

The Scottish Parliament  
Pàrlamaid na h-Alba

## **Welfare Reform Committee**

### **1st Report, 2014 (Session 4)**

#### **Interim Report on the 'Bedroom Tax'**

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## **Welfare Reform Committee**

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The Scottish Parliament  
Pàrlamaid na h-Alba

## **Welfare Reform Committee**

### **Remit and membership**

#### **Remit:**

To keep under review the passage of the UK Welfare Reform Bill and monitor its implementation as it affects welfare provision in Scotland and to consider relevant Scottish legislation and other consequential arrangements.

#### **Membership:**

Annabelle Ewing  
Iain Gray (until 3 September 2013)  
Linda Fabiani  
Jamie Hepburn (Deputy Convener)  
Alex Johnstone  
Ken Macintosh (from 3 September 2013)  
Michael McMahon (Convener)  
Kevin Stewart

#### **Committee Clerking Team:**

##### **Clerk to the Committee**

Simon Watkins

##### **Assistant Clerk**

Rebecca Macfie

##### **Committee Assistant**

Kevin Dougan



The Scottish Parliament  
Pàrlamaid na h-Alba

**Welfare Reform Committee**

**1st Report, 2014 (Session 4)**

**Interim Report on the 'Bedroom Tax'**

The Committee reports to the Parliament as follows—

**EXECUTIVE SUMMARY**

**1. The Welfare Reform Committee believes that the under-occupancy charge, also known as the 'bedroom tax' is iniquitous and inhumane and may well breach tenants' human rights.<sup>1</sup>**

**Impacts<sup>2</sup>**

**2. It is having a real and harmful impact on people's lives, and often the most vulnerable in society – those with disabilities, children in separated families etc.**

**3. Many people are 'trapped' into paying the 'bedroom tax' in that there are not enough one bedroom properties available to down-size to.**

**4. Although the 'bedroom tax' will reduce the housing benefit budget, it introduces a number of new costs to tenants, housing associations, local authorities, the Scottish Government and others - the tax may cost more than it saves.**

**Mitigation<sup>3</sup>**

**5. The level of Discretionary Housing Payments originally allocated by the Department of Work and Pensions to deal with the transitional problems does not match the scale of the problem.**

**6. The Welfare Reform Committee therefore welcomes the additional £20 million Discretionary Housing Payments allocated by the Scottish Government for 2013-14 and 2014-15.**

**7. The Committee calls on the Department of Work and Pensions to confirm its allocation of funds for the next two years.**

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<sup>1</sup> Alex Johnstone notes his dissent from this paragraph.

<sup>2</sup> Alex Johnstone notes his dissent from the paragraphs in this section.

<sup>3</sup> Alex Johnstone notes his dissent from the paragraphs in this section.

8. The Committee also calls on the Department of Work and Pensions to increase its Discretionary Housing Payment allocation for Scotland to match the evident need.

9. The Scottish Government should explore further ways to mitigate the impact of the 'bedroom tax' in the short-term.

10. Once the 'bedroom tax' has been operating for a full year in April 2014 it should consider whether £20 million is the appropriate amount to allow full mitigation, or whether there are other avenues to support local authorities and registered social landlords in meeting the challenges of the 'bedroom tax'.

11. Tenants, local authorities, housing associations, local voluntary and other agencies and the Scottish Government have, in many instances, borne the brunt of the problems created by the 'bedroom tax', including the costs. The Committee commends these bodies on their response and in particular in dealing with the rapidly changing situation with regard to Discretionary Housing Payments.

#### **The Solution<sup>4</sup>**

12. The Welfare Reform Committee believes that the only way to deal with the 'bedroom tax' effectively is to abolish it.

13. The Welfare Reform Committee notes that the power to do so remains reserved to Westminster. The Committee therefore calls on the United Kingdom Government to abolish the 'bedroom tax' immediately.

14. If it does not, the Committee believes that the Scottish Parliament should be given the powers and resources to abolish it.

### **INTRODUCTION**

15. The Welfare Reform Act 2012 introduced a charge on under-occupation by working age social tenants receiving Housing Benefit from 1 April 2013. This was estimated by the Scottish Government at May 2013 to affect around 82,000 households in Scotland and cost them an average of £50 a month. 80% of those households included a disabled adult and 15,500 of the total cases consisted of families with children.

16. The Act introduced changes to the amount of housing benefit that will be paid to those working-age claimants who live in social housing and who are deemed to have more bedrooms than their household size needs. Those with one spare bedroom lose 14% of their eligible rent and those with two or more spare bedrooms lose 25%. The charge has been referred to as the 'under occupancy charge', or 'spare room subsidy' but is commonly termed the 'bedroom tax' in Scotland and this is the term that we have used in this report.

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<sup>4</sup> Alex Johnstone notes his dissent from the paragraphs in this section.

17. The Committee has opted to produce an interim report. It wishes to report the evidence that it has heard so far and to make some key points, given the disturbing nature of what it has heard. The situation with regard to the 'bedroom tax' remains dynamic, with the number of tenants affected and arrears levels changing by the month. In addition the impact of appeals judgements is changing the legal context on a similar timescale. The Committee may wish to return to the issue in future therefore.

18. The Committee has taken evidence, primarily over the period from September to December 2013, from a number of organisations with an interest in the issue as well as, crucially, from individuals directly affected by the 'bedroom tax'.

19. The organisations and individuals from whom the committee has received evidence to date are:

Helen Barton - Albyn Housing Society

Alan Miller – Scottish Human Rights Commission

Anne Bradley – Your Say witness<sup>5</sup>

Scott Wilson – Your Say witness

Lyndsay Ferry – Your Say witness

Lynn Williams – Expert Working Group on Welfare and Constitutional reform

Martyn Evans – Expert Working Group on Welfare and Constitutional reform

Mike Brewer - Expert Working Group on Welfare and Constitutional reform

Margaret Burgess – Minister for Housing and Welfare, Scottish Government

Ann McVie – Scottish Government

Professor Ken Gibb – University of Glasgow

Mike Dailly – Govan Law Centre

Garry Burns – Govan Law Centre

Alistair Sharp – Govan Law Centre

Jim Hayton – Association of Local Authority Chief Housing Officers

David Bookbinder – Chartered Institute of Housing

David Ogilvie – Scottish Federation of Housing Associations

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<sup>5</sup> 'Your Say' is an initiative started by the Welfare Reform Committee to encourage those directly affected by welfare reform to share their experiences with the Committee, including given oral evidence at committee meetings.

Councillor Harry McGuigan – COSLA

Michael Cameron – Scottish Housing Regulator

Kirstie Corbett – Scottish Housing Regulator

Annette Finann – South Lanarkshire Council

Cliff Dryburgh – City of Edinburgh Council

Susan Donald – Aberdeenshire Council

Lorna Campbell – Dumfries and Galloway Council

Ewan Fraser – Dunedin Canmore Housing Association

Graeme Russell - Dunedin Canmore Housing Association

Alan Wyllie – No2BedroomTax Campaign

Jack Ferguson – No2BedroomTax Campaign

Their contributions can be found [here](#)

## HUMAN RIGHTS

20. A number of organisations have asserted that the ‘bedroom tax’ infringes human rights legislation. The Committee took evidence on the issue and heard evidence, from the Chair of the Scottish Human Rights Commission, that the Welfare Reform Act 2012 may breach the human rights of those affected:

**Iain Gray:** Are you, as chair of the Scottish Human Rights Commission, saying that, in your opinion, the way in which the welfare reform measures have been introduced is—at least in part—not compliant with the Government’s human rights obligations, and that they are, in part, likely to breach the human rights of some of the people who are affected?

**Professor Miller:** Yes.<sup>6</sup>

21. The Committee also heard evidence from Professor Miller that the ‘bedroom tax’ is particularly subject to challenge in terms of its impact on human rights and those with disabilities:

**Professor Miller:** I think that the challenges, which have begun to come forward, will be based on the Equality Act 2010, particularly in relation to discrimination against disabled people and the lack of a proper impact assessment; on the

<sup>6</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 28 May 2013, Col 789.](#)



Human Rights Act 1998, with regard to what is called the right to a possession—in this case, a social security entitlement—and discriminatory interference with that right in terms of, for example, the impact on the disabled; and on the European convention on human rights article 8, which covers the right to a private life, a family life and a home. The bedroom tax might well be on the radar for challenges under that article, because it might be argued that such interference is disproportionate and that the potential savings and stated public purpose do not outweigh the impact on individuals or families of having to uproot themselves from the life that they have led and look for alternative accommodation.<sup>7</sup>

22. The Committee recognises that this issue arises, to some extent, because the Welfare Reform Act 2012 treats public sector accommodation as merely bricks and mortar rather than a home. Many of the people affected by the 'bedroom tax', including those who gave evidence to us, have lived in their properties for decades. The Committee believes that these are clearly homes and the 'bedroom tax' is forcing people out of them.

