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Date	18 December 2008

Dear colleagues,

Consultation on the Housing Benefit Amendment Regulations 2009

1. I am writing to consult you on the draft regulations that will underpin the proposed changes for the assessment of LHA rates for large properties in April 2009. We attach a draft copy of the amendments at annex A.
2. The Local Housing Allowance (LHA) was introduced for Housing Benefit customers in the de-regulated private rented sector (PRS) who make a new claim or move address from 7 April 2008. Essentially, the LHA is a new way of calculating Housing Benefit based on the area in which a customer lives and household size. LHA is designed to be a fairer way of calculating HB, as it is based on set rates of benefit and ensures that tenants in similar circumstances in the same area receive the same amount of financial support for their housing costs.
3. Currently, there is no upper limit to the size of property that a customer may be entitled to under the current LHA design. Since the introduction of the LHA, rent officers automatically provide monthly LHA rates to local authorities for different sizes of properties up to and including 5 bedrooms. Rates for properties of 6 bedrooms or more are requested on an individual basis by local authorities. However, the rent services have been experiencing problems in collecting sufficient rental data for larger properties and reported that rent officers have had real difficulties in arriving at LHA rates for larger sized properties.
4. You may be aware of the press coverage recently about a family who have been receiving very high rates of Housing Benefit to live in a property in London. There are a handful of similar cases in London where LHA has been providing for exceptionally high rates. Subsequently, the Secretary of State ordered an urgent enquiry into the payment of benefit in respect of properties with more than 5 bedrooms and announced the proposal to cap LHA rates at the five bedroom rate for all new customers with effect from 6 April 2009.
5. The proposed changes to these regulations will apply to:
 - Customers who make a new claim for Housing Benefit or move address in the private rented sector from 6 April 2009.
 - Existing customers in receipt of Housing Benefit assessed according to LHA rates for more than five bedrooms will continue to receive the same amount until their cases are reviewed (usually at the anniversary point of their claim). Housing Benefit will then be assessed according the five bedroom LHA rate,

although transitional protection will apply for up to 13 weeks at the higher rate of benefit.

6. I would be grateful for any comments on this draft legislation by 30 January 2008. We are interested in your views on the general policy of these changes and how you consider they would impact on your customers. We would also be pleased to hear your views on the detail of these amendments, including:
 - Our proposal to provide transitional protection for existing customers for a 13 week period.
 - The triggers that 'switch off' a customer's entitlement to transitional protection, namely, a change of address; when a customer becomes entitled to a smaller category of accommodation; when a customer is entitled to transitional protection because of a death (this is because the transitional protection because of a death is more generous and this will therefore be beneficial to the customer).
7. We are consulting Local Authority Association representatives and a number of other key stakeholders in similar terms. If you have any queries please don't hesitate to contact me.

Yours sincerely,

Kish Nathwani
Housing Benefit Strategy Division