EXPLANATORY MEMORANDUM TO

THE HOUSING BENEFIT (LOSS OF BENEFIT) (PILOT SCHEME) REGULATIONS 2007

2007 No.

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument sets up a pilot scheme to test a sanction of Housing Benefit (HB) following eviction on grounds of anti-social behaviour and a refusal to accept support offered to tackle that behaviour. The sanction will be piloted in eight local authorities for two years starting 1st November 2007.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 This instrument implements Section 31 of the Welfare Reform Act 2007. This section creates a pilot scheme for the sanction of housing benefit when certain conditions are met. These are:

- The former occupier has been evicted on grounds of anti-social behaviour
- The former occupier has secured alternative accommodation and a new claim to housing benefit has been made
- The former occupier has been issued with a warning notice requiring the former occupier to take specified action to avoid a sanction of housing benefit
- The former occupier has failed without good cause to comply with the warning notice

4.2 It also provides for the maximum duration of any sanction; conditions under which a sanction may stop and start again; specifies the contents of the warning notice; and how couples are to be treated under the sanction.

4.3 Section 31 also allows the Secretary of State to make regulations providing detailed rules including the rates of reduction; what should be taken into account when determining whether or not there was good cause not to comply with a warning notice; and what information should be shared between the Secretary of State, the Courts and

authorities administering the sanction in order for the scheme to operate properly.

4.4 Regulations made under this section will be the first time such powers are exercised.

5. Territorial Extent and Application

5.1 The power under which the Regulations are made extends to Great Britain. The instrument applies to England and Wales, but the pilot schemes areas are in England only.

6. European Convention on Human Rights

James Plaskitt, the Parliamentary Under-Secretary of State, has made the following statement regarding Human Rights:

In my view the provisions of the Housing Benefit (Loss of Benefit) (Pilot Scheme) Regulations 2007 are compatible with the Convention rights.

7. Policy background

7.1 **Policy**

7.2 Anti-social behaviour remains a key area of concern for the public and can blight the lives of individuals and whole communities. It is estimated that anti-social behaviour costs public services £3.4 billion each year.

7.3 The Respect campaign is a cross-Government programme to tackle anti-social behaviour and its causes and to promote positive behaviour. One of the commitments in the Respect Action Plan, launched in January 2006, was to consider how to encourage those involved in persistent anti-social behaviour to engage with intensive family support. This developed into the policy of introducing a sanction of housing benefit for those people who have been evicted for anti-social behaviour and then refuse to take up offers of help. The aim is to provide a very strong incentive to encourage these households to undertake rehabilitation when they have refused other offers of help.

7.4 These households have and create multiple problems. The cost to the taxpayer can be between £250,000 and £350,000 per family per year for a range of interventions by public services including social, children's and housing services, policing, court services, criminal justice agencies and others. (Source Communities and Local Government (2006) 'Anti-social Behaviour Intensive Family Support Projects: An evaluation of six pioneering projects'. Department for Communities and Local Government: London.)

7.5 The Secretary of State for Work and Pensions is also keen to reinforce the link between rights and responsibilities in the benefit system by

encouraging a "something for something" society. The right to housing benefit must come with the responsibility to be a decent neighbour.

7.6 The intention is to pilot the scheme for 2 years in eight local authorities. These regulations only apply to the pilot areas. The enabling power is time-limited and will come to an end 31 December 2010. For a scheme to be in place after this date primary legislation would be required.

7.7 **The Housing Benefit (Loss Of Benefit) (Pilot Scheme) Regulations 2007**

7.8 The Regulations would allow the pilots to run for two years starting from 1st November 2007.

7.9 Under the regulations, if the conditions laid out in the primary legislation are satisfied, Housing Benefit will be gradually reduced in three phases:

- By 10% for four weeks
- By 20% for the next four weeks
- By 100% until the end of the pilot period

7.10 However, if the person falls into the category of a "person in hardship" the maximum reduction during the third phase is 30%. Regulation 5 defines who is to be considered a "person in hardship" and this definition borrows heavily from the Jobseekers Allowance Regulations 1996 (SI 1996/207). For the criteria relating to carers in Regulation 5(3)(d) the phrase "a considerable portion" has been used rather than a set number of hours. The phrase is not defined and guidance will be issued that it is to be given its ordinary meaning of "a large or significant part". This is because caring responsibilities may fluctuate over time depending on the needs of the person being cared for. It is designed to allow each case to be considered on its own merits and allow maximum flexibility.