**23. The Welfare Reform Committee believes that the 'bedroom tax' is iniquitous and inhumane and may well breach tenants' human rights.<sup>8</sup>**

#### IMPACT

24. The Committee has gone out of its way to discover what the impact of the 'bedroom tax' is on those directly affected. Through an initiative, 'Your Say' that it established in 2012, the Committee has received submissions from those directly affected by the 'bedroom tax'. A number of these people have been invited to give evidence directly to the Committee.

25. The Committee has therefore heard at first hand the disastrous impact that the tax is having on those affected and the dilemmas that it is creating for them. We believe that this is an important part of the emerging picture of the impact of the 'bedroom tax' and make no apologies for reproducing much of that evidence here.

26. This evidence from Linda Kennedy from Glasgow reflects the reaction of many tenants to the implementation of the 'bedroom tax':

**Linda Kennedy:** My name is Linda Kennedy. I am 58 years old. I have not worked for the past eight years. Six of those years, I was a full time carer to my late husband who passed away on 25 February 2011. We were offered help with the care, however, we both decided I would take care of him, giving him the dignity he deserved.

Like many others we always worked. My late husband had a saying 'everybody must put into the pot, if they don't, there will be no pot' (tax and national insurance). I still have those values.

<sup>7</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 28 May 2013, Col 788.](#)

<sup>8</sup> Alex Johnstone notes his dissent from this paragraph.

At present, I suffer from anxiety and panic attacks but I am getting help for this. My total income is £72.07 per week (which is my late husband's work pension). The powers that be take £1.07 off as the government says I only need £71 per week to live off.

My problem is that I live in a 3 bedroom house alone. My kids have moved out and into their own homes. I had a visit from my housing officer telling me it will be just under £100 per month extra, but the rent rise in April could take me to just over £100 per month. He informed me I could either take in family members or a lodger(s) to help pay the bedroom tax or move to a smaller house.

I fear what the future holds and question what do I do next, where do I go, where will I end up? I have lost everything, my husband and now potentially my family home.

I know I am only the tenant, however, I class this house as my home with many great memories. I know my neighbours and they know me. Ultimately, I feel safe here.<sup>9</sup>

27. The Committee also heard from Scott Wilson of Biggar, who is disabled, on the impact that the 'bedroom tax' was having on him and his also disabled son:

**Scott Wilson:** My name is Scott Wilson. I am 46 years old and was diagnosed with young-onset Parkinson's five years ago. I had always worked hard since I was 16 but, because of Parkinson's, I had to give up the successful gardening business that I had built up over many years and my decade of service as a reserved fire-fighter in South Lanarkshire where I live.

One of my Parkinson's symptoms is a very severe tremor that got worse over time and did not respond to medication. I had to have brain surgery, which has helped to control the tremors, but I still have other Parkinson's symptoms. As Parkinson's is a progressive condition, my condition will inevitably deteriorate and stress makes my symptoms much worse.

When I gave up my business, I had to apply for benefits to help support myself and my family. I have a 17-year old daughter and a 10-year old son, who has a severe long-term medical condition. The last thing that I wanted was to have to rely on Government benefits, but I felt that at least I had worked hard and had contributed to the system before I became ill. I had lots of support from the money matters advice service in Lanark, which made sure that I claimed the benefits to which I was entitled, including incapacity benefit, income support and an indefinite disability living allowance award. Although life was not easy and although I knew that, because of my health, I had an uncertain future, the knowledge that I could stay in my home and had some money that I could depend on made it much easier to cope.

However, since the Welfare Reform Act 2012 came in, I feel stressed and anxious at the thought that someone with no knowledge of my condition might reassess my

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<sup>9</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 10 September 2013, Col 836.](#)

benefits and determine that I am fit for work or that I am not affected by Parkinson's and I should lose the benefits that I depend on. I was broken-hearted to give up my business and would love to be well enough to work, but my Parkinson's makes that impossible.

I also recently separated from my partner of nearly 20 years, partly because of the stress that Parkinson's has put on my family life and relationships. Although it has been a very difficult time for all of us, we have maintained regular contact and my ex-partner and I continue to share the parenting of our children. Things have been made worse by the fact that I have had to apply for some different benefits and in particular by the under-occupancy charge—the bedroom tax—that came into force in April.

I have lived in my home for 25 years, but I had to sell it back to the council because of financial hardship. I was shocked when a council employee phoned and told me that my housing benefit would be cut to the equivalent of that for a one-bedroom home and that I would have to find the additional money from my benefits to pay for two bedrooms. I was stressed enough about how I was going to pay for my heating, food, transport and other necessities and that information floored me.

When I asked for more information, the council employee told me that I had three options. First, the council could look at rehoming me in a one-bedroom flat. Given that there are very few of those flats in my home town, I could be relocated somewhere else many miles away. That would take me away from my support system, which includes not only my friends and family but the health centre where my day-to-day health needs are dealt with and where the staff know me and are able to give me the help that I need. I might not even be able to access a one-bedroom flat in another town as there are many more people needing one-bedroom homes than there are flats available. Secondly, the council could also look at me house sharing with someone else on benefits. That would mean me sharing my home with a stranger whose background I did not know and possibly exposing my children and me to risks. Lastly, if I chose to stay in my house, I would have to find the shortfall in the rent myself from my other benefits.<sup>10</sup>

28. The Committee also took evidence from Anne Bradley from central Glasgow, whose landlord had been able to find a smaller property for her, but which was still creating problems for her:

**Anne Bradley:** I read an article in the Evening Times about the bedroom tax and I believed then, as I do now, that the tax is a breach of everyone's human rights and should be dumped.

I rented a two-bedroom flat from Queens Cross Housing Association and letters were delivered from the housing office with advice on the bedroom tax, cost and payment methods. The letters informed me that the tax would cost £43.64 a

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<sup>10</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 10 September 2013, Col 837-838](#)

month. That went up to £47.64 a month. The amount will rise with each rent increase.

I contacted the housing association to request to be moved to a smaller property and to make it aware that I wished to stay in the same area. The housing association submitted a completed transfer application for a move and an application form for discretionary housing payment. I was advised by the housing association that it did not know when I would be likely to secure a transfer as there were no smaller properties available in the area in which I wished to live. It was suggested that I could take in a lodger, but I informed the housing association that that was not something that I would ever consider and that I would never take a stranger into my home. If I were to have taken in a lodger, the housing benefit would have been reduced even further because I had someone living with me. That would have affected my employment and support allowance and created a further struggle as, after paying direct debits, there is not much of the ESA left.

I believed that I should not have to pay this tax as I was willing to move but was unable to do so because there were no smaller properties available. The struggle will become much worse when the universal credit is introduced. The payments for rent and the benefits are to be paid into one bank account and it will be left to the claimant to pay the rent.

I believe that I was forced out of my home and prevented from having a family life as I shall be unable to have family members stay overnight or at weekends. As there were no smaller properties in Glasgow, I believed that I would be forced to look further afield to find a suitable smaller property to rent and that I would have to apply for a private let, which would have created even more of a problem.

The bedroom tax is unjust and, because I believed that I would have to move to where I could get a smaller property to rent, it has separated me from my family.

In July, I viewed a smaller property, still in the area in which I wished to live. I was given one night to decide whether to accept or decline the offer. I was advised that, if I declined the offer, it was unlikely that I would be granted DHP a second time. Having been advised of that, I believed that I had no choice—I feel that I was forced to accept the property. Accepting the property created a further struggle as I was not in a good financial position to pay for a move within the 28 days given. Had it not been for my family, I would have been unable to move. I now owe my family a lot of money.

Since moving into the property, I have become isolated. At my previous property, I spoke to and met neighbours every day. Since moving to the new address, I never speak to or meet anyone. I am not happy in the new flat, as it is a deck-access property and people pass my door at all times, day and night, which makes me uncomfortable. I cannot get used to it. The property is so small that it could fit inside my previous flat. I am not happy with the property, as it is not as enclosed as my previous flat was. Although my previous flat was 12 floors up, I would not

have moved but for the bedroom tax. I do not believe that I will be able to settle in the new flat.<sup>11</sup>

29. These submissions reflect many of the main criticisms of the 'bedroom tax':

- it affects primarily those with disabilities
- it impacts on long-term residents with local support structures, without which their health and well-being may suffer, resulting in additional costs to local authorities, the NHS and other parts of the public sector.
- appropriate properties for people to downsize to are in any case not available

30. The 'bedroom tax' does seem to disproportionately affect those with disabilities. The Scottish Government estimates that of the 82,000 households in Scotland affected by the 'bedroom tax' at May 2013, fully 80% included a disabled adult.<sup>12</sup> All three of those witnesses who gave evidence to the Committee on the 'bedroom tax' also have some form of disability.

**31. The 'bedroom tax' is having a real and harmful impact on people's lives, and often the most vulnerable in society – people with disabilities, their carers, children in separated families etc.<sup>13</sup>**

#### DOWNSIZING

32. One of the issues that emerged even before the implementation of the 'bedroom tax' is whether there are enough properties for those who wish to, to downsize. Many social housing providers have traditionally focussed on the development of family homes, which can provide long-term accommodation for growing households and many of them have relatively few smaller properties in which to rehouse people affected by the legislation.

