised by how housing costs are treated under Universal Credit. Currently, the intention is that the actual charge (i.e. the basic core rent plus eligible service charges) will be reflected in the housing element of Universal Credit. There are concerns, however, that in due course the Consumer Price Index (CPI) might be applied to that housing element as is to be the case for the other elements of Universal Credit and is already the case for private sector rents. Certainly the draft Universal Credit regulations and associated Explanatory Notes make no commitment to meeting the actual rent of social sector claimants, but instead refer to an 'appropriate' rent being included in Universal Credit.

8 Temporary Accommodation

Whilst it has been announced that temporary accommodation will be included in the universal credit regime (see later in this section), there are important issues to note about how temporary accommodation will be treated before the introduction of Universal Credit. The following sets out CIH Scotland's understanding of the position at the time of writing.

Temporary homelessness accommodation which a local authority or RSL holds on a lease *will be exempt* from the bedroom tax.

For temporary accommodation where the local authority or RSL uses its own property, the bedroom tax *will apply*.

Additionally, the benefit cap will apply to people living in any type of temporary accommodation (i.e. whether it is owned or leased by the social landlord). High rental charges (whether or not the bedroom tax is applied), will trigger the cap (i.e. a total weekly overall benefit limit of £500/£350 per week for couples and single claimants respectively) whereby Housing Benefit will reduce until the total household benefit falls to the benefit cap limit. For this reason alone, CIH Scotland assumes that local authorities will currently be reviewing the charges they make for temporary accommodation.

Financial impact from April 2013

In reality the profile of stock used for temporary accommodation by local authorities can include its own stock and housing leased from both RSLs and the private rented sector. Between April 2013 and October 2013 (or whenever new lets in temporary accommodation start to come under Universal Credit), the greatest impact will be on councils who predominantly use their own stock for temporary accommodation.

At the time of writing we do not know how local authorities will address the application of the bedroom tax to the temporary accommodation they provide in their own stock. CIH Scotland would suggest that most councils will not consider it appropriate to actually levy bedroom tax charges on households *placed* in temporary accommodation. Apart from anything else, there is the problem that the charge could not be applied consistently to all households but only to those placed in council owned provision. This would mean, though, that councils would need to 'take the hit' on bedroom tax in their temporary accommodation.

Temporary accommodation and Universal Credit

Current DWP proposals are for claimants in temporary accommodation to receive their housing costs as part of Universal Credit, based on the relevant Local Housing Allowance rate, with the exception that the management element (i.e. any costs additional to base rent) will be paid directly to local authorities. For all temporary accommodation, the housing costs element of Universal Credit will be based on the household size, not the property size: this is a significant change for temporary accommodation in private rented sector property.

So the decision to include temporary accommodation in Universal Credit has a number of significant implications. Firstly, under occupation of any temporary accommodation – whether leased or owned by the local authority – will result in penalties. This raises the likelihood that as well as receiving the rental element directly as part of their Universal Credit (see below), tenants in temporary accommodation will have a 14% or 25% deduction where the property is under occupied.

The risks to rental income under Universal Credit where housing costs are paid direct to the tenant are obviously compounded in the context of temporary accommodation provision because (a) vulnerable households are concentrated in this type of provision,(b) there is the possibility that the benefit cap may be triggered if the base rent is significantly higher than mainstream social rents, and (c) recovering arrears will be especially difficult where the household has moved on from the accommodation.

'Payment Exceptions' for Universal Credit, which govern the circumstances in which housing costs are paid direct to the landlord, are intended to be made on a referral basis, and decisions made with reference to a matrix of vulnerability factors. If the vulnerability factors are satisfied then Payment Exceptions will be applied. This will involve housing costs being authorised for direct payments to the landlord, as with the current Housing Benefit system, but with the one fundamental difference that this is intended to be on a time limited basis only: the household will revert to receiving their housing costs directly after a fixed (as yet unspecified) period.

For a sense of the vulnerability factors, note the range of sensitive questions on the model questionnaire included at section 3 of this guidance. Third parties can make referrals to DWP for Payment Exceptions and will require to provide information on vulnerability.

On some levels, local authorities are already well prepared for this proposed new referral process, given the personal data they already hold as part of the homelessness and/or housing support assessments, notwithstanding any data protection/exchange issues that may unravel between now and October 2013 when the first new claims for Universal Credit are to be made).

In the meantime, local authorities are encouraged to keep a close watch on any information coming from the DWP's Support and Exceptions Working Group, which includes a number of Scottish stakeholders. In addition, the Scottish Government is investigating the possibility of a Scottish specific group. Further information is available through regular updates on the Scottish Government website[4].

DWP have said that they are still considering how to pay the separate management element to local authorities from October 2013, with the DWP's preferred approach being Discretionary Housing Payments via a further injection to this budget mechanism. DWP say this is intended to protect provision and local authority funding, in which case CIH Scotland suspect local authorities will be keen to make sure this element of DHP is specifically ring fenced to achieve this stated outcome for homelessness provision.

