

Chapter 6: Delivering the LHA: Some continuing issues

Introduction

This chapter considers some of the longer-term issues relating to the delivery of LHA. These included elements of the administration of the safeguards; the rising incidence of rent arrears; uncertainty with regard to the impact on overpayments; the role of the LHA in relation to homelessness and the homeless service; and issues relating to the setting of the LHA rates for the city.

Administering the safeguards

It has been indicated that the PAs retained the role of principal liaison with regard to the new regulations, and devised the working practices around the implementation of the safeguards relating to vulnerability and rent arrears. By Wave One of the evaluation, the vast majority of representations on payments to claimants related to either vulnerability or rent arrears, although even by Wave Two there were still a small number of cases where either landlord or claimant had misunderstood the regulations and had applied without grounds for so doing. One of the PAs assessed each representation. Again by Wave One, some concern was being expressed that a number of cases seeking a vulnerability decision were being forwarded without supporting evidence either from a care worker, GP or other source. Although the PA were proactive in seeking information, it was often found that clients were 'falling through the net' to reappear later as arrears cases.

One point of tension emerged with local GPs making a formal representation to the council indicating their unwillingness to co-operate with the provision of evidence to support vulnerability assessments. As a consequence, the PA simply stopped using this route to secure information. This situation had changed by the time of the Wave Two visit, and it became possible for the PA to approach some GPs, albeit on selected cases rather than routinely and to secure oral rather than written evidence. Jobcentre Plus reported positively on the ability to pass on information to the PA about the vulnerability of particular clients, which was accepted on the judgement of the Jobcentre Plus staff without need for further investigation.

In addition, it was not always straightforward to secure from landlords the kinds of information needed to support a claim for rent arrears. Steps were taken to disseminate information on the information needed, through the local small landlords association. Even by the Wave Two visit, difficulties were still being encountered on this issue. Letting agents were generally better able to produce rent account documentation for particular tenants, but some landlords were still unaware of the need to keep up-to-date rent books. In order to contain difficulties with excessive rent arrears building up, landlords were being encouraged to contact the local authority before arrears had reached eight weeks, in order for direct payments to the landlord to be introduced as soon as the eight week period had been reached. An early representation from the landlord also prompted the PA to contact the claimant to remind them to pay the rent. This contact could help the Pathfinder Assistant assess whether in fact the claimant could be deemed vulnerable.

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By the Second Wave of the evaluation, the PA had built up sufficient expertise and experience to judge cases on the basis of minimal supporting evidence. Often it was possible to confirm information through telephone contact with the claimant, or a home visit. Nevertheless, there remained a preference for obtaining written documentation where possible and where the process would not impose unacceptable delays. The principle had emerged of being flexible with regard to assessment, not drawing any rigid boundaries on the types of evidence that would be excluded from the decision-making process. It was also the case that by the Wave Two visit, the assessment process had started to identify cases where a tenant had a history of rent arrears.

There were generally high levels of satisfaction with the work of the PA. Both PAs had been introduced on the understanding that many of their tasks related to 'bedding in' and the development of appropriate protocols. However, by the end of the evaluation period, it had become clear that their work was central to the ongoing successful implementation of the new regulations. The PAs offered to both landlord and tenant the opportunity of better access to information on the progress of claims affected by the safeguard arrangements. At the end of the Pathfinder period, central revenue support would no longer be available to support these posts, and decisions would have to be made about staffing resources around the long-term delivery of the LHA. Even if resources could be found to continue at least one post, questions remain about the concentration of almost all LHA expertise – particularly relating to the operation of the safeguards – with one individual.

The rising incidence of rent arrears

Table 6.1 indicates the proportion of payments made to landlords over the course of the evaluation period. At the beginning of the evaluation period, it was estimated that 60 per cent of payments were made directly to the claimant. At the end of the evaluation, in February 2006, the figure was 92 per cent. However, there was evidence over the period of a modest upward trend in the proportion of payments being made to the landlord.