33. In June 2013, the Committee commissioned research on the impact of the 'bedroom tax' in Scotland from Kenneth Gibb, Professor in Housing Economics and Director of the Centre for Public Policy at the University of Glasgow.

34. As well as examining the numbers involved, the Committee was particularly keen to examine the extent to which tenants who were liable for the 'bedroom tax' are able to downsize, as was intended by the legislation.

35. Professor Gibb found that in many ways it was too early to make a definitive judgement on the situation. However, he was able to review the statistical evidence that had emerged:

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<sup>11</sup> [Scottish Parliament Welfare Reform Committee. \*Official Report\*, 10 September 2013, Col 839-840](#)

<sup>12</sup> [Scottish Government, \*Updated Evidence on the Number of Households Affected by the Housing Benefit Under Occupation Penalty\*, paras 5&8](#)

<sup>13</sup> Alex Johnstone notes his dissent from this paragraph.

In Scotland, the principal evidence assembled since the launch of the under-occupancy charge came from a survey of Scottish local authorities by COSLA and a survey and follow-up survey by the Scottish Federation of Housing Associations. The COSLA/Scottish Government survey provides a snapshot of under-occupation across all social rented housing for 30 of 32 local authorities (98% of working age households receiving Housing Benefit in social rented housing). They found that 82,500 households as of May 2013 were estimated to be incurring the under-occupancy charge (68,500 were under-occupying one bedroom, 47,500 were council tenants and 35,000 were housing association tenants).<sup>14</sup>

The SFHA early impacts study (June 2013) involved a sample survey of 63 member housing associations, incorporating 52% of all housing association stock in Scotland. Key findings were that 9% of tenants from responding organisations were under-occupying (7% one bed and 2% more than one bed). About a tenth of the stock is available to let each year. Just over a quarter of the respondents' stock was of one bedroom size and only an eighth (12%) of one bed properties became available through turnover each year. As a proportion of the total that is newly let, about 35% of turnover was of one bed size.<sup>15</sup>

A follow up SFHA study, Serpa (2013), found that downsizing would be a slow and long term solution. [The study] reports the above Scottish Government findings that, 60,000 households would need to move to a one bedroom property to avoid the charge. 'Yet, just 20,000 one bedroom homes for social rent became available each year.' (p.12). [The report] goes on to point out that according to a recent Fol request, just 'one of the 18 local authorities in Scotland ...reported under-occupying households outnumbered available smaller council properties by more than ten to one'. Based on the situation at the beginning of August 2013, there is a considerable shortage of smaller council properties becoming vacant in the 18 councils represented by the Fol request. However, this is a measure at a point in time and it is difficult to assess what the annual flow of one bed properties would be relative to the stock of those under-occupying by one bed.<sup>16</sup>

Within a survey of 13 housing associations, Serpa also found that between 1-16% only of under-occupying households would be able to downsize with in a four month period (Serpa, 2013, p.13) Serpa (2013) argues that smaller housing associations have been more successful at rehousing people into smaller homes but in general it will be difficult for Scottish housing associations to match the levels of turnover expected by the Chartered Institute of Housing prior to the introduction of the under occupancy charge (20% per annum) or by DWP (that 25% should be able to downsize).<sup>17</sup>

<sup>14</sup> [The 'Bedroom Tax' in Scotland report, Professor Gibb, 19 Oct 2013, Para 26.](#)

<sup>15</sup> [The 'Bedroom Tax' in Scotland report, Professor Gibb, 19 Oct 2013, Para 27.](#)

<sup>16</sup> [The 'Bedroom Tax' in Scotland report, Professor Gibb, 19 Oct 2013, Para 28.](#)

<sup>17</sup> [The 'Bedroom Tax' in Scotland report, Professor Gibb, 19 Oct 2013, Para 29.](#)

36. The situation is also exacerbated by the fact that in Scotland, under the Housing (Scotland) Act 1987, local authorities have a statutory responsibility to rehouse homeless people. Many of these people require the single bedroom properties that are also being sought by those seeking to downsize.

37. In order to take the analysis one stage further, Professor Gibb analysed the SCORE (Scottish Continuous Scoring System) data for registered social landlord housing by local authority area. Whilst excluding local authority housing, for which the data does not currently exist, the analysis does provide a picture of how challenging it will be for people to downsize in the registered social landlord sector.

38. Professor Gibb found that:

there were 9,645 one-bed room lettings in 2011-12 in contrast to 29,047 one bed under-occupiers from the 30 councils areas recorded in the COSLA survey. As an upper bound this implies more than three years to address the down-sizing backlog – if these are typical years in both cases.

However, the number of one-bed lets needs to be reduced according to the volume of those vacancies that were given over to homelessness and other nominations, as well as other priority allocations and a small number of specialist housing lettings within the data from within the stock. It is generally recognised that a disproportionate number of homeless lettings are for single people so the proportion is likely to be greater than one third (the overall proportion for all lettings). Half of the recorded lettings might be a reasonable guesstimate i.e. 3,300 to 5,000 lettings might be genuinely available for the general needs population to potentially downsize. **This implies a period of approximately 6-9 years to clear the downsizing backlog as a result of the under occupancy charge.** But to be clear this would only be an upper bound with considerable margin of error.<sup>18</sup>

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<sup>18</sup> [The 'Bedroom Tax' in Scotland report, Professor Gibb, 19 Oct 2013, Para 52.](#)

**Table 1: Housing Association Lettings bedsit/one bed/all lettings 2011-12 by local authority area**

Local Authority	Bedsit Properties	One Bedroom Properties	All Properties	COSLA 2013 survey RSL one bed under-occupiers
Aberdeen City	33	254	539	204
Aberdeenshire	4	242	438	229
Angus	16	162	348	183
Argyll & Bute	58	340	835	634
Clackmannanshire	8	71	180	194
Dumfries & Galloway	324	473	1,182	1,302
Dundee City	73	351	793	903
East Ayrshire	13	102	411	549
East Dunbartonshire	10	32	144	187
East Lothian	3	112	241	144
East Renfrewshire	10	70	212	129
Edinburgh, City of	231	823	1,625	2,110
Eilean Siar	8	101	247	178
Falkirk	50	167	473	275
Fife	39	255	876	1,045
Glasgow City	534	2,939	8,447	12,287
Highland	35	210	746	880
Inverclyde	16	122	393	1,261
Midlothian	7	72	222	376
Moray	6	186	405	176
North Ayrshire	13	143	370	541
North Lanarkshire	24	264	740	857
Orkney	2	59	148	45
Perth & Kinross	7	181	430	195
Renfrewshire	26	387	848	731
Scottish Borders, The	70	574	1,361	902
Shetland	1	40	105	
South Ayrshire	10	96	322	
South Lanarkshire	23	165	628	742
Stirling	10	74	204	199
West Dunbartonshire	6	222	607	714
West Lothian	42	258	803	875
Unknown	16	98	444	
All	1,728	9,645	25,767	29,047

Source: SCORE

39. The national picture of lack of supply painted by Professor Gibb's research is supported by the evidence that the Committee took from individual local authorities. Lorna Campbell from Dumfries and Galloway reported:



**Lorna Campbell (Dumfries and Galloway Council):** RSLs in our area have a significant lack of one-bedroom properties. When someone applies for DHP, one of the big issues is that there is no opportunity to move.<sup>19</sup>

40. The situation is similar in South Lanarkshire, where Annette Finnan from the Council outlined:

**Annette Finnan:** South Lanarkshire, one-bedroom properties make up only 25 per cent of our stock. The percentage turnover has been slightly higher in the past three years—there has been turnover of between 33 and 36 per cent of one-bedroom properties. However, that in no way equates to the number of tenants who are affected by the under occupancy charge and who, if they wanted to, would not be able to downsize, not only because of availability but because of location.<sup>20</sup>

41. It therefore appears that if everyone who is subject to the ‘bedroom tax’ wishes to downsize, it will not be possible to achieve this with the current social housing stock, certainly in the short-term. On this basis it appears that, for some years to come, many people are likely to be trapped into paying the ‘bedroom tax’ whether they wish to downsize or not.

42. As Councillor Harry McGuigan put it on behalf of COSLA:

**Cllr Harry McGuigan (COSLA):** Analysis of housing stock availability in Scotland and COSLA’s sampling show that, for many tenants, moving is not an option. There is simply nowhere for them to go. The situation that they are facing is dreadful; they cannot pay and they cannot stay.<sup>21</sup>

**43. Many people are ‘trapped’ into paying the ‘bedroom tax’ in that there are not enough one bedroom properties available to down-size to.<sup>22</sup>**

44. This problem can be intensified in remoter rural areas where housing providers may have properties available, but a hundred miles away from their tenant’s current location and away from their family, friend and support structure. This is the problem facing Scott Wilson, who gave evidence to the Committee.