[4] http://www.scotland.gov.uk/Topics/Built-Environment/Housing/16342/hbreform/sg

Part Three

Model Questionnaire for Visits to Tenants

It is not intended that this questionnaire be given to a tenant to complete. Equally, due to the very sensitive nature of some of the questions, which are based on what is known about the DWP's Universal Credit Payment Exceptions criteria at the time of writing, interviewing officers need to exercise discretion and flexibility about the appropriateness of asking some questions depending on the reception they get from the tenant and the way the interview develops. Collecting vulnerability information is designed to be a support to the tenant in the welfare reform transition, and positive engagement is essential to conversations of a personal and sensitive nature.

Some of the data will be available from existing records, while other information will only be collectable as the customer/landlord relationship is developed through subsequent contacts.

CIH is aware that social landlords' delivery of visits for face to face conversations will be organised within the terms of their lone working and heath and safety policies.

[Further guidance on this model questionnaire can be found in Part 1 at section 2(f)]

1. Contact Details

Name:

Address:

Postcode:

Tel No:

Mob No:

Work No:

Email address:

2. Who lives with you?

Name	Sex (M/F)	Relationship to tenant	Date of birth (dd/mm/yy)	Working (ft/pt)	Unemployed	Student	Disabled
			Please tick all that apply	√	√	√	√
1.							
2.							
3.							
4.							
5.							
6.							

3. Bedroom Tax Impact

What is the number of bedrooms in your home?		
What is the number of bedrooms under occupying based on DWP social size criteria?		
What is your percentage of Housing Benefit Reduction from April 2013? (please circle)	14%	25%
Are you a foster carer? (please circle)	Yes	No
Do you need an extra room because of disability? (please circle)	Yes	No

4. Talking through the Bedroom Tax implications

Are you already on a Housing List to move to another social rented house? (please circle) Yes No

From April 2013, you will lose some Housing Benefit every week because you are considered to be living in a house that is larger than you need. On a scale of 1 to 5 (1 being not confident at all and 5 being very confident) how confident are you that you will be able to make up the difference in rent? (please circle)

1	2	3	4	5

How do you intend to make up this rent cost? (please tick all that apply)

1. Working extra hours ☐
2. Finding a job ☐
3. Reviewing household budgets ☐
4. Renting out a spare room to meet the costs ☐
5. I won't be able to find extra money and therefore will need to move house ☐
6. Other (please specify below) ☐

If other, please specify:

If you ticked number 3 above (reviewing household budgets), please give details of what budgets will be affected (i.e. heating/food bills/social activities):

What method of payment will you use to pay your extra rent cost? (please tick all that apply)

1. From my existing bank account by direct debit or standing order
2. From my existing bank account by internet banking
3. From my existing bank account by telephone banking
4. I don't have a bank account and will need to set one up
5. Other method (please specify below)

If other, please specify:

If you have an existing bank account, can you tell us the name of your bank?

What is the best way to follow up with you to provide more information and support on these changes? (please tick all that apply)

1. By email
2. By visit
3. By letter
4. By newsletter
5. By phone
6. I do not wish to be contacted with further information
7. Other (please specify below)

If you do have online technology, which of the following do you personally have: (please tick all that apply)

1. Smartphone
2. Laptop
3. Personal computer
4. None of my own but have access to someone else's
5. None of my own and would have to use a public access computer
6. Other (please specify below)

If other, please specify:

5. Looking ahead to Universal Credit – personal questions (denoting LOW risk factors)

You may have heard about Universal Credit, which will be introduced from October 2013, to 2017.
Can you answer some questions to help us plan how we can support you with these changes?

Were you homeless before you had this tenancy?	Yes	No
Have you ever had rent arrears?	Yes	No
Do you have a disability?	Yes	No
Is English your first language?	Yes	No
Are you recently bereaved?	Yes	No
Have you recently left hospital?	Yes	No
Have you left the armed forces within the last 12 months?	Yes	No

6. Looking ahead to Universal Credit – personal questions (denoting MEDIUM/HIGH risk factors)

Have you previously been evicted for rent arrears or anti-social behaviour?	Yes	No
Do you have a registered carer and/or help from any other Support Workers?	Yes	No
Are you currently paying up any fines or utility arrears?	Yes	No
Do you currently have Rent Arrears?	Yes	No
Do you have Social Fund or Crisis Loan debt?	Yes	No
Are you in treatment/recovery for a drug or alcohol problem?	Yes	No

Do any of the following circumstances apply to your household?

Asylum seeker/refugee	Yes	No
Diagnosed Mental health illness or behavioural disorder	Yes	No
Domestic abuse	Yes	No
Debt problems	Yes	No
Learning difficulties – including illiteracy and innumeracy	Yes	No
Do you have a drug or alcohol problem but are not in treatment or recovery?	Yes	No

Design: ink-tank and associates

Open to all, Closed to prejudice

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