7.11 In practice the local authority will have met with the majority of these households and offered support to them prior to eviction. Many household cooperate at this stage and avoid eviction but there is a hard to reach group for whom the threat of eviction is not enough. As part of the scheme, eviction and a sanction of future housing benefit will be raised as possible consequences of not cooperating with support at this stage. It is hoped that this combined threat will increase the number who cooperate prior to eviction.

7.12 However, there will continue to be some households evicted for anti-social behaviour. Post eviction, the local authority may engage with the household. At this point an assessment will be made of the needs of the household and an action plan drawn up in cooperation with the

household. If the household accepts the help at this stage and continues with the programme of support then no sanction of housing benefit would be made. If they choose not to cooperate then the local authority can issue a sanction warning notice which will warn the household that housing benefit will be reduced if they do not carry out the actions listed in the notice in the timescale stated.

7.13 If the household then does not comply with the warning notice then the sanction will be applied unless the claimant can show that they had a good reason not to.

7.14 The household can bring the sanction to an end at any time by complying with the notice and taking up the offer of support. The local authority also has the discretion to bring the sanction to an end if it considers that it should no longer apply.

7.15 If the household initially cooperates then stops doing so then the sanction can be restarted at the rate it had been applied at before.

7.16 The proposed regulations would amend the Social Security (Loss of Benefits) Regulations 2001 so that where another sanction is being applied to the household's housing benefit for the commission of benefit offences then the rate of reduction that will apply is the greater of the two rates.

7.17 The Schedule to the regulations lists the Local Authorities where the pilots will take place. Only claimants in these local authorities may be subject to the sanction of reduced Housing Benefit.

7.18 For the Pilot scheme to work, further regulations, **The Housing Benefit (Loss of Benefit) (Pilot Scheme) (Supplementary) Regulations 2007** are required.

7.19 Although subject to the negative procedure, for the sake of completeness details of the Supplementary Regulations are also included.

7.20 Like the affirmative regulations referred to above, these regulations apply only in the pilot scheme areas. They supplement the affirmative regulations by providing certain details as described below.

7.21 They provide that the warning notice requiring the former occupier to take specified action to avoid a sanction of housing benefit must be in writing.

7.22 Where the claimant has not carried out the specified actions contained in the warning notice there may be good cause for this. The regulations specify what may and may not be taken into account in determining good cause. These borrow heavily from the Jobseekers Allowance Regulations 1996 (SI 1996/207).

7.23 A Discretionary Housing Payment cannot be paid where hardship arises because a sanction under the new section 130B has been applied.

7.24 The proposed regulations contain a number of provisions allowing information to be shared between the Courts, Secretary of State for the Department for Work and Pensions and Local Authorities and their agents. For the pilot schemes to work effectively it is intended that information will be shared as follows:

- Firstly, the court must inform DWP that there has been a possession order on grounds of anti-social behaviour.
- DWP will keep these details in a database and regularly scan the housing benefit claims database for new claims by a member of the evicted household.
- DWP will inform the local authority where a claim has been made that there is a household that meets the initial criteria for the sanction.
- The Local Authority must inform DWP of actions taken in relation to the sanction.
- If a household moves from one pilot area to another at any stage of the process it will be necessary for those authorities and their agents to share details relevant to the application of a sanction.

7.25 **Consultation**

7.26 Stakeholders' views on the proposal were sought through written consultation and stakeholder meetings. Stakeholders included organisations relating to children, housing and homelessness, mental health, citizens advice, landlords and Local Authority Associations. Responses were largely negative with concerns raised about the effect of the measure on vulnerable groups. In response officials met with stakeholders and were able to allay most of their concerns and many have agreed to be involved with the formulation of guidance.

7.27 The Social Security Advisory Committee was consulted on 9 May. They raised concerns over how a sanction might be applied to an innocent member of a household who was a victim of anti-social behaviour, and the equity of piloting a scheme that would mean people in some parts of the country could be subject to a policy that might reduce their benefit.

7.28 Formal consultation with the local authority associations took place over six weeks from 3rd May 2007. Most responses were from those concerned about the added complication to the benefits system. There were also some minor drafting points made but there were no major concerns raised.