45. The specific issues that arise in remoter areas were outlined to the Committee as long ago as November 2012 by Helen Barton of the Albyn Housing Society, which operates in the Highlands:

**Helen Barton (Albyn Housing Society):** The geographic context brings me to my first point, which is that the under-occupation issue is a particular concern for rural associations such as ours. As I said, our level of benefit claimants is relatively low—about 50 per cent of our tenants receive full or partial housing benefit but we

<sup>19</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 19 November 2013, Col 1136](#)

<sup>20</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 19 November 2013, Col 1137](#)

<sup>21</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 12 November 2013, Col 1080](#)

<sup>22</sup> Alex Johnstone notes his dissent from this paragraph.

are exposed to the under-occupancy rules, because a high proportion of our tenants under-occupancy properties.

Most of our stock is two or three-bedroom properties; only a quarter is one-bedroom or bedsit properties. The rules will be applied retrospectively, and a high proportion of our tenants already under-occupy homes, for a wide variety of reasons. One reason is that we were encouraged to and wanted to build in our communities properties that had at least two bedrooms, to provide more flexibility, especially in smaller areas, where the opportunities for moving when circumstances change are more limited. We have older stock—as I said, our association is coming up to being 40 years old—that people entered with families. When family circumstances have changed, people have been left in family houses. A high proportion of the people on our housing list—more than half—are single people. If we did not allow them to apply for two-bedroom properties, we would be unable to meet needs. If we were to make all our smaller properties available to deal with under-occupation and for the transfer of people from under-occupied properties it would undoubtedly have a severe impact on our ability as a partner to the Highland housing register to meet homelessness need across the Highlands. There is a shared concern among all the landlords there.<sup>23</sup>

46. In July 2013 the Department of Work and Pensions announced additional resources for Discretionary Housing Payments in remoter rural areas and a further £3.4m has been made available for 2013-14 for Scotland. The Committee welcomes this contribution.

### COSTS

47. Whilst the 'bedroom tax' is resulting in a reduction in the DWP's housing benefit budget, it is generating a number of other costs, as has been investigated by both Cosla and the Scottish Federation of Housing Associations.<sup>24</sup>

48. It is estimated that 80% of households that are affected by the under-occupancy charge contain a disabled adult. A significant proportion of these properties will have been adapted to accommodate these disabilities. If the occupant is forced to move the landlord will normally be faced with having to repeat these adaptations on another property. This is a significant additional cost for the landlord.

49. Under the Housing (Scotland) Act 1987, local authorities are obliged in many circumstances to house those who are homeless. Should the under-occupancy charge result in arrears and ultimately eviction by a local authority or registered social landlord, the local authority would still require to meet the costs of rehousing. Mike Dailly of Govan Law Centre gave the Committee a theoretical example.

<sup>23</sup> [Scottish Parliament Welfare Reform Committee. \*Official Report\*, 13 November 2012, Col 316-317](#)

<sup>24</sup> <http://www.cosla.gov.uk/news/2013/11/bedroom-tax-costing-more-it-will-save> and <http://www.sfha.co.uk/>

**Mike Dailly (Govan Law Centre):** Mr and Mrs Reid accrue £50 a month of rent arrears for a second bedroom that Mr Reid needs to use because of ill health. They are told that they do not qualify for discretionary housing payment because of their disability benefits. If we fast-forward to April next year, they will then be £600 in rent arrears. If their landlord evicts them, it will cost the landlord an average of £6,000. If they lose their house, the cost to the council and the national health service will be, on average, £24,000. Here is the absolute lunacy of the situation: they will be entitled to get a new Scottish secured tenancy by applying as homeless to the council. They are highly unlikely to be deemed as intentionally homeless if they cannot move to a smaller property. I am presenting the reality of the situation. We believe that there is a powerful economic case for not evicting tenants solely for the bedroom tax.<sup>25</sup>

50. The third main source of new costs relates to rent arrears. The Scottish Housing Regulator has investigated the situation with regard to increasing rent arrears as ultimately it could affect the viability of housing landlords.

51. The Housing Regulator's research, published in October, estimated the following<sup>26</sup>:

- that the total rent arrears at 30 June 2013 for responding landlords was 3.97% of rental income due for 2013-14, or £63,125,355.
- that the overall arrears percentage has increased over time from 3.37% at the same point in 2011 and 3.51% in 2012.
- that comparison of data from RSLs and local authority landlords shows a pattern of year on year increase in percentage arrears over time (2011-2013) for both. Local authority landlords reported a higher overall figure for June 2013 (4.62%) and a more marked increase in the last 12 months.

52. It appears therefore that the level of arrears is significantly increasing in the social housing sector. This will not all be due to the 'bedroom tax' of course, but many landlords are reporting an increase in arrears since the introduction of the tax in April 2013 and amongst tenants who have not previously been in arrears. This will affect these bodies cash flow and their finances. Allied to changes that are foreseen with Universal Credit, when housing benefit will be paid direct to tenants rather than landlords, this could ultimately threaten borrowing by social landlords, or indeed the cost of borrowing.

53. The Chief Executive of Dunedin-Canmore, which has been running the Universal Credit direct payments pilot in Scotland reported to the Committee that :

**Ewan Fraser:** However, the change has brought a degree of nervousness to financial institutions that could invest in housing associations, so I am finding things a little bit more difficult when I speak to the banks.<sup>27</sup>

<sup>25</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 12 November 2013, Col 1063](#)

<sup>26</sup> [Early impacts of Welfare Reform on rent arrears, Scottish Housing Regulator, October 2013, p4](#)

<sup>27</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 3 December 2013, Col 1172](#)

**54. Although the 'bedroom tax' will reduce the housing benefit budget, it introduces a number of new costs to tenants, housing associations, local authorities, the Scottish Government and others - the tax may cost more than it saves.<sup>28</sup>**

## DISCRETIONARY HOUSING PAYMENTS

### Changes

55. The role of Discretionary Housing Payments has been revolutionised since the Welfare Reform Act 2012. Prior to the act they were only used in exceptional circumstances, but that situation has now changed radically. As Graeme Russell of Dunedin Canmore Housing reported to the Committee in November 2013, their welfare rights officer had helped 101 tenants to access Discretionary Housing Payments during 2013 compared to “a handful” in previous years.

56. The Committee has examined the situation with Discretionary Housing Payments – a rapidly changing picture – through taking evidence from four local authorities representing a range of local circumstances and political control: Aberdeenshire Council; City of Edinburgh Council; Dumfries and Galloway Council; South Lanarkshire Council.

57. The Committee was surprised at the very rapid increase in Discretionary Housing Payment applications from 2012–13 to 2013–14. These amounted to 425% for South Lanarkshire, 458% for South Lanarkshire, just over 500% for the City of Edinburgh and an astonishing 900% for Dumfries and Galloway. According to South Lanarkshire Council, 80% of this increase is due to the ‘bedroom tax’ and for the City of Edinburgh the figure is 90%.

58. The increase in applications partly reflects the increased resources that have been made available for Discretionary Housing Payments. Across Great Britain these have increased from £20m in 2010-11 to £160m in 2013-14.<sup>29</sup> Although the intention is that Discretionary Housing Payments cover more than just 'bedroom tax' issues, the figures from South Lanarkshire and Edinburgh indicate that this is what they are primarily being directed towards.

59. There have been a series of rapid changes to the amount of Discretionary Housing Payments resources available to local authorities.

60. In January 2013 the original DHP allocation for Scotland for 2013-14, was announced at £10.1m.

61. The DWP made an error with six Scottish local authorities receiving a higher allocation than they were entitled to. However, this error is being honoured for this year. It also underpaid some authorities. This error was dealt with in July.

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<sup>28</sup> Alex Johnstone notes his dissent from this paragraph.

<sup>29</sup> The figures are for Great Britain as social security is devolved to the Northern Ireland Assembly and the 'bedroom tax' has not yet been introduced there.

**Table 2: Discretionary Housing Payment Allocations 2013-4**

Date	Event	DWP £m	Scottish Govt. £m	Total £m
January 2013	Original DWP Allocation (contained errors)	<b>10.0</b>		
July 2013	Revised DWP Allocation correcting errors and additional rural uplift of £3.4m	<b>14.264*</b>		
July 2013	Transitional in-year funding	<b>0.988</b>		
September 2013	Scottish Government allocation		<b>20.0</b>	
				<b>35.2</b>

\*this includes £0.794m overpayments which will be honoured for 2013-4. The main allocation is £13.47m which is used to calculate the maximum that local authorities can top up by i.e. 1.5 times this amount.

62. In July 2013, the DWP announced that a further £3.4m of new 'rural uplift' DHP funding would be made available for a number of rural authorities in Scotland for to assist them in dealing with their particular problems. It also adjusted the figures to cater for the original underpayments.

63. In July 2013 the Department of Work and Pensions also announced £988,000 of "transitional" in-year funding which could be used for DHPs or other purposes.

64. The DWP has also allocated £20m across Great Britain to a Bid Fund which local authorities can apply for if they can demonstrate that they are managing their DHP allocation in a 'robust, fair and appropriate manner'.

