

Hitting the DWP Brick Wall!

By BILL IRVINE, Committee Member, Trust Housing Association & SFHA Board Member



Bill Irvine, Trust Housing Association

I'm a classic case of "gamekeeper turned poacher" having been Head of Benefits & Revenues at South Lanarkshire, and advisor to the Housing Benefit Standing Committee, Westminster. Nowadays, I'm on the opposite side of the fence, representing tenants and landlords all over the UK in their Housing Benefit disputes with councils, including representation before First and Upper-tier tribunals.

Tapping a well of 30 years experience, including 20 as a welfare rights advocate, I find I can invariably secure favourable results for my clients. Despite my knowledge and contacts, I found myself recently becoming totally frustrated by the Department for Work and Pensions (DWP). Worryingly, I believe my experiences could well become the norm for housing association and co-op staff trying to assist tenants in the future with the "housing element" of Universal Credit, which is to be administered by the DWP rather than local councils.

Case Studies

Two landlord clients made contact due to concerns they had for respective tenants. In both cases, the individuals were male, lived alone in private rented accommodation, and relied on LHA to meet their contractual rental liability. LHA had been successfully claimed but earlier this year both awards were reviewed and withdrawn when both claimants were found fit for work and refused ESA – a very common scenario nowadays.

The two London Boroughs administering LHA responded to my e-mails within days and provided chapter and verse. Exactly as the landlords had said, the problem stemmed from the change of benefit type – ESA to JSA. Once found fit for work both should have claimed JSA by registering with Job Centre Plus. This in turn would have created a "passport" benefit to LHA. But in both cases they delayed, lost out on JSA which had the knock-on effect of "flagging" to the Council a loss of their "passport benefit"; leading to firstly to a suspension, and later cancellation of their LHA.

Why did they not claim earlier? One suffered from depression. The other was an approved asylum seeker whose understanding of English was so poor he failed to respond to a series of DWP and Council correspondence. The resulting gaps in LHA, at London rates, created potential rental loss of £4k and £2.5K respectively with little likelihood of payment from either tenant.

Normally when I pick up the LHA baton it's a simple case of phoning or writing to the council in question. Most communications are by e-mail, where it's easy to scan and attach relevant documents. Councils have local numbers and contact points with many offering "One Stop Shops" to enable local access. When things don't go as planned I identify key contacts and escalate matters by writing to Heads of Service Directors, and

make use council "complaints" procedures and sometimes enlist the support of local councillors. Using all of these mediums, I can by negotiation resolve 75% of disputes without the need for appeal tribunals or complaints to the Ombudsman. However, on these two occasions my attempts at contacting the DWP were met with a seemingly impenetrable brick wall, completely impeding and frustrating my attempts to resolve matters.

Problems Encountered

I tried to contact the Job Centres in London responsible for each case. To facilitate this, I secured scanned copies of the JSA letters from both tenant and mandates appointing me representative. Examining the letters, I discovered, much to my surprise, you're required to communicate with Belfast. I phoned but in neither case would the operator speak to me because of perceived Data Protection and "confidentiality" issues. I pointed to the DWP's own Implicit Consent Wheel (ICW) and explained I had authority from the claimants themselves. I was also willing to send these by e-mail to enable and fast-track communication.

Neither had heard of the ICW, which authorises telephone communication where representatives have access to DWP letters and confidential detail like NI Numbers, DOB etc. Both were most insistent I needed to write to the Belfast Centre address on the letters. From there my letters would be

allocated to someone to respond - within 20 working days! As both were in the process of being potentially evicted I couldn't accept such a wait.

Fuelled by the absurdity of the situation, I tried the Government website www.direct.gov.uk. Putting in each claimant's postcode I identified the Job Centre office in their area and found a local number listed. However, on telephoning, I realised it had been discontinued. I tried the general number and after waiting 15 minutes was informed by a lady the website information was all out of date and that all calls were handled - guess where? Belfast, of course! She also pointed out that unless the claimant wasn't sitting alongside me, and willing to provide consent, no one would speak to me!