7.29 **Guidance**

7.30 Detailed guidance will be provided for Housing Benefit administrators, the Courts and local authority co-ordinators. This will be drafted in conjunction with the piloting local authorities and with relevant stakeholders. The first draft of guidance should be available from around August but it will be a work in progress throughout the pilots as best practice emerges.

7.31 In addition, details of the measure will be included in information for tenants of Local Authorities and they will also be working with local Registered Social Landlords to ensure that their tenants are aware of the measure.

7.32 **Consolidation**

7.33 There are no plans to consolidate these regulations with other instruments as they are time limited. Also, this measure is a pilot and we will await the outcome before considering rolling out the measure when consolidation might be appropriate.

8. Impact

8.1 These regulations have a negligible indirect impact on business, charities and the voluntary sector. However, an assessment of the impact of the provisions in these regulations is included in the Regulatory Impact Assessment that accompanied the Welfare Reform Bill. A copy of that assessment has been placed in the libraries of both Houses of Parliament. The relevant extract from that RIA is annexed to this Explanatory Memorandum.

8.2 Due to the anticipated small number of cases where a sanction would be applied, the impact on housing benefit administration is expected to be minimal.

9. Contact

Michelle De Cort at the Department of Work and Pensions Tel: 0207 712 2550 or e-mail: Michelle.de-cort@dwp.gsi.gov.uk can answer any queries regarding the instrument.

Annex

Welfare Reform Bill, Regulatory Impact Assessment.

RESPECT AGENDA

HOUSING BENEFIT ANTI-SOCIAL BEHAVIOUR MEASURES

Purpose and intended effect

Objective

To test a new way, through piloting, to tackle ASB caused by people on Housing Benefit, which will encourage them to take steps to address the underlying causes of their behaviour. The measure would send a message that the right to receive Housing Benefit comes with a responsibility to behave in an acceptable way. This measure is not intended as a primary way to tackle problem behaviour but rather is a measure that will complement earlier interventions.

Background

Anti-social behaviour (ASB) remains a key area of concern for the public and can blight the lives of individuals and whole communities. It is estimated that ASB has a total cost to public services of £3.4 billion each year. The Government is determined to tackle ASB. The Respect Action Plan published on 10 January 2006 builds on progress already made by the ASB strategy by setting out new proposals that represent a cross Government commitment to enforce a modern culture of Respect. The aim of the Respect Agenda is to provide all those dealing with ASB in England with a further range of tools that enable them to tackle problems in their area. Scotland and Wales have their own strategies for tackling ASB. This measure relates to Housing Benefit, which is reserved, and will apply in all of GB.

Evicting people is discouraged as a way of dealing with ASB. It simply displaces the problem and should normally be a step of last resort. However, in certain cases landlords may feel that it is the right solution for a particular tenant, perhaps if other methods have been tried and failed, or where behaviour is so bad that eviction must be sought. Only a very small proportion of tenants are evicted each year for ASB. However, it is likely that those concerned will be problem tenants who have made their neighbours lives a misery and who need help in order to change their behaviour and re-establish a normal tenancy.

Rationale for government intervention

We know that the ASB of ‘problem tenants’ can severely disrupt the quality of life of whole communities. The current response to these people can be inadequate and uncoordinated. The Respect Action Plan sets out the need to identify these families early and have them handled by one lead official who firmly manages whatever action is needed to affect change. New effective methods for responding to, and working

with, these tenants range from intensive family support delivered by workers who co-ordinate services and act as key-workers for the family, to residential programmes such as the Dundee Families project model. There is good evidence that intensive support projects with tailored support, supervision and sanctions are effective in improving the behaviour.

The proposal to sanction benefit builds on the measures set out in the Respect Plan. Early interventions to help people before their problems get out of hand are preferable, however, the proposal to sanction benefit is intended to encourage people to take up rehabilitation when, for whatever reason, they have slipped through the net or help has not been effective at an earlier stage.

Consultation

Even if rolled out nationally, this measure could only affect people evicted for ASB each year; DCLG estimate that for England and Wales this is a maximum of 1500 tenants. The figure for Scotland is around 40. Therefore the measure is not likely to impact significantly on business, the public sector, charities, the voluntary sector or on a specific sector or sectors of the community. Additionally, as the intention is to pilot in the first instance, the numbers affected will be much lower than the 1500 set out above. Therefore the Government does not think a full public consulation is justified.