65. On the 11 September 2013, the Cabinet Secretary for Finance announced that the Scottish Government would distribute an additional £20m to local authorities' 2013-14 Discretionary Housing Payments budgets to help those affected by the social sector size criteria. This brings the total available to Scottish local authorities for Discretionary Housing Payments in 2013-14 to £35.2m. The maximum that Discretionary Housing Payments can be 'topped up' by local authorities/the Scottish Government is 1.5 times the Department of Work and Pensions core contribution. The current 'top up' is therefore very close to the maximum permitted by legislation.

66. The way in which these increases – some of them in-year – have impacted on local authorities is reflected in the case of South Lanarkshire Council.

67. South Lanarkshire Council's initial Department of Work and Pensions contribution for 2013/14 was £413,967. However, the Council subsequently received additional funding as part of the government's revised calculation in July 2013, which increased the annual budget to £492,570. The Council was advised on 2 October 2013 that it would receive an additional £731,422 from the £20m

funding being provided by the Scottish Government. This funding is being used to top-up the Council's Discretionary Housing Payments budget to the maximum. The Council has also submitted a bid for additional funding to the value of £250,000 from the DWP £20m fund.

68. The allocation of the additional resources appears to have had three impacts. Firstly it has allowed more applications to be funded (all authorities), secondly it has allowed for longer awards (e.g. South Lanarkshire moving from 6 to 12 month awards for disabled people in adapted properties) and thirdly it has allowed for higher awards (e.g. Aberdeenshire moving from 25%, 50%, 80%, 100% awards to 80% and 100%).

### **Costs**

69. This increased activity has required additional staffing in all cases though. The situation of Edinburgh is typical:

**Cliff Dryburgh (City of Edinburgh Council):** In April this year we set up a dedicated team to deal with DHP, in order to ensure fairness and uniformity of decision making. It was a team of four at the time and I have had to increase it to 10 to deal with the review of the existing awards and in anticipation of the doubling of the number of awards between now and the end of the financial year.<sup>30</sup>

70. Some of the authorities have calculated the costs of this. South Lanarkshire Council estimates that its 'Benefits are Changing' team costs £300,000 per year and its Discretionary Housing Payment processing team a further £100,000. Dumfries and Galloway Council calculates that its Discretionary Housing Payment team, which has increased by five, costs and additional £140,000 per year and that other additional costs take the total to £250,000 per year.

71. There are therefore significant additional costs in managing the Discretionary Housing Payment system which fall on local authorities, and offset savings from housing benefit awards.

### **Demand v Supply**

72. Some of the local authorities from whom the committee took evidence had calculated the relevant levels of supply and demand for Discretionary Housing Payments after the initial Department of Work and Pensions allocation.

73. Aberdeenshire Council calculated as follows:

**Susan Donald (Aberdeenshire Council):** At the start of 2013, our discretionary housing payment budget was expected to be £401,738, of which the council contributed £241,043. That budget was less than half the estimated reduction in housing benefit that would arise from the introduction of the size criteria in the social rented sector and the benefit cap.<sup>31</sup>

<sup>30</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 19 November 2013, Col 1129](#)

<sup>31</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 19 November 2013, Col 1127](#)

74. Dumfries & Galloway had made a similar calculation

**Lorna Campbell (Dumfries & Galloway Council):** At the time, we did some estimates of the impact of welfare reform in Dumfries and Galloway. That incorporated size criteria restrictions and the impact of the benefit cap, increased non-dependant deductions and the change to the local housing allowance. We estimated that the impact on our tenants in the region would be around £1.1 million, so our DHP fund would not meet the overall demand.<sup>32</sup>

**75. The level of Discretionary Housing Payments originally allocated by the Department of Work and Pensions to deal with the transitional problems does not match the scale of the problem.**<sup>33</sup>

76. However the additional resources that have now been allocated appear to have made a significant difference:

**Lorna Campbell (Dumfries and Galloway Council):** With the announcement of the increased funding from the DWP in July—Dumfries and Galloway was fortunate enough to have a rural uplift of £488,000—and then the Scottish Government announcement of £970,000, the DHP fund for the area has been substantially increased. That has meant that we have twice revised our DHP policy and procedures for size criteria. We originally estimated a shortfall of £900,000 given the number of people impacted in Dumfries and Galloway. The fund means that we can now potentially meet the full need due to size criteria in Dumfries and Galloway.<sup>34</sup>

77. It is very difficult to assess at this midyear point, and with a variety of circumstances affecting different local authorities, to what extent the level of resources that have been allocated this financial year are sufficient to meet demand overall. It does appear to be the case that, in some areas of Scotland at least that have received rural uplift, the combined resources which are now allocated to Discretionary Housing Payments may be enough to meet demand in the short-term.

78. This is not to say that they do not remain significant issues on the ground. For instance, both the City of Edinburgh and South Lanarkshire councils reported that fully 50% of tenants affected by the 'bedroom tax' have yet to make applications for Discretionary Housing Payments.

79. However, the additional input of funding by the Scottish Government does appear to have markedly improved the situation.

<sup>32</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 19 November 2013, Col 1126](#)

<sup>33</sup> Alex Johnstone notes his dissent from this paragraph.

<sup>34</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 19 November 2013, Col 1126](#)



80. The Welfare Reform Committee therefore welcomes the additional £20 million Discretionary Housing Payments allocated by the Scottish Government for 2013-14 and 2014-15.<sup>35</sup>

81. On 21 January the Scottish Government published figures for the allocation of DHP by local authorities up to the end of November 2013.<sup>36</sup>

Table 3: Applications, Determinations, Awards and Total Award Value from 1 April to 30 November 2013

Local Authority	Applications	Determinations	Awards	Total Awards Value	Average Award
Aberdeen City	1,203	852	731	£ 541,797	£741
Aberdeenshire	961	940	866	£ 333,767	£385
Angus	606	543	388	£ 190,219	£490
Argyll & Bute	805	627	372	£ 254,782	£685
Clackmannanshire	550	534	351	£ 87,312	£249
Dumfries & Galloway	3,163	2,786	2,163	£ 756,204	£350
Dundee City	1,678	1,359	744	£ 386,738	£520
East Ayrshire	2,067	1,996	1,397	£ 287,702	£206
East Dunbartonshire	507	405	148	£ 90,103	£609
East Lothian	407	352	293	£ 147,759	£504
East Renfrewshire (Note 1)	396		422	£ 105,736	£251
Edinburgh City	4,304	3,440	2,431	£ 1,393,738	£573
Eilean Siar	297	297	284	£ 76,256	£269
Falkirk	1,024	986	660	£ 197,921	£300
Fife	3,970	3,610	2,769	£ 1,131,044	£408
Glasgow City	16,434	14,200	8,819	£ 2,675,972	£303
Highland	3,651	3,645	2,538	£ 1,392,573	£549
Inverclyde	1,256	1,154	753	£ 155,702	£207
Midlothian (Note 2)	466	466	490	£ 150,388	£307
Moray	381	331	298	£ 102,618	£344
North Ayrshire	3,038	3,032	2,127	£ 542,259	£255
North Lanarkshire	4,270	4,135	3,554	£ 703,261	£198
Orkney	131	125	125	£ 58,584	£469
Perth & Kinross	700	549	442	£ 181,235	£410
Renfrewshire (Note 3)	3,551	3,262	2,708	£ 582,675	£215
Scottish Borders	1,196	910	709	£ 248,418	£350
Shetland Islands	160	160	160	£ 82,525	£516
South Ayrshire	2,961	2,487	2,264	£ 311,832	£138
South Lanarkshire	2,505	2,444	1,950	£ 730,399	£375
Stirling	1,061	1,061	1,013	£ 465,943	£460
West Dunbartonshire	3,642	3,227	2,809	£ 648,366	£231
West Lothian	1,721	1,590	994	£ 352,034	£354
<b>Scotland</b>	<b>69,062</b>	<b>61,505</b>	<b>45,772</b>	<b>£ 15,365,860</b>	<b>£336</b>

Figures rounded to the nearest pound.

Note 1: The number of determinations is unavailable for East Renfrewshire.

Note 2: The number of awards may be greater than the number of determinations in the year to 2013/14 as a result of applications being pre-decided in advance of 1 April 2013.

Note 3: The number of applications includes 319 applications received prior to 1st April 2013.