Table 6.1: Payments made to the landlord

	Vulnerability [no.]	Arrears [no.]	History of arrears [no.]	Total number	Proportion of LHA payments to landlord [%]
March 2004	8	4		12	Not available
May 2004	31	16		47	4.0
September 2004	67	30		97	5.0*
January 2005	104	24	6	134	7.1
April 2005	112	31	9	152	7.6
January 2006	120	33	22	175	8.4

* This figure is for August 2004, and is taken from an administrative data report supplied by the council at Wave One. Other data are taken from monthly reports.

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The figures indicate that the nature of payments to landlords is gradually shifting, and that as the proportion of payments due to vulnerability has declined from 78 per cent in January 2005 to 69 per cent in 2006, so the payments due to arrears and history of arrears has increased. Although the rent arrears proportion has remained roughly stable, shifting from 18 to 19 per cent between January 2005 and January 2006, the proportion of claimants with a history of rent arrears has risen substantially, from 5 per cent to 13 per cent in the same period.

While the HB section were rigorous in their interpretation of the 8 weeks rent arrears rule as a basis for making payments to landlords, at the same time when notified of rent arrears at an earlier stage they would consider whether there were grounds for making payments to landlords under the vulnerability and history of arrears provisions. In that context it is clear that the HB section became far more ready to apply the history of arrears provisions over the course of the evaluation period.

Payments to landlords as a consequence of arrears were being kept under review. By the First Wave of the evaluation, two or three reviews had already taken place, and procedures were in place to diarise all cases for review after a twelve month period although this period could be shorter if so requested by the claimant. Direct payments to landlords were suspended in cases where the payment of the full LHA over time had reduced the standing arrears to below the eight week arrears level. As expertise in the area of administering payments to landlords, it became more routine for written documentation to be sought in the weeks prior to a case review being due, in order to prevent undue delays to the process.

The review procedure had become routine by the time of the Wave Two visit, and some 15-20 reviews were taking place monthly. A tenth of the review exercises resulted in a termination of the arrangement to pay LHA to the landlord, often because the arrears amount had been reduced to below the eight-week level. In some cases, payments to landlords had been put in place as a temporary measure, in order for the claimant to have more time to open a bank account, and once that task had been settled, then the payment started to be made to the claimant.

All these measures would act to minimise the number of cases of arrears, since active steps were being taken to review and remove no longer valid cases of arrears from the system of payment to landlord. However, despite these measures, the arrears cases were increasing, as were the numbers of claimants who were being recognised as having a history of arrears.

Overpayments

At the Baseline stage, the only overpayments data that were available conflated both PRS and housing association tenancies. In the five quarters between September 2002 and September 2003, a total of 679 overpayments were detected in the HB caseload. Of these, 69 per cent were for overpayments of over £20 a week. It was considered that most overpayments were arising as a consequence of unreported or belatedly reported changes of tenant circumstances, rather than being due to deliberate fraud. However, overpayments were pursued vigorously. In 2002-3, just £10,746 of overpayments were written off, representing 5.8 per cent of the outstanding overpayment.

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Any impact of the LHA on the recovery of overpayments has been slow to be felt. In part, this is due to the fact that reporting on overpayments takes place quarterly. However, the increased proportion of overpayments cases relating to tenants has meant a change in procedures. At Wave One more proactive steps were being taken to recover overpayments from other DWP benefits, as well as making deductions from ongoing HB payments. It was noted that the incidence of overpayments might reduce, overall, since the possibility of overpayments being generated as claimants move from one address to another is reduced where the payment has been standardised according to household size.

By the time of the Wave Two visit, an audit had been taken, demonstrating an increase in the proportion of unrecovered overpayments. The first quarter of 2004/5 indicated a recovery rate of 66 per cent, compared with 75 per cent in the period immediately prior to the introduction of the LHA. However, the audit did not lead to any revision in practice. Although it is possible to take steps to recover overpayments from ongoing welfare payments to claimants, the processes is slower, since the weekly amounts recoverable are small, and the amount of time needed to recover large overpayments can be protracted.

