

# Shelter submission to NatWest

## Policies towards renters in receipt of housing benefit

**Shelter is calling on NatWest and the wider Royal Bank of Scotland Group to take action to ensure their policies do not discriminate against renters in receipt of housing benefit.**

**Specifically, in order to be a responsible lender, Shelter recommends that NatWest:**

- **Remove any restrictions** which prevent any landlord, regardless of their number of properties, from renting to people in receipt of housing benefit.
- Apply this policy immediately to both **new and existing lending** and **train all relevant staff** on the new policy.
- **Inform all buy-to-let landlords** and mortgage brokers of this policy change and its immediate effect.
- Use their influence in the buy-to-let market to **call on other buy-to-let lenders** to remove any restrictions which prevent their landlords letting to people in receipt of housing benefit.

### Background:

Shelter is the UK's largest housing and homelessness charity. Last year we gave information, support and advice to millions of people experiencing bad housing and homelessness.

Our advice services are very concerned about the difficulty that many of our clients face in accessing properties in the private rented sector (PRS) if they are in receipt of housing benefit. Our research suggests that this problem is widespread and a recent survey of almost 4,000 private renters by YouGov found that almost a third of people receiving housing benefit said they hadn't been able to rent a home due to a 'No DSS'<sup>1</sup> policy in the last five years.<sup>2</sup> Given that there are over one million private renting households in England who receive housing benefit, this means that the equivalent of hundreds of thousands of people may have come up against this type of discrimination in recent years.

The most obvious barrier which prevents people in receipt of housing benefit accessing properties is private landlords' reluctance or refusal to let to them. A recent YouGov survey of more than 1,000 private landlords confirms this widespread prejudice – showing that a total of six in ten landlords would prefer not to rent to tenants on housing benefit, with four in ten landlords operating an outright ban.<sup>3</sup>

However, when you look at the reasons why landlords are reluctant to let to people in receipt of housing benefit, it becomes clear that this is an industry-wide problem. Often the reason that landlords are reluctant to let to people in receipt of housing benefit is because their letting agent advised them not to or because their mortgage provider or insurer does not allow them to.

We are therefore calling on everyone in the lettings industry, including buy-to-let lenders such as NatWest, to play their part in ending discrimination towards renters in receipt of housing benefit.<sup>4</sup> As set out in the sections below, we believe that 'No DSS' policies not only unfairly put people at risk of homelessness, but they are also likely to be in breach of the Equality Act 2010.

It is essential, therefore, that NatWest and the wider RBS Group use the opportunity of this review to ensure that their policies no longer contribute towards this discrimination by **immediately removing any restrictions on landlords renting to tenants in receipt of housing benefit and communicating this change to landlords and the wider mortgage industry.**

<sup>1</sup> The 'DSS' or 'Department for Social Security' is a defunct political department that was merged into the Department for Work and Pensions in 2001. Nevertheless, the term 'DSS' remains a common shorthand for welfare benefits, including housing benefit. 'No DSS' policies therefore seek to bar housing benefit claimants.

<sup>2</sup> YouGov, survey of 3,978 private renters in the UK, online, weighted, August 2017

<sup>3</sup> YouGov, survey of 1,137 private landlords in the UK, online, July - August 2017

<sup>4</sup> Shelter, [Stop DSS Discrimination – Ending prejudice against renters on housing benefit](#), August 2018

## **Buy-to-let lenders and ‘DSS Discrimination’:**

One of the most common explanations, which landlords and letting agents provide for why they do not let to renters in receipt of housing benefit, is that buy-to-let mortgage providers do not allow it. This is supported by Shelter’s research with private landlords as in our most recent survey, 13% of landlords say that the reason they bar or prefer not to let to people in receipt of housing benefit is because their mortgage provider or insurer will not allow it.<sup>5</sup>

However, engagement with the mortgage industry suggests that the majority of buy-to-let mortgage lenders, particularly the largest lenders, have now removed any restrictions to prevent landlords letting to tenants in receipt of housing benefit. These lenders have recognised the unfairness of ‘No DSS’ policies, particularly given the growing number of households in receipt of housing benefit who rely on the PRS as their only option for somewhere to live.