82. The figures showed that local authorities have allocated 46% of the funds available at a point which is 67% through the financial year. However, as the report points out, the additional Scottish Government funds only became available in October 2013, one might expect an accelerated allocation in the latter part of

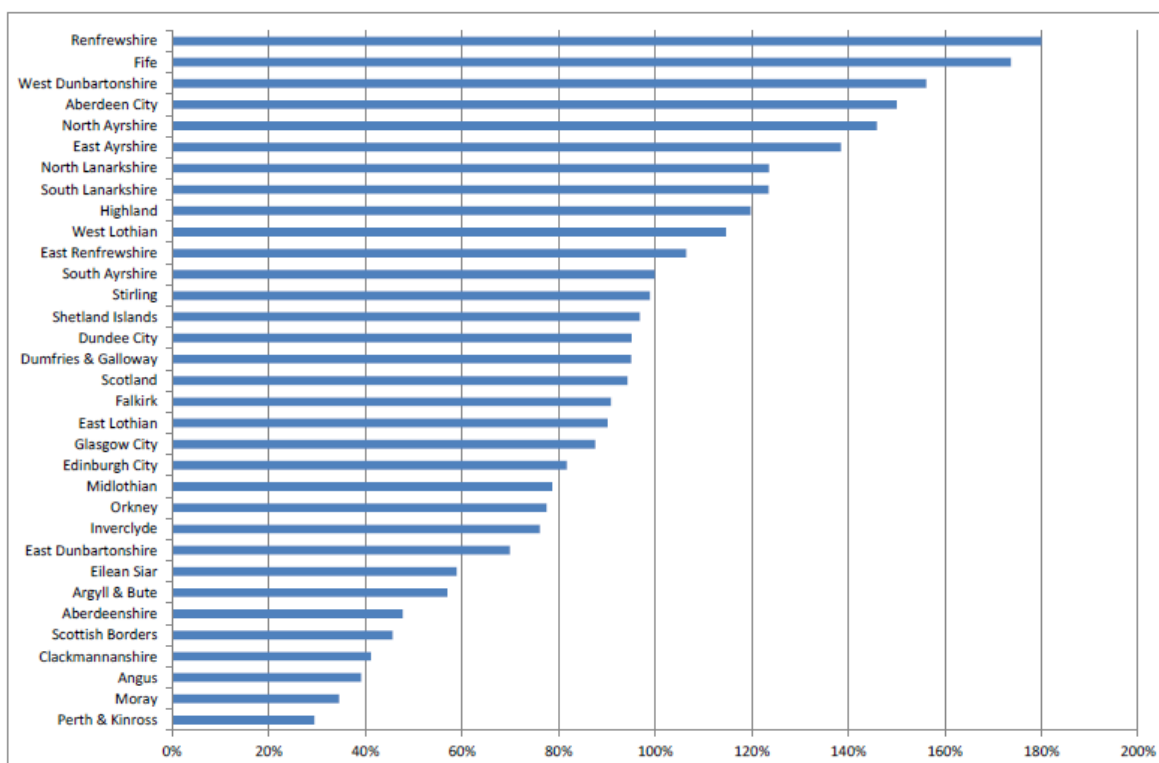
<sup>35</sup> Alex Johnstone notes his dissent from this paragraph.

<sup>36</sup> [Discretionary Housing Payments in Scotland: 1 April to 30 November 2013 - An Experimental Statistics Publication for Scotland, Scottish Government, 21 January 2014.](#)



the financial year. On this basis, local authorities have spent 94% of what one might expect at this point. Table 4 shows the pattern by local authority.

**Table 4: Actual Spend compared with Estimated Spend – Local Authorities**



83. Other notable features of DHP allocation are:

- Local authorities received a total of 69,062 applications for DHP.
- 45,772 DHP awards were granted, with an average award value of £336.
- The total value of these awards across Scotland was £ 15,365,860.
- 12 local authorities have the same or more compared to what might be expected and 20 local authorities have spent less.

### Longer Term

84. These figures present an interesting and useful picture at this point in time however, the Committee also suggests that at the end of the financial year the Scottish Government and Cosla undertake a thorough analysis of levels of supply and demand for Discretionary Housing Payments with a view to examining the adequacy of the current level of resources being allocated. Given the ceiling on additional contributions to Discretionary Housing Payments created by the Department of Work and Pensions formula (1.5 times the DWP contribution), more imaginative methods of dealing with the issue may be required (see Other short-term solutions below).

85. As the submission from South Lanarkshire Council put it:

The extent and nature of DHP payments has changed significantly in terms of assisting tenants affected by welfare reform. As well as the substantial increase in budget and applications in 2013/14, what was previously mainly a short-term measure to assist people in receipt of Housing Benefit in meeting housing costs is now seen as a way of assisting people over a longer period, in some instances until their circumstances change.

With DHP playing a significant role in assisting tenants affected by financial hardship and in the management of rent arrears, a key issue is the uncertainty around the continuity of this funding in the longer term.<sup>37</sup>

86. Local authorities are aware of the possibility that Discretionary Housing Payments may be reduced by 10% or more in 2014-5. In the current circumstances it is essential that the Department of Work and Pensions increases its current level of support.

**87. The Committee calls on the Department of Work and Pensions to confirm its allocation of funds for Discretionary Housing Payments for the next two years.<sup>38</sup>**

**88. The Committee also calls on the Department of Work and Pensions to increase its Discretionary Housing Payment allocation for Scotland to match the evident need.<sup>39</sup>**

#### OTHER SHORT-TERM SOLUTIONS

89. The Committee has been invited to consider further options for mitigating the impact of the 'bedroom tax' through two petitions that it has received. The Committee believes that there is merit in exploring other intermediate solutions to the problems created by the 'bedroom tax' and has been happy to examine these issues.

#### **Petition 1468: 'Evictions due to under occupation deductions'**

90. Petition 1468: 'Evictions due to under occupation deductions', lodged on 16 March 2013 calls on the Scottish Parliament to "urge the Scottish Government to amend Section 16 of the Housing (Scotland) Act 2001 to prevent social landlords from using rent arrears caused by under occupation housing benefit deductions in eviction actions, and instead requiring such under occupation arrears to be pursued as an ordinary debt." The Committee considered this petition on 12 November 2013.

91. The arguments for and against the approach suggested in PE 1468 were examined by the Committee. On the one hand the proposal would appear to guarantee a freedom from eviction for those generating 'bedroom tax' arrears and

<sup>37</sup> [South Lanarkshire Council written submission, November 2013, section 7.](#)

<sup>38</sup> Alex Johnstone notes his dissent from this paragraph.

<sup>39</sup> Alex Johnstone notes his dissent from this paragraph.

is supported by Cosla, the main landlord affected by the changes. On the other hand the proposal does appear to go further than the 'no eviction' policies introduced by individual local authorities in that most of these require the tenant to be 'engaging' with the local authority to be protected from eviction. It is also opposed by the other main landlord representative body – the Scottish Federation of Housing Associations – as well as housing professionals via the Chartered Institute of Housing. In addition Prof Gibb urged caution on the proposal.

92. Cosla's view was that:

**Councillor Harry McGuigan (Cosla):** .....it would be unfair to take eviction action against the victims of a policy that is unprincipled, unfair and unjust. Cosla leaders have agreed to support the proposal in the petition that the law be amended to remove that fear of eviction.<sup>40</sup>

93. However, other organisations representing landlords were firmly against the proposal:

**David Ogilvie (Scottish Federation of Housing Associations):** However, we are deeply concerned about the terms of the petition and the proposed bill. ... I think that the petition and the accompanying bill, which is out for consultation, could bind the hands of housing associations and take away their ability to adopt a flexible approach that is tailored to tenants' individual circumstances. I would have expected the Scottish Housing Regulator to be quite alarmed by that.<sup>41</sup>

94. The Committee is mindful of the plight of tenants affected by the 'bedroom tax' and believes that there is merit in providing guarantees of non-eviction. However, it is important that this is not achieved in a way that creates contagion in terms of other arrears and thus threatens the viability of social sector housing as a whole.

95. The value of the proposal may depend upon how local authorities no evictions policies translate into practice and how far Discretionary Housing Payments are able to meet the demands of those affected by the 'bedroom tax'. This will only become apparent over the coming months. The Committee will therefore return to this issue when it considers the Member's Bill proposal to which it has given rise.

#### **Petition 1496: 'Bedroom Tax Mitigation'**

96. Petition 1496: 'Bedroom Tax Mitigation', lodged on 3 October 2013, calls on the Scottish Parliament to "urge the Scottish Government to make approximately £50 million available to mitigate all effects of the bedroom tax in Scotland."

97. The Committee has examined this petition. The issue has been at the heart of its consideration of the role of Discretionary Housing Payments and the evidence contained in the section above is therefore very relevant.

<sup>40</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 12 November 2013, Col 1080](#)

<sup>41</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 12 November 2013, Col 1081](#)

98. In the current financial year £35.2 million is now available for local authorities to allocate in Discretionary Housing Payments to mitigate the impact of the 'bedroom tax', of which £20 million is provided by the Scottish Government. The petitioner requests that this figure be increased to £50 million. The origin of the £50 million figure appears to be the committee's own research, commissioned from Sheffield Hallam University, which measured the impact on Scotland of the various elements of welfare reform.

99. The petitioner, on behalf of the No2Bedroom Tax Campaign, seeks the following:

**Alan Wyllie (petitioner):** What can we do? We cannot repeal the policy—not here, anyway—so we need to mitigate the effects of the policy. Our petition presents the argument that the Scottish Government should fund the bedroom tax shortfall through a temporary funding measure that would ultimately protect tenants from eviction and debt. It would also protect the income streams of registered social landlords.

We do not specify a mechanism to distribute the funds, although we accept that DHP funding is at its maximum level. There could be a mechanism whereby the temporary funding measure could be distributed as a supplement to registered social landlords' revenue. That would instantly negate the massive problems that are being experienced in getting people to apply for DHP.<sup>42</sup>

100. There is a ceiling on the amount of assistance that can be given through Discretionary Housing Payments, which is 1.5 times the core Department of Work and Pensions contribution.<sup>43</sup> The £33.5 million total for 2013-2014 is therefore very close to the maximum allowable.

