

# CAS briefing for the Scottish Affairs Committee on the Bedroom Tax



Citizens Advice Scotland (CAS) is the umbrella organisation for Scotland's network of 80 Citizens Advice Bureau (CAB) offices. These bureaux deliver frontline advice services throughout nearly 200 service points across the country, from the city centres of Glasgow and Edinburgh to the Highlands, Islands and rural Borders communities. Scottish citizens advice bureaux deal with around half a million new issues each year for around 200,000 clients.

This briefing focuses on the impact of the Bedroom Tax on citizens advice bureaux and clients in its first eight months and calls for some client groups to be exempted completely rather than helped through the short-term solution of Discretionary Housing Payments.

## Introduction

The introduction of a reduction in housing benefit entitlement for people deemed to be under-occupying their home – dubbed the 'Bedroom Tax' – has had a profound impact in Scotland. An estimated 82,500 households are affected, and as a consequence are on average £11 per week worse off.<sup>i</sup> Early statistics on the impact of the first eight months (April – November 2013) of the Bedroom Tax on citizens advice bureaux shows that:

- Bureaux have advised on 13,783 new Housing Benefit issues – an increase of 29% on the same period in 2012
- CAB have dealt with 1,735 new issues specifically related to the Bedroom Tax
- Discretionary Housing Payment issues have risen by 249% compared to last year
- Local authority rent arrears issues have increased by 34%
- RSL rent arrears issues have increased by 47%
- Access to accommodation issues have increased by 16%

## Discretionary Housing Payments (DHPs)

The £20 million funding from the Scottish Government to 'top-up' local authority Discretionary Housing Payment (DHP) funds to the maximum allowed by law<sup>ii</sup> is welcome in providing a short-term solution for many people who would otherwise face hardship in 2013-14. In addition, this provision has partially relieved the burden on local authorities who would otherwise have faced massive pressure to find additional funding on top of the £13 million allocated by the Department of Work and Pensions.

However DHPs are not designed to be a long-term solution. The additional funding should not be seen to have 'fixed the Bedroom Tax'. DHPs are designed to be a short-term relief payment to help people in vulnerable circumstances whilst they find a new home. However, those affected by the Bedroom Tax includes a significant number whose circumstances make finding alternative accommodation unrealistic and will require ongoing support. Using DHPs to support these households is unsustainable – they are in need of support beyond 2013-14, and in many cases permanent relief from the Bedroom Tax as their circumstances prevent them finding a new home. This is set against the backdrop of 60,000 households affected by the Bedroom Tax requiring to downsize to avoid an under-occupation penalty, yet only 20,000 one bedroom social housing properties become available each year.<sup>iii</sup> Research has estimated that the backlog of under-occupiers requiring smaller properties will not be cleared for at least 3 years, and potentially not for 10 years or more.<sup>iv</sup>

With local authorities suddenly finding themselves in a situation where they have to administer funds totalling £33 million<sup>v</sup> designed to alleviate the consequences of removing around £50 million of housing benefit due to the Bedroom Tax<sup>vi</sup> as well as to reductions in Housing Benefit as a result of local housing allowance changes, there is a substantial bureaucratic burden on their systems and scope for considerable inconsistency in awards. In November, Shelter reported that some local authorities had yet to agree a policy for how DHPs should be awarded in their area<sup>vii</sup>, and figures revealed that there is already a considerable variance in how much of the DHP allocation from the Department of Work and Pensions had already been spent, ranging from the 33% (the maximum that had been awarded at that point) in some authorities to just 4% in Fife.<sup>viii</sup>

## **Exemptions**

Due to the nature of their circumstances, CAS recommends that there are a number of types of households that should be exempt from the reduction in housing benefit entitlement altogether. They include those who could not move to a smaller property at any point in the foreseeable future and would be likely to require permanent DHP support. Rather than tying up Discretionary Housing Payment funds for the long term, creating an administrative burden on local authorities, requiring people to undergo a long and complicated application process during which time they must go without money they are entitled to, CAS believes it would be much fairer and cost-effective to simply exempt these groups from the Bedroom Tax policy.