For example, both Nationwide and BM Solutions removed their restrictions over five years ago and have said the following about why they changed their policies<sup>6</sup>:

“Restricting letting to tenants on benefits does not fit with Nationwide’s ethos as a building society, because of the unfair disadvantage it implies. Our founding principles included helping people escape poor quality housing and ensuring everyone can access a safe and secure home remains at the heart of our business today.” **Paul Wootton, Director of Specialist Lending, Nationwide Building Society**

“As a longstanding supporter of the Buy-to Let Market, it’s important that we regularly review our lending policies to keep pace in what has become a rapidly changing environment. We also recognise our role in supporting the Private Rented Sector (PRS) and therefore our policies must reflect the needs of our customers, and supporting landlords whose tenants may be in receipt of benefits is considered within our lending policy at BM Solutions. The PRS is playing an increasingly important part in helping address the UK housing shortage and ensuring a broad range of tenants have access to the sector when they need it most.” **Phil Rickards, Head of BM Solutions**

Other lenders, including the leading specialist lender Paragon Banking Group, have never felt it necessary to restrict landlords from letting to people in receipt of housing benefit.<sup>7</sup>

“Paragon Bank has been active in the buy-to-let mortgage market since the mid-1990s and has a wealth of experience and data specific to the sector. We have always supported landlords letting to tenants in receipt of benefits, in part because we believe it’s a responsible business approach, but also because we have not seen any link whatsoever between mortgage arrears and the form of tenancy.” **John Heron, Managing Director – Mortgages, Paragon Bank and Chair of UK Finance’s Buy-to-let Panel**

UK Finance highlight that it is now only a minority of buy-to-let lenders, such as NatWest, who still operate any form of restriction. UK Finance recently surveyed their members on this issue. Thirty-three lenders responded to their survey and of those, 24 firms (comprising 80 per cent of the buy-to-let market) confirmed that they hold no restriction against tenants on benefits occupying their properties. Five lenders (ten per cent of the market) allow tenants on benefits when certain conditions are met – for example, if the landlord has demonstrated enough experience. Four lenders, making up the remaining ten per cent, do not allow tenants on benefits to rent their properties.

By continuing to operate restrictions against landlords letting to tenants in receipt of benefits, lenders such as NatWest are clearly behind the rest of the buy-to-let market. They are also actively putting people at risk of homelessness and putting themselves at risk of being involved in legal challenges for potentially breaching the Equality Act 2010.

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<sup>5</sup> YouGov, survey of 1,137 private landlords in the UK, online, July - August 2017

<sup>6</sup> Quotes provided by BM Solutions and Nationwide for Shelter’s research report, Stop DSS Discrimination, August 2018

<sup>7</sup> Quote provided by Paragon Bank for Shelter’s research report, Stop DSS Discrimination, August 2018

## The case for change:

### 'No DSS' policies are contributing to homelessness

'No DSS' policies are locking a significant number of private renters out of homes which they could otherwise afford and would be suitable for them. In our most recent survey of private renters, two-thirds of private renters in receipt of housing benefit say it is harder to find a decent, affordable home now than it was five years ago.<sup>8</sup> By restricting landlords from letting to tenants in receipt of housing benefit, lenders such as NatWest are directly contributing to these difficulties, making it harder for renters in receipt of housing benefit to access a home.

The recent case between NatWest and landlord, Ms McAleer, also highlights how lender restrictions can more directly put people at risk of homeless. After unknowingly breaching NatWest's policy of letting to a tenant in receipt of benefits, Ms McAleer was given the choice of evicting her vulnerable tenant or paying an expensive repayment charge to switch mortgages. Although Ms McAleer was prepared to challenge the fairness of NatWest's policy, many other landlords may have been unwilling or unable to do the same, which would have resulted in a vulnerable tenant losing the home – despite the fact that they had been an excellent tenant for many years. Any tenant who loses their home in these circumstances will then face the added difficulty of trying to find another home, with many landlords being reluctant or unwilling to let to them.

### 'No DSS' policies may breach the Equality Act 2010

Policies which prevent people in receipt of housing benefit from accessing homes are not only unfair, but they are also likely to be in breach of the Equality Act 2010. The Equality Act 2010 makes it unlawful to discriminate against anyone with a 'protected' characteristic – such as sex, disability or race. Under this law, you are protected from discrimination across a number of areas, including at work, in education and importantly, when buying or renting a property.

Looking at the demographic of who claims housing benefit there is evidence to suggest that some groups – for example women and people with a disability – are disproportionately affected by 'No DSS' policies. For example, analysis by Shelter shows that people claiming housing benefit are 2.5 times more likely to be in receipt of disability benefits than the general population.<sup>9</sup> Our analysis of official figures from the Department for Work and Pensions suggest that 59% of adults on housing benefit and living in private rented housing are women. Additionally, these figures show that 95% of single parents receiving housing benefit are female.<sup>10</sup>

In light of this analysis, we believe an outright ban on renting to tenants in receipt of housing benefit indirectly discriminates against women and people with disabilities. Therefore, these policies could be unlawful and open to legal challenge under the Equality Act. This argument was recently tested by Rosie Keogh, who with support from Shelter and the Bar Pro Bono Unit, took legal action against her letting agent. The letting agent admitted to indirect discrimination and agreed to settle out of court, and Rosie was awarded compensation.