Indeed the housing benefit staff attributed a large part of the increase in the levels of unrecovered overpayments to that slower rate of recovery from tenants, as opposed to recovery from landlords. The long term impact on the level of arrears written off as unrecoverable was not therefore expected to fully reflect the rise in levels of currently unrecovered overpayments.

At the same time the recovery officers still felt that even at the completion of the Pathfinder period it was early days in the operation of the LHA in terms of trying to assess the full potential long term impact of the LHA on recovery operations. They were, however, clear that they would be looking at this carefully as they did their regular quarterly monitoring over the coming years.

Homelessness and the LHA

In Teignbridge, the PRS constitutes both a cause of housing problems and a solution to difficulties in accessing social housing. At the 2001 census, social housing accommodated around ten per cent of households, compared with a national average of 21 per cent. Many households in the PRS would prefer to rent from the council: prior to the introduction of the LHA, a high proportion of the households on the council housing register were private tenants. Difficulties in sustaining PRS tenancies were evident. Well over 40 per cent of all homeless applications to the council followed the termination of shorthold tenancies. One causal factor may be that conditions in the PRS in Teignbridge are poor relative to the other tenures. At the Baseline stage, the District was considering the introduction of a landlord accreditation scheme. At the same time, the District was actively pursuing Private Sector Leasing (PSL) as a way of alleviating local housing need.

Homelessness services in the District were subject to some change immediately prior to the Pathfinder, and from January 2004 have been delivered from a merged Housing and Environmental Health Department. The Pre-Tenancy Services team dealt with homelessness, operating a generic service split geographically – East and West. The Pre-Tenancy Services team had been briefed on the introduction of the LHA, but had anticipated that the impact of the regulation change would be minimal. However, there was some concern that the regulations would reduce the number of landlords willing to let property to the District under its PSL scheme. Overall, it was felt that the LHA carried some advantages to tenants, in promoting financial literacy.

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Welfare advice agencies in Teignbridge were unable to point to any direct consequences of LHA with regard to homelessness, beyond mentioning rare anecdotal instances of difficulties. For example, one tenant had approached the CAB because their landlord had issued a notice to quit as a consequence of rent arrears. The arrear had arisen because the account into which it had been paid had an overdraft.

There are some difficulties in isolating the possible impacts of LHA on homelessness in Teignbridge as a consequence of a number of changes, including the transfer of all social housing stock in February 2004 to Teign Housing, a transfer association. By the time of the Wave Two visit in May 2005, pressures on homelessness services were deemed to have increased. Factors leading to the increase included wider housing market pressures and rising house prices leading to some landlords selling their property.

However the local authority housing department did not itself view the LHA as a contributory factor to more pronounced problems with homelessness in the area. On the contrary, it was generally considered that the LHA had made it easier for claimants to undertake searches for appropriate property. It was also notable that a small new scheme for homeless households was now planned for development financed entirely through the LHA. This was being undertaken by a non profit organisation (but not a registered housing association), with funds raised on the strength of the anticipated rental income. It was felt that the greater clarity of the LHA scheme had contributed towards the confidence with which this scheme could be planned and funded.

While the local authority staff were very positive in their views of the LHA there are some concerns relating to the lack of any informed external review on the impact of the LHA on the incidence of homelessness, particularly given the highly pressurised nature of the local housing market.

Determining the LHA

The Rent Service had continued the task of reassessing the LHA for all property types in each of the six BRMAs, and some shifts in rent levels were evident over the LHA evaluation period, as seen in Table 6.2, which shows the changes for the Teign BRMA that forms the dominant part of the Teignbridge local authority areas.