### **People living in significantly adapted housing**

In Scotland, a significant proportion of social housing has been adapted for those with a disability. According to the most recent available figures from the Scottish House Condition Survey, 200,000 of the 470,000 dwellings with adaptations in Scotland are in the social housing sector, representing just under one-third of all social housing stock.<sup>ix</sup>

The cost of adapting a property will obviously vary depending on the nature of the adaptation. Estimates from the Disabled Living Centre recommended providers range from £1,100 to £10,000 for different types of stairlifts<sup>x</sup>, from £249 to £485 for

bath lifts and from £18 to £100 for bath seats.<sup>xi</sup> In 2012-13, a total of 7,825 grants were awarded by Scottish local authorities for disabled adaptations to private sector housing through the Scheme of Assistance under the Housing (Scotland) Act (2006), totalling £23,936,173. The average of the 'Mandatory grants at 100%' – where the owner is entitled to a grant covering the entire cost of the adaptation because a household member receives a prescribed income-related benefit – was £3,637.<sup>xii</sup>

These figures indicate requiring people living in houses with major adaptations to apply for DHP to cover the under occupancy charge is both unfair and unlikely to be cost effective to the public purse. If someone were to move to avoid under occupying their property, then the costs of adapting it would be likely to cause even greater spend. **The average of £3,637 above would be equivalent to over 330 weeks' worth of money saved from the Bedroom Tax at the Scottish average of £11 per week – well over six years' worth.**

Whilst the DWP's guidance on Discretionary Housing Payments does not include a definition of 'significantly adapted' housing, a definition of a major adaptation is included in the Scottish Government's guidance to local authorities and NHS Boards on the provision of equipment and adaptations. This defines a major adaptation as *"work that addresses complex needs and involves expensive permanent structural changes to a person's home, such as provision of shower facilities, ground floor toilet, or installation of a through floor lift."*<sup>xiii</sup> Based on earlier Scottish Government estimates of the numbers of households affected by the Bedroom Tax, this would include around 1,000 households with a stair lift, around 7,000 with a bath or shower seat, and around 1,000 households with a bath lift.<sup>xiv</sup>

- A West of Scotland CAB reports of a client whose Housing Benefit has been reduced due to a charge for under-occupancy. She was given tenancy of her present home on medical grounds because of her debilitating conditions. At the time she was entitled to full Housing Benefit, however, she has now been asked to pay a contribution towards the weekly rent which the client cannot afford. Her husband is her carer, as she is disabled, unable to work and receives middle rate care DLA. The house is adapted for her needs and the possibility of being allocated a suitable one bedroom property is very small.
- An East of Scotland CAB reports of a client who suffers from osteo-arthritis and pernicious anaemia. He has undergone 52 knee operations and walks with an aid. Until recently he has been living with his mother as her carer in a two bedroom Council property. His mother has now been admitted to a care home and he is being charged for the extra bedroom under the 'under-occupancy' rules. Currently the property contains a stair lift which was originally installed for his mother's care needs. As the client struggles to use the stairs he has asked to keep the lift but his request has been declined and the stair lift is due to be removed.

## **Couples who are not able to share a bedroom due to medical conditions**

In November, the UK Government issued a circular clarifying the circumstances under which the Bedroom Tax policy should not apply to children who could not share a bedroom due to their disability. Citizens Advice Bureaux have seen a number of similar cases where couples who would normally be expected to share a bedroom cannot do so because of a disability, but are charged for under-occupancy as a result of sleeping in separate rooms.

In October, a First-Tier Tribunal in Glasgow granted a woman with multiple sclerosis leave to appeal against the decision to apply the Bedroom Tax to her and her husband who were unable to share a bedroom due to her condition, as it was a breach of their human rights. The judge ruled that the Bedroom Tax should not be applied *“where separate bedrooms are needed for members of a couple who, in absence of a severe disability, could reasonably be expected to share a single room.”*<sup>xv</sup>

Given the recognition that there are circumstances where children with a disability should not be expected to share a bedroom under the under-occupancy rules, there is a case for extending the exemption from the Bedroom Tax to couples who cannot share a bedroom due to the nature of their condition on the same principle using similar criteria.

