**BRIEFING 12-24**

**DATED 19/6/12**

**ABOUT THIS BRIEFING**

The government has issued the draft regulations for universal credit. A detailed briefing by Maggie Fitzsimons and me will be sent out later in the week, but here is information about the key areas of exempt accommodation, supported housing, service charges and rent limits.

**HOUSING COSTS AND UNIVERSAL CREDIT- YOUR ACTION IS NEEDED URGENTLY NOW!**

The issues of what service charges were to be eligible for benefit and what was going to happen to supported housing have been hot topics for a very long time. The draft universal credit regulations available at<http://ssac.independent.gov.uk/consult.shtm> say how the government intends to resolve these issues.

**EXEMPT AND SUPPORTED HOUSING**

There is no mention of supported or exempt accommodation in the regulations. Instead there are two types of letting “social housing” and everyone else (private housing).

Social housing is defined by reference to sections 68 to 77 of the Housing and Regeneration Act of 2008 It is rented or shared ownership housing provided to people whose needs are not met in the commercial market. Where the property is rented this must be at below the market rate. The landlord must be a provider of social housing.

A provider of social housing is defined as a local authority with housing powers, a registered social landlord registered with the relevant national regulator or (in England only) a private provider of social housing registered with the appropriate regulator.

There is no provision for non- profit bodies that are not registered landlords. They will be treated as private rented housing.

*The draft regulations mean one of two things:*

*Either*

*1) The government has decided that it can dispense with any special provision for supported housing and that it can just apply the general rules.*

*2) The government has decided that supported housing is so complicated that it will be excluded from universal credit, at least for the time being*

*There has been no announcement so far that the government is considering (2), so for the time being we have to assume that they have decided on (1).*

**SOCIAL HOUSING SERVICE CHARGES**

Rules on service charges in social housing are drastically changed. To be eligible a service charge must be a condition of occupation (as now) and must be in one of the following categories:

* services **necessary to maintain the fabric of the accommodation**: (this is not defined. See separate briefing for further discussion)
* cleaning of communal areas (not defined)
* cleaning of the exterior of windows where neither the renter nor any member of the renter’s extended benefit unit is able to clean them.

The draft regulations allow the DWP to exclude from benefit for housing costs anything that**“relates to the supply of a commodity” such as water charges and fuel costs.** The regulations do not specify how these figures will be calculated

*No one yet knows how the two highlighted phrases are to be interpreted, but it is clear that they are intended to drastically reduce the number of services that will be included in benefit for housing costs.*

*It seems to me that the following service charges (amongst others) would probably become ineligible:*

* *intensive housing management (if shown as a service rather than a rent item)*
* *all fuel charges*
* *children’s play areas*
* *communal gardens;*
* *laundry facilities*
* *furniture, carpets, curtains, white goods*
* *entryphones*
* *guest rooms and separate common rooms in sheltered housing.*

*It is even arguable that things like lifts in small blocks of flats would be ineligible. The wording is so vague that there will be huge numbers of test cases to define them, but it is likely that the outcome will largely be unfavourable. If this wording were part of the legislation there could be no certainty about anything until the claims were made and decided under universal credit rules.*

*It is completely unclear what would happen about meals. It looks as though the whole cost of meals would become ineligible, making board and lodging impossible for many claimants.*

**RENT LIMITS IN SOCIAL HOUSING**

Subject to the rules about service charges and the bedroom tax, the amount charged by the landlord will normally be accepted as the charge on which benefit for housing costs is based.

But, as now, there will be an absolute discretion for a benefit payer to refer a rent to the rent officer. It looks as though there will also be a discretion to refer an individual service charge or component of the rent. Benefit will then be based on the figure supplied by the rent officer as reasonable, if lower. There is no reference to comparison with either a reference rent or LHA figure.

*We are unlikely to know how the rent officer will come to decisions until a revised version of the rent officer regulations is published.*

There will be no effective way of challenging a decision to refer to a rent officer or the figure that the rent officer comes up with.

*I’ve said many times before that this puts providers in an impossible position. Since there is no link to allowing at least the local housing allowance or its equivalent even general needs providers capping rents at LHA levels cannot be completely secure.*

*The position of supported housing providers is even worse. Rent officer decisions on this type of housing are notoriously erratic. Most councils currently do not refer rents because they think that providers offer an important contribution to their local housing policies and because the DWP refunds all the money they pay out. Neither of these two factors will apply to universal credit and referrals will almost certainly rise.*

**HOUSING THAT IS NOT CLASSED AS SOCIAL HOUSING**

Non- profit landlords that are not registered housing associations/providers or agents for registered organisations are thrown to the wolves. They are treated as private landlords

In general, the rules for housing costs in private rented housing will be the same as for the current local housing allowance (LHA), including the penalties for young single people.

But there may be no provision for payment of service charges in private housing. Although in most places any accommodation is likely to be above the limits, in central London and one or two other places this may not be the case. There needs to be provision to allow service charges to be added.

There seems to be no provision for board and lodging in either the private or social sector, and no provision for dealing with meal costs.

(I would welcome your interpretation of the service charge rules in this sector. The regulations are not clear.

**TAKE ACTION**

If your organisation is not yet registered with your national housing regulator as a registered housing association or registered provider then start the registration process now. The charity SITRA can advise you.

I think that you should also carry out as detailed as an assessment as you can about how your housing project(s). Try not to panic or catastrophise, but instead work through the likely effects. (However you are convinced closure is the likely outcome say so and why.)

You should certainly give this information to the government’s social security advisory committee (SSAC) who are holding a consultation, but you should also give this information to local MP’s local media and anyone else that you think may have any influence.

This really is make or break time, not just for supported housing, but also some general needs housing, particularly housing charging higher rents or including a number of service charges.

**THE SSAC CONSULTATION**

The consultation is on the main regulations. The SSAC is not holding a consultation on the claims and payments or decision making and appeals rules, but is interested in comments on how these rules may impact on the main regulations.

Send your comments to the Social Security Advisory Committee

Responses are needed by **27 July 2012** and should be sent to:

Social Security Advisory Committee

5th Floor

Caxton House

Tothill Street

London

SW1H 9NA

Alternatively they can be emailed to ssac@dwp.gsi.gov.uk

**PLEASE CIRCULATE THIS BRIEFING WIDELY**

Normally I provide these briefings for subscribers only, but such is the importance of these changes that I’m circulating it as widely as I can. Please pass the briefing on to anyone who should read it. If you are reading this and are not a subscriber you should know that there are a lot of other important changes in the draft rules, including the change to monthly assessment, changes to rights of appeal, payments of housing costs to landlords, claiming processes, the way payment is made, temporary absence rules, two homes rules and benefits for young people, to name a few. If you do not already subscribe I think you should do so. This is going to be a vital year to keep on top of benefits. Details at <http://hbhelp.co.uk/index.php?page=HM_briefings-and-support-info>

Ends

Chris Smith, HB Help

email, chris.smith@hbhelp.co.uk

web, [www.hbhelp.co.uk](http://www.hbhelp.co.uk/)

phone, 01273 474070

Post PO Box 2660, Lewes, BN7 2RW