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Table 6.2 Weekly LHA levels, and increases in LHA levels, in the Teign BRMA from December 2003 to January 2006

	Shared	Two rooms	Three rooms	Four rooms	Five rooms	Six rooms
LHA Levels (£ per week)						
December 2003	53.00	76.25	101.00	121.50	136.50	145.00
January 2005	60.00	82.00	109.00	131.00	148.00	160.00
January 2006	62.00	90.00	116.00	131.00	150.00	160.00
Increase in LHA levels between December 2003 and January 2005						
£ pw increase	9.00	13.75	15.00	9.50	13.50	15.00
Percentage increase	17.0%	18.0%	14.9%	7.8%	9.9%	10.3%

While in some cases, and especially for smaller dwellings, the increases were substantial, the TRS indicated that the increases reflected wider market trends, and not any specific impact of the LHA. While TRS and council officers were aware of a small number of individual cases where landlords had moved their rents towards the published LHA levels, there was no evidence of any substantial change, or any wider impact on overall market rents.

Moreover it was also the case that there were broadly similar levels of increase in the LHA rates in the BRMA areas that extended into the peripheries of Teignbridge, but that predominantly covered areas outside of Teignbridge, and where the LHA would not have been a factor. This can be seen in Table 6.3 below, which sets out the percentage increase in LHA levels over the evaluation period in the peripheral BRMAs. It is nonetheless noticeable that the increase in LHA levels in the Teign area was higher than the other BRMAs in respect of the one and two room dwellings, where HB claimants are a higher proportion of the total market.

Table 6.3 Percentage increase in weekly rental costs, January 2006 compared with December 2003 (%)

	Shared	Two rooms	Three rooms	Four rooms	Five rooms	Six rooms
Teign	17.0%	18.0%	14.9%	7.8%	9.9%	10.3%
Exeter	16.2%	16.2%	14.0%	8.4%	19.1%	22.0%
Plymouth Environs	14.9%	9.2%	5.6%	11.2%	11.6%	12.2%
South Devon	16.5%	10.6%	14.4%	7.7%	17.7%	5.5%
Tiverton & Crediton	16.0%	11.0%	20.4%	13.7%	20.5%	18.3%
Torbay	14.1%	15.2%	3.9%	8.4%	7.7%	5.2%

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TRS expressed some concern at the loss of access to individual property referrals, although they had increased the pursuit of market information from letting agents, and from newspaper and shop window advertisements. One difficulty remained, which was the lack of information on whether a particular rent was being supported by HB. In the majority of cases, without actual evidence one way or another, Rent Officers had to make a judgement themselves. The shadow determination exercise was delayed because of IT difficulties relating to the transfer of cases, but once it started it became evident that the market database had not been overly distorted by LHA-supported cases. There was some concern relating to the accuracy of the shadow determination exercise, since the officers could make no internal inspection of properties, and in particular were hampered in judgements made about multi-occupation properties.

There is also a question about the complexities arising from having six BRMA areas in respect of one local authority area, especially given that five of them only relate to the peripheries of the district, and only account for less than 5% of the total LHA caseload in Teignbridge.

Without in any way questioning the judgement of The Rent Service in drawing the BRMA boundaries on the basis of their judgment of housing markets, there is a clear administrative and policy case for considering some alignment with BRMA boundaries with local authority boundaries where this would not have any significant market consequences. The delivery of the LHA in Teignbridge would have been far simpler and transparent if they had only to deal with a single set of LHA rates for their whole area.

Chapter 7: Does the LHA carry significant administrative advantages

There are a number of dimensions to the administrative arrangements of the LHA that need to be considered to assess whether or not the LHA regime carried significant administrative advantages, and these have all been discussed in the preceding three chapters. This chapter draws those discussions together and focuses on the key questions set for the evaluation exercise.

Which, if any, aspects of the new regulations have had the greatest impact on the way in which the benefit is administered in terms of key areas such as the speed of claim processing, the detection of fraud and the incidence of overpayment?