- A West of Scotland CAB reports of a client whose application for Discretionary Housing Payment had been refused. The client and her husband had a two bedroom housing association flat and were being charged for a spare room. However, the client has rheumatoid arthritis and receives the higher rate mobility component of DLA. Her husband has ME and is in receipt of higher rate mobility and middle rate care DLA. He also has the sleep disorder "restless legs syndrome" which affects his arms as well. Due to this condition, and her own medical problems, his wife is unable to share the same bed or room with him.
- An East of Scotland CAB reports of a client who lives with his wife in a three bedroom housing association bungalow. His wife has MS and they have to sleep in separate rooms due to the spasms she has overnight. They applied for Discretionary Housing Payment four months ago but it was refused.

## **People who require space for medical equipment or treatment**

Citizens Advice Bureaux have advised a number of clients since the introduction of the Housing Benefit changes who were assessed as having a 'spare bedroom', but required space for substantial and bulky equipment related to a disability or medical condition.

Some kidney patients have the option of home dialysis using a machine. According to the latest figures, over 60 people in Scotland currently undergo Home Haemodialysis (HD)<sup>xvi</sup>, which they have described as providing a feeling of freedom, increased independence and a choice in their treatment. Home HD does however

require a sterile environment and space for the machine and supplies such as disposable lines and fluids.<sup>xvii</sup>

- A North of Scotland CAB reports of a client affected by the 'bedroom tax' who requires the extra bedroom for kidney dialysis. The client has a kidney condition that requires dialysis three to four times a day, with each session lasting around 90 minutes. The client uses her spare bedroom for dialysis which must be kept sterile and which contains specialist equipment. At the time of seeking advice, the client's Discretionary Housing Payments had just run out and she was applying for a new payment.

The use of other equipment, such as hoists, wheelchairs, standers and air purifiers are vital to ensuring independent living for people with particular conditions. This equipment will often be bulky, may need additional space to operate and will certainly require somewhere suitable to be stored when it is not in use. A number of the early First Tier Tribunal cases both in Scotland and in England have included consideration of use of a room to store medical equipment, with an appeal allowed in Westminster in the case of a blind man whose 'spare room' was required for medical equipment.<sup>xviii</sup>

- An East of Scotland CAB reports of a client whose Discretionary Housing Payment application had been declined. The client is concerned as he and his wife are both disabled and need to have separate bedrooms as his wife needs a lot of equipment and is getting a hoist delivered soon. The client was concerned the Council did not understand his situation. When the adviser contacted the Council, they were told that there is no provision in law for them to do this at the moment but were sympathetic to the client's position.

## People in temporary homeless accommodation

Currently, temporary accommodation provided under homelessness legislation **leased** by local authorities is exempt from the changes to housing benefit, but temporary homeless accommodation **owned** by local authorities is not. This situation causes particular unfairness in Scotland, where homelessness policy has radically diverged from the rest of the UK since devolution. Unlike other parts of the UK, the majority of temporary homeless accommodation in Scotland is local authority owned stock.<sup>xix</sup>

This means that not only are there a disproportionate amount of people placed in temporary homeless accommodation who are liable to pay the under-occupancy charge in Scotland, somewhat of an unwanted lottery is created regarding the temporary accommodation people are placed in. Depending on the availability of the accommodation at the time a person makes an application, they might equally be given temporary accommodation in a Bed-and-Breakfast and not be subject to an under-occupancy charge or be temporarily placed in local authority-owned housing and be liable to pay the Bedroom Tax.

This situation represents an additional cost for people at an extremely vulnerable point in their lives, is inconsistent, and has a particularly significant impact on

Discretionary Housing Payments in Scotland. It would be better to extend the existing exemption for local authority-leased accommodation to temporary homeless accommodation owned by local authorities.