In the first instance, legal challenges are likely to be against a landlord or letting agent, who are directly turning away renters in receipt of housing benefit. However, Shelter has received independent legal advice from a barrister which suggests that if a landlord blames their mortgage lender for their decision

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<sup>8</sup> YouGov, survey of 3,978 private renters in the UK, online, weighted, August 2017

<sup>9</sup> Due to the inability to cross refer disability and housing benefits on the DWP stats tool this data is taken from wave 7 of Understanding Society. Tenure data was matched to the Household identifiers for the individual respondents, and filtered by those within the PRS and claiming Disability Living Allowance. Total unweighted base is c.4,000 within this group. Data was collected January 2015 – January 2017. 12.7% of the HB population claimed a disability benefit, compared to 5.2% of the overall public.

<sup>10</sup> These statistics were calculated using caseload data published by the Department for Work and Pensions. Data is as of March 2018. The 59% of adults on housing benefit who are women is the estimated proportion of adult women in a private renting household with a housing benefit claim and assumes that half of the people in couples are women.

not to let to someone in receipt of housing benefit, the lender could be brought into the case as a second defendant.

As well as being open to legal challenge, restrictions on landlords letting to people in receipt of housing benefit may also be unenforceable in the eyes of the law. Section 142 of the Equality Act 2010 provides that a term of a contract that constitutes, promotes or provides for unlawful discrimination, may be unenforceable. We take the view that this may apply to mortgage terms.

In addition to the above, the Residential Landlords Association (RLA) have suggested that restrictions on letting to people in receipt of housing benefit could be in breach of a number of outcomes in the Financial Conduct Authority's (FCA) Treating Customers Fairly agenda. The RLA have written to the FCA and the Treasury calling on them to investigate this and take action to address it.<sup>11</sup>

To avoid the risk of being caught up in legal challenges over the legality of 'No DSS' policies, Shelter would encourage all lenders to immediately remove any restrictions which prevent landlords from letting to tenants in receipt of benefits. This should be applied to both new and existing lending and should be communicated to landlords so they are aware of the change. If NatWest and the RBS Group fail to remove restrictions from both new lending and existing lending, following this policy review, then they will be leaving themselves open to legal challenge.

**The impact of removing 'No DSS' policies:**

As well as there being a strong moral and legal case for lenders, such as NatWest, to remove any restrictions which prevent landlords renting to people in receipt of housing benefit, evidence also suggests that there will be limited impact on lenders from making such a change.

As set out above, the majority of lenders in the buy-to-let market have already changed their policy towards renting to people in receipt of housing benefit. In Shelter's engagement with lenders about this issue, no lender has suggested that making this change (or not having a restriction in the first place) has had an impact on the level of buy-to-let arrears. Paragon Bank highlight that they have never seen any connection between the type of tenancy and the level of arrears.

This is supported by results from Shelter's private landlord survey. As shown in the table below, landlords letting to tenants in receipt of housing benefit, are just as likely to say they are in profit as landlords who are letting to other tenants. This result holds for landlords with a buy-to-let mortgage and landlords without a mortgage.

|  | Landlords with a mortgage renting to tenants not on housing benefit | Landlords with a mortgage renting to tenants on housing benefit | Landlords without a mortgage renting to tenants not on housing benefit | Landlords without a mortgage renting to tenants on housing benefit |
|--|---|---|--|--|
| <b>Base</b>  | 362   | 107   | 520  | 96   |
| <b>Landlords who say they are in profit</b>                                      | 73%   | 75%   | 84%  | 88%  |
| Source: YouGov survey of 1,137 UK private landlords, online, July - August 2017. |   |   |  |  |

<sup>11</sup> RLA press release, [Time to end banks' discrimination against renters on benefits](#), October 2018



## Recommendations to NatWest:

Based on the case for change set out above, Shelter urges NatWest and the RBS Group to take action to **immediately remove any restrictions in their policies which prevent landlords from letting to people in receipt of housing benefit**. To avoid the risk of being caught up in any form of legal challenge, this policy change should apply to **existing lending as well as new lending** going forward and **all relevant staff should be trained** on the new policy. It is also essential to **communicate the new policy to all NatWest and RBS Group landlords** so there can be no confusion as to whether they are allowed to let to tenants in receipt of housing benefit. The change should also be **communicated to mortgage brokers**, so new potential landlords can be accurately informed of NatWest's and the RBS Group's policy.

Shelter would also encourage NatWest and the RBS Group to seek to **use their influence in the buy-to-let market to persuade other lenders who still operate restrictions to change their policies**. The case with Ms McAleer shows how damaging these policies can be – therefore NatWest should encourage other lenders to learn from this case to ensure other landlords and tenants are not put in the same position as Ms McAleer and her tenant.

If NatWest are prepared to commit to the recommendations in this submission, Shelter would be very keen to celebrate this publicly and explore how we could work together to achieve further positive change in the buy-to-let market.

## Contact:

For more information about this submission, please contact Chris Thorne ([chris\\_thorne@shelter.org.uk](mailto:chris_thorne@shelter.org.uk))