While overall the LHA was considered to have some administrative advantages in relation to claim processing they were not considered substantial. It was also difficult to reach firm conclusions on this in Teignbridge due to the way the housing benefit section was organised, with caseloads initially distributed alphabetically, and then on a daily basis, rather than on the basis of either tenure or geography. Beyond the specialist pathfinder assistants the administration of LHA cases was effectively merged with the wider administration of housing benefit for claimants in all tenures.

Nonetheless the transparency and simplicity of the LHA regime was considered to be a positive factor in the administration of the scheme, both in making it easier to explain the scheme to claimants, and reducing queries from claimants around the level of payment they would receive. This benefit was seen to extend beyond the direct administration of the scheme, and was also appreciated by the local authority homeless staff, and the JobCentrePlus staff.

The cessation of the requirement to refer cases to The Rent Service was also seen as a bonus, albeit that during the course of the evaluation period shadow referrals were required for the purpose of the evaluation. In the case of Teignbridge this was not, however, seen as a factor that would have a significant impact on overall processing times, as in virtually all cases the time taken by the Rent Service to make determinations did not impact on the overall processing time; rather it removed one processing task that ran in parallel with other processing tasks that typically took longer to conclude.

The variations in performance in terms of processing time in Teignbridge over the evaluation period were seen to be primarily related to the positive impact of the cessation of regular review periods, and the irregular impact of staff sickness, which was difficult to manage within a very small establishment; the LHA was not considered to have had any significant impact.

Clearly the change to make payments predominantly to claimants rather than landlords led to a major change in the administration of payments, and involved the new tasks relating to vulnerability and rent arrears, and the decisions as to whether and when payments should be made to landlords. While these new tasks were time consuming and challenging they were not seen as a negative in terms of the speed of processing. These issues only arose in a minority of cases, and did not cause delays to payments being made, even if in a very small number of cases it took some time to reach a decision on whether it would be appropriate to make the future payments to the landlord.

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The housing benefit staff did not consider that the introduction of the LHA had had any noticeable impact on the detection of fraud, and at the end of the evaluation period felt it was still too early to reach a judgement on issues relating to the recovery of over payments. While the recovery process from tenants was considered to be slower, they were not clear that there would be any long term impact on levels of irrecoverable over payments.

Is the LHA in practice essentially equitable (fairer) as a way of delivering assistance with housing costs?

This question is essentially seeking a philosophical value judgement from the local authority staff and other involved parties. The clear view from the housing benefit, and other local authority staff, was that it was a fairer system, and supported both the key elements of the LHA scheme – the flat rate payments, and the presumption that payments should normally be made to claimants.

Against that there was some disquiet about the minority of cases where claimants received payments that were very substantially higher than the level of their contractual rent. There was also seen to be very little difference between the LHA and mainstream regimes in terms of the more restricted level of assistance provided to single people under 25.

Will it be possible to replicate practices relating to the setting of the LHA across all types of market?

Teignbridge is a relatively pressured housing market, with both house prices and rents at relatively high levels compared to local incomes. It is also an area where the housing benefit sub sector is a relatively small and dispersed part of the wider private rented sector. The local staff felt that the scheme worked well in Teignbridge. There were some concerns expressed, however, that landlord responses to the LHA could be more problematic in areas where the housing benefit sub sector dominated the local market.

Had the hoped for transparency with regard to the LHA administration been achieved, and have any administrative consequences that were unforeseen come to light during the evaluation period?

As indicated above the relative simplicity and transparency of the LHA regime, and the relative ease with which it could be explained to claimants was seen as a major advantage of the scheme, and one that was successfully delivered. It would have been that much easier still if only a single LHA rate had applied across the whole of the local authority area.

There were no major unforeseen administrative consequences that came to light during the evaluation period. It had not been fully anticipated that there would be difficulties associated with obtaining doctors views on vulnerability. Nor had it been anticipated that it would take so long to resolve the IT issues in respect of split payments.



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