However, the Government intends to write to key stakeholders seeking their views as it develops detailed proposals. In addition, DWP has a statutory duty to consult on changes to Housing Benefit legislation with the Local Authority Associations and this will take place in the normal way.

Options

Option One: Do not sanction benefit

A decision not to sanction would mean that the pilots would no go ahead and the Government would be unable to assess the effectiveness of the measure, particularly in relation to how a sanction might sit with intensive family support projects being rolled-out by the Respect Task Force. Neither could we, if desired, judge its impact in Scotland or Wales. Not sanctioning in the longer term could mean that people evicted for ASB could simply move, claim state support for new accommodation and their behaviour and impact on neighbours would continue unchecked. Doing nothing also raises the question about whether it is right for taxpayers to support the housing costs of someone who behaves badly towards their neighbours.

Not sanctioning Housing Benefit could mean:

- Anti-social families evicted and in need of help may not receive it;
- Communities would still suffer;
- On eviction, people could simply move to another area and behave as before.

Option Two: withdraw or reduce payment of Housing Benefit to anti-social tenants who have been evicted and who refuse to engage with the local authority for rehabilitation purposes.

This option proposes to withdraw payment of Housing Benefit to people who have lost their tenancy due to ASB **and** who refuse to engage with the local authority and take part in a suitable package of rehabilitation.

Early intervention is the key to tackling ASB. However, some people will slip through the net. The intention is to engage with people in need of support who have not been previously helped by rehabilitation – perhaps because there has not been a co-ordinated approach to their needs or because they have simply refused.

Certain conditions will need to apply before a benefit sanction can be applied:

- The first condition that is a court makes a possession order on grounds of ASB (or issues a warrant following such an order being made);
- The actual eviction of that household; and
- That the person refuses to work with the local authority for the purpose of being assessed for rehabilitation or refuses to comply with any package of rehabilitation offered. If this is the case, and it considers it appropriate, the local authority will issue a "sanction warning" and if the person refuses to comply with it, a sanction will follow.

The intention is that the sanction will be tenure neutral in that it will cover both private rented and social sector tenancies.

The Government does not intend to legislate for how the offer of rehabilitation will work as this falls within existing powers and processes. However, Ministers envisage it could work in the following way, although it will, of course, be for local authorities to determine their own processes:

Offer of rehabilitation

- In **every** case where a possession order has been made on the grounds of ASB, the intention is that the tenant should attend an initial meeting where they will be given the chance to discuss their position and engage with rehabilitation services. At the same time they will be told that they could be sanctioned if they do not.
- If they agree to co-operate, then a package of rehabilitation will be drawn up, ideally co-ordinated by a key worker taking into account the needs of the whole family and the community. It will be delivered with no further involvement of benefit sanctions.
- However, if they refuse to co-operate, the local authority will have to decide if a sanction would be an appropriate tool in their case. The authority would take into account the circumstances of those involved and their needs, such as whether the person involved had mental health issues and needed to be referred to specialist services, or whether instead another tool such as an ASBO or Individual Support Order would be more effective. The local

authority would also consider the impact of a sanction on the person and any family members, especially if there are children in the family.

- If they decide that a sanction is appropriate, the local authority can issue a "sanction warning". This will explain what they need to do to be treated as complying. Refusal to comply with the warning will lead to a benefit sanction if benefit is in payment already or is subsequently claimed.

Where a sanction is imposed, payment of Housing Benefit will be withdrawn or payable at a reduced rate for a defined period. The sanction will be a 10% reduction of benefit for 4 weeks, followed by a 20% reduction for 4 weeks, followed by a total removal of benefit for a maximum of 5 years, or until the claimant complies with the rehabilitation. For those people in vulnerable categories (for example those with caring responsibilities, or where a member of the household is pregnant or seriously ill), hardship rates will apply. In these cases, the sanction will be the same for the first 8 weeks but then instead of a complete removal it will reduce benefit by 30% for the rest of the sanction period.

Although some other benefit sanctions remove a smaller proportion of benefit, the Government feels that if this sanction is to be effective in persuading people to take up rehabilitation, it must be set at a level sufficient to achieve this. The fact that the sanction will be staggered, and the fact that if the person engages with the rehabilitation after the sanction has started the sanction will stop, offers those people sanctioned the chance to change their mind and receive benefit. However, if they then drop out of the programme, the sanction will be re-imposed and will run for the balance of the sanction period unless there is further compliance.