- A West of Scotland CAB reports of a client who has been homeless for a few months. He was given temporary homeless accommodation and has now been offered a permanent tenancy. He came in with a query about his final notice for the temporary accommodation, which contained rent arrears of £199.56. The adviser contacted the local authority who informed them this accrued from an under-occupancy charge of £23.28 per week.
- An East of Scotland CAB reports of a client who had received a letter from the council advising of rent arrears. The two bedroom property had been allocated to the single client by the Council as temporary homeless accommodation. When the adviser contacted the Council, they were informed that the arrears were as a result of the 'bedroom tax'.

## Recommendations

Citizens Advice Scotland recommends that households who meet the following criteria should be exempt from under-occupancy charges:

- Where the home has been significantly adapted to meet a member of the household's needs.
- If the household includes a couple who are unable to share a bedroom due to medical conditions
- If a room is required for medical treatment or for storing bulky or substantial medical equipment that could not be stored elsewhere
- In temporary homeless accommodation owned by local authorities.

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<sup>i</sup> <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/supply-demand/chma/Benefitchanges/underoccupancyenalty>

<sup>ii</sup>

[http://scotland.shelter.org.uk/\\_data/assets/pdf\\_file/0006/685059/DHPs\\_Briefing\\_UPDATED\\_November\\_2013\\_FINAL.pdf](http://scotland.shelter.org.uk/_data/assets/pdf_file/0006/685059/DHPs_Briefing_UPDATED_November_2013_FINAL.pdf)

<sup>iii</sup> <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/supply-demand/chma/Benefitchanges/underoccupancyenalty>

<sup>iv</sup> [http://www.scottish.parliament.uk/S4\\_Welfare\\_Reform\\_Committee/Reports/wrr-13-05w.pdf](http://www.scottish.parliament.uk/S4_Welfare_Reform_Committee/Reports/wrr-13-05w.pdf)

<sup>v</sup>

[http://scotland.shelter.org.uk/\\_data/assets/pdf\\_file/0006/685059/DHPs\\_Briefing\\_UPDATED\\_November\\_2013\\_FINAL.pdf](http://scotland.shelter.org.uk/_data/assets/pdf_file/0006/685059/DHPs_Briefing_UPDATED_November_2013_FINAL.pdf)

<sup>vi</sup> <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/supply-demand/chma/Benefitchanges/underoccupancyenalty>

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[http://scotland.shelter.org.uk/\\_data/assets/pdf\\_file/0006/685059/DHPs\\_Briefing\\_UPDATED\\_November\\_2013\\_FINAL.pdf](http://scotland.shelter.org.uk/_data/assets/pdf_file/0006/685059/DHPs_Briefing_UPDATED_November_2013_FINAL.pdf)

<sup>viii</sup> HC Deb, 4 November 2013, c94W

<sup>ix</sup> <http://www.scotland.gov.uk/Topics/Statistics/SHCS/LAReport2011>

<sup>x</sup> <http://www.uklift.co.uk/>

<sup>xi</sup> <http://www.ableworld.co.uk/>

<sup>xii</sup> <http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSfS/SoAtable>

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- xiii [http://www.sehd.scot.nhs.uk/publications/CC2009\\_05.pdf](http://www.sehd.scot.nhs.uk/publications/CC2009_05.pdf), page 47
- xiv <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/supply-demand/chma/Benefitchanges/BenefitChangesUnderOccupancy>
- xv <http://www.govanlc.com/CaseF.pdf>
- xvi <http://www.srr.scot.nhs.uk/Publications/PDF/scottish-renal-registry-report-2012-web.pdf?1>
- xvii [http://www.kidneypatientguide.org.uk/home\\_HD.php](http://www.kidneypatientguide.org.uk/home_HD.php)
- xviii [http://www.theguardian.com/society/2013/sep/26/bedroom-tax-westminster-council-defeat?CMP=twf\\_fd](http://www.theguardian.com/society/2013/sep/26/bedroom-tax-westminster-council-defeat?CMP=twf_fd)
- xix <http://www.cih.org/resources/PDF/Scotland%20Policy%20Pdfs/Letter%20to%20Lord%20Freud%20Additional%20Information%2026%2002%202013.pdf>