101. However, some local authorities are already diverting funds that they would have allocated to Discretionary Housing Payments to homelessness funds and other initiatives which will also mitigate bedroom tax problems. In theory therefore it may be possible the Scottish Government to contribute to this activity through grants to local authorities.

102. However, it was suggested by others that there may be significant practical problems with seeking to mitigate entirely the 'bedroom tax':

**David Ogilvie (Scottish Federation of Housing Associations):** On the broad principle, we and members of the SFHA clearly want to see a long-term resolution of the situation. That is a given.

We have not yet progressed to the point at which a mechanism for administering money has been designed or at which anybody has come to us with a mechanism that is absolutely foolproof. There are suggestions that there are ways round the issues by transferring resources to landlords, but I have yet to see evidence that would allow us to make a definitive statement in favour of or against that, so I will

<sup>42</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 28 January 2014, Col 1201](#)

<sup>43</sup> See paragraph 65 above

not go there—I simply cannot. However, the broad principle is that we need to do whatever we can to identify a mechanism.<sup>44</sup>

103. It would appear to be worthwhile for the Scottish Government to examine whether there are routes for it to support mitigation measures other than Discretionary Housing Payments. This will be particularly important if the Department of Work and Pensions reduces its Discretionary Housing Payment contribution in 2014-2015.

104. However, as the discussion of Discretionary Housing Payments above shows, it is very difficult at this point in time to determine the exact figure which will entirely mitigate the impact of the 'bedroom tax' and there are significant practical difficulties to be overcome. The research commissioned by the Committee from Professor Gibb also makes the point that it will be very difficult to make this assessment until a full year's figures are available, i.e. in April 2014.

105. The prudent way forward therefore would seem to be for the Scottish Government to make an assessment as soon as possible after 1 April 2014 of the amount of resources necessary to mitigate the 'bedroom tax', as well as examining non-Discretionary Housing Payment routes for support.

106. Whilst the Committee is clear that the 'bedroom tax' should be abolished, it does see the value in short-term mitigating measures and it welcomes the proposals that have come forward through petitions. It believes that there is merit in the Scottish Government considering its options, given that this is a dynamic situation.

**107. The Committee believes that the Scottish Government should explore further ways to mitigate the impact of the 'bedroom tax' in the short-term.<sup>45</sup>**

**108. Once the 'bedroom tax' has been operating for a full year in April 2014 it should consider whether £20 million is the appropriate amount to allow full mitigation, or whether there are other avenues to support local authorities and registered social landlords in meeting the challenges of the 'bedroom tax'.<sup>46</sup>**

#### LOCAL AUTHORITIES

109. Tenants, local authorities, housing associations, local voluntary and other agencies and the Scottish Government have in many ways borne the brunt of welfare reform changes and in particular the impact of the 'bedroom tax'. As Councillor Harry McGuigan put it:

**Cllr Harry McGuigan (COSLA):** As COSLA predicted, any saving to the UK Government is being passed on in the form of increased rent arrears to councils and registered social landlords and increased distress, pain, anxiety, worry and

<sup>44</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 28 January 2014, Col 1225](#)

<sup>45</sup> Alex Johnstone notes his dissent from this paragraph.

<sup>46</sup> Alex Johnstone notes his dissent from this paragraph.

any other terrible word we could use for the people at the sharp end who are experiencing the imposition of this dreadful tax.<sup>47</sup>

110. Local authorities have been impacted by the 'bedroom tax' in the number of ways:

- Arrears have risen causing concerns about cash flow and finances
- These in turn have caused concerns about their statutory responsibilities under the Housing (Scotland) Act 1987
- They have also had to cope with the rapidly escalating scale of the Discretionary Housing Payment regime.

111. The potential for increasing arrears has aroused the concern of the Scottish Housing Regulator, who has undertaken some initial research on this topic.

112. Scottish local authorities also face the prospect of having to meet their responsibilities to rehouse the homeless under the Housing (Scotland) Act 1987 with tenants who have lost their homes due to the 'bedroom tax' and other welfare changes, even potentially those they have themselves evicted.

113. In addition local authority staff have had to cope with a greatly increased workload in handling Discretionary Housing Payments, and with the amount of resources available changing through the year. As Lorna Campbell of Dumfries and Galloway Council reported: "Historically, benefit staff are used to change because there is constant change in the benefits world. However, the level of change this year has been unprecedented."<sup>48</sup>

114. At the same time council housing benefit staff are having to work under the assumption that the jobs will no longer exist once Universal Credit is introduced.

115. In the circumstances local authorities have acquitted themselves very well and are to be commended on their ability to respond to a very difficult situation.

**116. Tenants, local authorities, housing associations, local voluntary and other agencies and the Scottish Government have, in many instances, borne the brunt of the problems created by the 'bedroom tax', including the costs. The Committee commends these bodies on their response and in particular in dealing with the rapidly changing situation with regard to Discretionary Housing Payments.<sup>49</sup>**

## SOLUTIONS

117. The 'bedroom tax' is not popular in Scotland. Many organisations that have given evidence to the Committee have outlined their opposition to the legislation including those that are most directly affected.

<sup>47</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 12 November 2013, Col 1079](#)

<sup>48</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 19 November 2013, Col 1140-1](#)

<sup>49</sup> Alex Johnstone notes his dissent from this paragraph.

118. The Scottish Federation of Housing Associations in its original submission on petition PE1468 reported:

In common with other housing bodies across the UK, we opposed and lobbied against proposals to restrict tenants' eligibility for Housing Benefit relative to house size. We did so because the proposals are unfair and incompetent, not least due to the structural mismatch between the profile of stock and households which means there simply are not enough smaller houses.<sup>50</sup>

119. Jim Hayton on behalf of the Association of Local Authority Chief Housing Officers, in evidence to the Committee said:

**Jim Hayton (Association of Local Chief Housing Officers):** ... many people in the room are well aware of the damaging impact of the underoccupation penalty or bedroom tax. ALACHO is no exception; our members are housing officers and senior housing officers who work in councils and see and experience the policy's damaging impact every day.<sup>51</sup>

120. Similarly the Convention of Scottish local authorities is clear in its view:

**Cllr Harry McGuigan (COSLA):** COSLA is firmly opposed to the bedroom tax, which it considers to be ill conceived, ill-informed and unfair. We believe that it is unworkable and should be abolished. It will do nothing to increase the supply of housing in Scotland and the UK Government has not carried out an effective or credible impact analysis on its impact either up here or in other parts of the UK.<sup>52</sup>

121. Mike Dailly on behalf of Govan Law Centre reflected the views of many:

**Mike Dailly (Govan Law Centre):** I believe that there is general consensus in Scotland that the bedroom tax is a flawed and broken policy that is bereft of any redeeming qualities.<sup>53</sup>

122. Much has been done to ameliorate and mitigate the impact of the 'bedroom tax' in Scotland. This work – by individuals, groups, local authorities, charities, the third sector and the Scottish Government – is very much welcomed by the committee and has had real and positive outcomes. However, it has required considerable work and resources and necessary bureaucracy.

123. The 'bedroom tax' remains bad law. It is directed at those least able to pay. It attacks one of their basic human rights. It traps many in a situation where they cannot pay but cannot move. It is entirely possible that it will cost more to implement than it saves in public expenditure.

<sup>50</sup> [SFHA written submission, November 2013, para 2.1-2.2](#)

<sup>51</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 12 November 2013, Col 1078](#)

<sup>52</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 12 November 2013, Col 1079](#)

<sup>53</sup> [Scottish Parliament Welfare Reform Committee. Official Report, 12 November 2013, Col 1063](#)



**124. The Welfare Reform Committee believes that the only way to deal with the 'bedroom tax' effectively is to abolish it.<sup>54</sup>**

**125. The Welfare Reform Committee notes that the power to do so remains reserved to Westminster. The Committee therefore calls on the United Kingdom Government to abolish the 'bedroom tax' immediately.<sup>55</sup>**

**126. If it does not, the Committee believes that the Scottish Parliament should be given the powers and resources to abolish it.<sup>56</sup>**

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<sup>54</sup> Alex Johnstone notes his dissent from this paragraph.

<sup>55</sup> Alex Johnstone notes his dissent from this paragraph.

<sup>56</sup> Alex Johnstone notes his dissent from this paragraph.



**ANNEXE A: EXTRACT FROM MINUTES OF THE WELFARE REFORM COMMITTEE**

**13<sup>th</sup> Meeting, 2012 (Session 4)**

**Tuesday 13 November 2012**

**Universal Credit - housing issues:** The Committee took evidence on housing issues arising from the introduction of Universal Credit from—

Ken Milroy MBE, Chief Executive, Aberdeen Foyer;

Helen Barton, Customer Services Director, Albyn Housing Society;

Ian Ballantyne, Chief Executive, Scottish Veterans Housing Association.