The local authority or their representative will decide whether a person is simply going through the motions to avoid being sanctioned, or if they are genuinely trying to co-operate with rehabilitation, even if attendance is variable. Good cause will be defined in regulations and broadly follow the existing "good cause" rules for other social security sanctions.

Once the sanction has run its course, or rehabilitation is taken up, Housing Benefit can be paid in the normal way. The sanction can be applied at any time within a five-year period beginning with the date on which the possession order is made or warrant issued. After this time, a sanction can no longer be applied.

Costs and benefits

Option one: sectors and groups affected

Option one would impact on a similar group of people as for Option two, set out below. There would clearly be no need to change current working practices but this could also mean that the time spent and costs incurred in tackling ASB would continue.

Benefits

The benefits of maintaining the current position would be that it would require no change to legislation, allowing LAs to continue with established processes or develop other ways to tackle ASB.

Costs

As part of developing proposal in the Respect Action Plan, work is underway to try and better understand what 'problem families' cost. Over years, if behaviour is not tackled, their cost will be high compared to other neighbours. Not introducing a sanction could mean that a number of families with problems avoid the intensive support that they need. In the long term, the Government believes that tackling such families is cost effective.

Option two: Sectors and groups affected

The proposal will mainly impact upon local authorities. In particular:

- People identifying and tackling ASB;
- Housing teams;
- Social services;
- Homelessness sections;
- Organisations providing financial advice;
- Voluntary sector organisations providing rehabilitation schemes;
- Housing Benefit staff.

The impact on voluntary groups is estimated to be minimal because of the small number of cases involved. Voluntary sector groups may already be involved in assessing people for rehabilitation but this proposal will place no new burdens on them in relation to this. There may also be a need for advice groups to advise tenants who have been evicted, or give benefit or financial advice but again, because this is a last resort measure, many of the tenants may have already sought previous advice.

There will be an impact on landlords if they take on a tenant who has a benefit sanction. The effect will be that the tenant may be unable to meet the full rent liability and the landlord will need to pursue these arrears. There is no information collected on the number of tenants evicted for ASB from the private rented sector as the presumption is that landlords tend to use other grounds to evict. The 1500 people the Government estimates are evicted for ASB each year are all from the social rented sector. The impact on landlords is something that the Government would test fully as part of the evaluation of the measure.

It will have an impact on the people who have committed ASB and who are on benefit. Housing Benefit is payable to people with a rent liability who meet the eligibility conditions. Currently, almost 4 million people in Great Britain receive Housing Benefit and it can be paid to pensioners, families and people of working age. Some 0.80 million of these live in private rented accommodation with a further 3.16 million living in housing association and council properties (the social rented sector) (80%). Under these proposals, a very small minority may find that their benefit is removed for the period of the sanction and this could affect their ability to secure accommodation in the private rented sector once they are evicted. It may also result in them owing arrears of rent if they secure a property but get sanctioned. There is

no information held about where tenants who are evicted from the social rented sector go to live. This is something that the Government could monitor during piloting.

Impacts on the wider community (such as tenants affected by poor behaviour) should be positive in that the proposal will help change the behaviour of some "neighbours from hell" and this will improve the overall local environment and should help further problems occurring in the future.

Race assessment

The British Crime Survey indicates that those living in deprived areas were 4 times as likely to perceive that ASB was a problem in their community as those living in wealthier areas. In addition, those most of risk of perceiving high levels of ASB include black and ethnic minority groups (24%). So although the policy would impact equally on all tenants regardless of their ethnic status, any measure to tackle ASB could benefit these groups who perceive higher levels of ASB where they live.

There is no information on the ethnicity of people that get evicted for ASB, so we cannot estimate the impact of the sanction on this group until piloting.

The Family Resources Survey 2003/4 shows that the proportion of all benefit units in the sample in receipt of Housing Benefit by ethnic grouping (based on the ethnicity of the head of the household) is:

- 12% of all "white" benefit units are in receipt of HB
- 14% of all "non white" benefit units
- 15% of "mixed race" benefit units
- 5% of Indian benefit units
- 11% of Pakistani and Bangladeshi benefit units
- 24% of "black or Black British" benefit units
- 13% of "other" (including Chinese and other Asian) benefit units.