Undeterred, I insisted she put me through to the local Job Centre office - she reluctantly agreed. I was put through to a gentleman who couldn't possibly speak to me because of - you've guessed it - the Data Protection Act, and "confidentiality" issues. I referred him to the ICW and repeated the story - I had letters of authority for both LHA and DWP benefits. Again, he had never heard of the ICW and was most insistent I should send the letter of authority with a covering letter outlining the problem to the Job Centre. Rather than do this I asked if I could forward the correspondence by e-mail. He responded - "No - everything must be sent by mail to us and we'll get back to you" - within 20 days. Sound familiar?

I'm happy to say perseverance worked for one of my clients, with LHA backdated and restored. In the other case I'm still battling DWP bureaucracy.

Looking ahead

The Welfare Reforms continue at pace with civil servants predicting legislation will be in place by February 2012, although it might be some time later before the scheme details will emerge. Universal Credit and, in particular, the housing element, looks as if it could become a bit of a nightmare for associations and co-ops, with the potential loss of HB direct; the introduction of LHA-type "safeguard" provisions for "vulnerable tenants"; and new "size criteria" determining "eligible rents for working age benefit claimants" – based on existing LHA rules and guidance which, contrary to the DWP, simply don't work, and create confusion.

Whilst all of these issues are worrying, the "elephant in the room" could well be the transfer of function to the DWP. If this happens, how will tenants and landlords alike be expected to effectively represent their and the tenants interests to a DWP administration that is remote and seemingly disinterested in assisting, paralysed by the worry of the DPA and the potential disclosure of "confidential" information?

A locally delivered council administration, even with its faults, is a far better option than a DWP, driven service, operated from regional call centres, by staff who, by comparison, are poorly trained, de-motivated and utilising systems and procedures geared more to impeding and frustrating than actually resolving problems.

bill.irvine@sfha.co.uk

Emerging Financial Risks

By IAN BRENNAN, Head of Business Analysis, Scottish Housing Regulator

In the Autumn of 2007, in a previous job, I wrote an article which concluded that it was too early to tell whether the market volatility which had followed the bail-out of the Northern Rock was likely to be prolonged. Four years on, we can see that the collapse of the Newcastle based bank was merely the harbinger of a change that would have profound implications for the world of finance as well as the wider economy. The case of Northern Rock is a salutary reminder of the hazards of trying to predict emerging financial risks: in general, it's the one that you don't see coming that should worry you most.

Nevertheless, at a time when the Scottish Housing Regulator is beginning to consult on a new regulatory framework, it remains important that both the Regulator and Registered Social Landlords (RSLs) continue to focus upon how best to mitigate major risks.

Much of our recent work has been geared towards ensuring that RSLs – management and governing body – are taking proper account of the risks that are inherent in their business plans and are taking appropriate steps to manage these risks.

That was the main message that we put forward in our 'Guide to Business Planning', which we published in October 2009, and we believe it is as relevant now as then.

In August 2010 we issued our first Regulatory Advisory Note, which set out our view of the

biggest risks to the financial well being of RSLs. In January 2011 we followed this up with 'Beyond the Crunch?' which set out our regulatory expectations as to how RSLs should manage these risks.

So where are we in September 2011, following a period which has seen remarkable turbulence in world stock markets and unprecedented concerns about the risk of sovereign debt default within the Euro zone? In the face of these upheaval our core message to the organisations that we regulate remains consistent with our recent publications:

- RSLs need high standards of governance, which demonstrate that the governing body has given informed consent to the business plan being followed, with a full understanding of the inherent risks.
- RSLs should retain a close focus on cost control and operational efficiency.
- Despite recent signs that interest rates are likely to

remain relatively low for longer than had been anticipated, RSLs should continue to prepare for a world in which the cost of borrowing is likely to be greater than it is today.

There is no question that the operating climate for RSLs remains challenging. In many cases management and governing bodies are working diligently on the issues around pension funding, the potential risks arising from the welfare reform agenda, concerns around contractor solvency, the increasing scarcity of public funding and many more.

Predicting future trends in finance and elsewhere remains as difficult as it has always been. But high standards of governance, tight cost control and a focus on efficiency will help to ensure that RSLs are as prepared as possible for the risks of today and tomorrow.

If you would like to comment or contribute to the series of finance articles, please email: hsse@sfha.co.uk