**10<sup>th</sup> Meeting, 2013 (Session 4)**

**Tuesday 28 May 2013**

**Scottish Human Rights Commission:** The Committee took evidence from—

Alan Miller, Chair, Scottish Human Rights Commission.

**12<sup>th</sup> Meeting, 2013 (Session 4)**

**Tuesday 10 September 2013**

**Your Say - 'Bedroom Tax':** The Committee took evidence from—

Anne Bradley;

Lyndsay Ferry;

Scott Wilson.

**14<sup>th</sup> Meeting, 2013 (Session 4)**

**Tuesday 1 October 2013**

**Expert Working Group on Welfare and Constitutional Reform:** The Committee took evidence from—

Lynn Williams, Policy Officer, SCVO, Martyn Evans, Chief Executive Officer, Carnegie UK Trust, and Mike Brewer, Professor of Economics, ISER, University of Essex, Expert Working Group on Welfare and Constitutional Reform;

Merlin Kemp, Secretariat to Expert Working Group on Welfare and team leader of the Welfare and Constitutional Reform Team, and Susan Anton, Economist - Welfare Analysis, Scottish Government.

The Expert Working Group on Welfare and Constitutional Reform agreed to provide the Committee with further information in relation to the 2nd phase of their work.

**16<sup>th</sup> Meeting, 2013 (Session 4)**

**Tuesday 29 October 2013**

**Scottish Government's Welfare Reform (Further Provision) (Scotland) Act 2012 Initial Report - 2013 and the Gender Impact of Welfare Reform:** The Committee took evidence from—

Margaret Burgess, Minister for Housing and Welfare, Ann McVie, Team Leader, Welfare Division, and Susan Anton, Economist - Welfare Analysis, Scottish Government.

The Minister for Housing and Welfare made a commitment to provide the Committee with further information supplementary to the reports.

**17<sup>th</sup> Meeting, 2013 (Session 4)**

**Tuesday 5 November 2013**

**The 'Bedroom Tax' in Scotland:** The Committee took evidence on research it commissioned on the impact of the 'Bedroom tax' in Scotland from—

Professor Ken Gibb, Professor in Housing Economics and Director for Public Policy, University of Glasgow.

**18<sup>th</sup> Meeting, 2013 (Session 4)**

**Tuesday 12 November 2013**

**Public petitions: PE01468** The Committee took evidence on the following petition- PE01468 by Mike Dailly, on Evictions due to under occupation deductions from—

Mike Dailly, Principal Solicitor, Garry Burns, Prevention of Homelessness Caseworker, and Alistair Sharp, Prevention of Homelessness Manager/senior Coordinator, Govan Law Centre;

Jim Hayton, Policy Manager, Association of Local Authority Chief Housing

Officers;

David Bookbinder, Head of Policy and Public Affairs, Chartered Institute of Housing;

David Ogilvie, Policy Manager, Scottish Federation of Housing Associations;

Councillor Harry McGuigan, Spokesperson Community Wellbeing, COSLA.

### **19<sup>th</sup> Meeting, 2013 (Session 4)**

**Tuesday 19 November 2013**

**Early impacts of Welfare Reform on rent arrears:** The Committee took evidence on a research report produced by the Scottish Housing Regulator from—

Michael Cameron, Chief Executive, and Kirstie Corbett, Analysis and Research Manager, Scottish Housing Regulator.

**Discretionary Housing Payments:** The Committee took evidence from—

Annette Finnan, Head of Area Services (Housing), South Lanarkshire Council;

Cliff Dryburgh, Benefits Manager, City of Edinburgh Council;

Susan Donald, Benefits Manager, Aberdeenshire Council;

Lorna Campbell, Service Manager Revenues and Benefits, Dumfries and Galloway Council.

**Public petitions: PE01468** The Committee considered what action to take on PE01468 by Mike Dailly on behalf of the Govan Law Centre, on evictions due to under occupation deductions. The Committee disagreed (by division: For 2, Against 5, Abstentions 0) to write to the Scottish Government regarding the petition. The Committee agreed (by division: For 5, Against 2, Abstentions 0) to a proposal that, given the prospect of a Member's Bill on this proposal, the Welfare Reform Committee takes no further action on petition 01468 and closes its consideration of it.

### **20<sup>th</sup> Meeting, 2013 (Session 4)**

**Tuesday 3 December 2013**

**Decision on taking business in private:** The Committee agreed to take consideration of a draft report on the bedroom tax/under-occupancy charge in private at future meetings.

**Dunedin Canmore Housing Association:** The Committee took evidence

from—

Ewan Fraser, Chief Executive, and Graeme Russell, Housing Services Director, Dunedin Canmore Housing Ltd.

The witnesses agreed to provide further information on issues raised during the meeting. The Committee agreed to seek further information on whether the status of any Housing Associations had been downgraded due to welfare reforms.

**Public petitions: PE1496** The Committee considered its approach to PE1496 by Alan Wyllie on behalf of No2BedroomTax Campaign, on Bedroom Tax Mitigation. The Committee agreed to write to a number of organisations to seek their views on the Petition and will consider responses at a future meeting.

### **1<sup>st</sup> Meeting, 2014 (Session 4)**

**Tuesday 14 January 2014**

**'Bedroom Tax' (in private):** The Committee considered a draft interim report. Various changes were agreed to, and the Committee agreed to consider a revised draft, in private, at its next meeting.

### **2nd Meeting, 2014 (Session 4)**

**Tuesday 28 January 2014**

**Public petitions: PE01496** The Committee considered the following petition-PE01496 by Alan Wyllie, on Bedroom Tax Mitigation and took evidence from

Alan Wyllie, No2BedroomTax Campaign, and Jack Ferguson, Unite Scotland Community Coordinator, No2BedroomTax Campaign;

David Bookbinder, Head of Policy and Public Affairs, Chartered Institute of Housing;

David Ogilvie, Policy Manager, Scottish Federation of Housing Associations;

Jim Hayton, Policy Manager, Association of Local Authority Chief Housing Officers.

Alan Wyllie agreed to provide the Committee with further written information on the differences in local authorities use of Discretionary Housing Payments.

**'Bedroom Tax' (in private):** The Committee considered and agreed its interim report.

**ANNEXE B: ORAL EVIDENCE AND ASSOCIATED WRITTEN EVIDENCE**

**13<sup>th</sup> Meeting, 2012 (Session 4) Tuesday 13 November 2012**

[Oral Evidence](#)

Albyn Housing Society

Aberdeen Foyer

Scottish Veterans Housing Association

**10<sup>th</sup> Meeting, 2013 (Session 4) Tuesday 28 May 2013**

Written Evidence

[Scottish Human Rights Commission](#)

[Oral Evidence](#)

Scottish Human Rights Commission

**12<sup>th</sup> Meeting, 2013 (Session 4) Tuesday 10 September 2013**

Written Evidence

[Your Say submission – Anne Bradley](#)

[Your Say submission – Scott Wilson](#)

[Your Say submission – Linda Kennedy](#)

[Oral Evidence](#)

Anne Bradley

Scott Wilson

Lyndsay Ferry

**14<sup>th</sup> Meeting, 2013 (Session 4) Tuesday 1 October 2013**

Written Evidence

[Expert Working Group on Welfare and Constitutional Reform](#)

[Oral Evidence](#)

Expert Working Group on Welfare and Constitutional Reform

**16<sup>th</sup> Meeting, 2013 (Session 4) Tuesday 29 October 2013**

Written Evidence

[Scottish Government](#)

[Oral Evidence](#)

Scottish Government

**17<sup>th</sup> Meeting, 2013 (Session 4) Tuesday 5 November 2013**

Written Evidence

[Professor Gibb](#)

[Oral Evidence](#)

Professor Gibb

**18<sup>th</sup> Meeting, 2013 (Session 4) Tuesday 12 November 2013**

Written Evidence

[Govan Law Centre](#)

[SFHA](#),

[CIH](#)

[ALACHO](#)

[Oral Evidence](#)

Govan Law Centre

SFHA

CIH

ALACHO

COSLA

Supplementary Written Evidence

[Govan Law Centre](#)

[SFHA](#)

**19<sup>th</sup> Meeting, 2013 (Session 4) Tuesday 19 November 2013**

Written evidence

[Scottish Housing Regulator](#)

[South Lanarkshire Council](#)

[Oral Evidence](#)

Scottish Housing Regulator  
South Lanarkshire Council  
City of Edinburgh Council  
Aberdeenshire Council  
Dumfries and Galloway Council

**20<sup>th</sup> Meeting, 2013 (Session 4) Tuesday 3 December 2013**

Written Evidence

[Dunedin Canmore Housing Association](#)

[Oral Evidence](#)

Dunedin Canmore Housing Association

Supplementary Written Evidence

[Dunedin Canmore Housing Association](#)

**2<sup>nd</sup> Meeting, 2014 (Session 4) Tuesday 28 January 2014**

Written Evidence

[SFHA](#)

[CIH](#)

[ALACHO](#)

[Oral Evidence](#)

No2BedroomTax Campaign

SFHA

CIH

ALACHO

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