The benefits of the policy change will be available equally to all tenants irrespective of their ethnic status. Although minority ethnic groups may represent a higher proportion than white groups on Housing Benefit, the effect of the policy will depend on whether they are evicted for ASB. The Government will consult with the Commission with Racial Equality on the proposal and during piloting will monitor the effect of the sanction at all stages of the process on different racial groups to ensure that the policy does not discriminate either directly or indirectly on them.

Health and disability assessment

People who are known to health services and have a known or identifiable mental health problem should not be affected by the sanction. This is because either courts or a landlord would take significant health issues into account in deciding whether to evict and local authorities would elect not to pursue a sanction if the person was vulnerable.

The Government accepts that there is no information in this area. People may have lower level health or mental health issues, perhaps compounded by drugs or alcohol but are not necessarily known to health professionals or being treated and these could be affected by a sanction. Piloting would give the opportunity to assess what health issues people have who get evicted and ensure that the safeguards are robust. A health professional will play a key role in the family support projects and this should also provide a safeguard.

Rural considerations

The Government has considered the rural impacts and are satisfied the proposals do not have any impacts.

Benefits to community

The impact on the wider community (such as social tenants and others affected by ASB) should be positive in that it will help change the behaviour that blights communities. The benefits are difficult to quantify and could be long term and will be both financial and societal. Examples of those affected by a reduction in ASB are:

- Local residents;
- Social and private sector landlords;
- Courts;
- Police;
- Wider community and taxpayers;
- Anti-social tenants (through their problems being addressed)
- Local businesses.

This option could bring long-term savings by cutting down on the costs incurred by the affected families, such as the extended costs of residential or foster care over a number of years and long term improvements in a family's quality of life or savings from reduced expenditure on problems such as offending behaviour, to which intervention might contribute. For example, the cost of an appearance at the Children's Panel is estimated to be around £800 (Audit Commission, 1996) and the Princes Trust has estimated that the average cost to society of a youth crime is £2,100. The benefits of rehabilitation are being more fully developed by the Respect Task Force to support the Family Support Project pilots being established.

Potential number of cases in pilots and costs

DCLG estimate that around 1500 people a year are evicted for ASB. It is likely that a high proportion would qualify for benefits and will not be in work. This is borne out by early research by DCLG on rehabilitation projects in England, where around 65% of the adults who engaged with the schemes fell into a category where it seemed likely that they could be entitled to Housing Benefit.

Based on the evidence from the Dundee Families Project, 55% of people referred engaged with the project. Using the same figures, this would indicate that around 55%

of people would not engage with the project and would be eligible to be sanctioned. The Government hopes that piloting the Respect measures would bring a higher success rate and the additional incentive of the sanction would encourage greater compliance.

Local authorities would decide that a number of these were not suitable to be sanctioned. For example due to their unsuitability for rehabilitation, age or mental health issues. At this stage they could decide to invoke some other way to tackle the ASB. In the absence of any data, Ministers have assumed that 20% -30% of cases would get filtered out at this stage and the remaining would be sanctionable.

On this basis, the Government estimates that piloting in up to 10 local for a two year period authorities would cost the following:

- Implementation and running costs: £0.467m
- Evaluation £0.200m

These are total costs and include various costs set out below.

Impact on local authorities- Benefit administration

Local authorities will have responsibility for administering the Housing Benefit sanction regime. Upon receiving notification that the conditions for a sanction have been met, the local authority will have the task of checking that there is a valid Housing Benefit claim relating to the anti-social person, and applying the rules for reducing the benefit. In practice, the experience of existing benefit sanction regimes suggests that the administrative cost of withdrawing benefit is negligible, especially considering the small number of cases where a sanction is likely to be administered. We do not expect that IT systems will need to be amended to deal with these cases.

Appeals

If a person is not happy when they engage with the local authority over rehabilitation needs, he or she will have the right to seek a judicial review of any of the authority's decisions. For appeals affecting Housing Benefit decisions, appeals will be made in the normal way to the Tribunals Service. The structure for these and rules as to how appeals are governed is already provided for in Social Security legislation. This sets out that the claimant has the right to appeal decisions to an independent Tribunal within a set time and that he or she has the right to attend a hearing and given assistance to do so, if necessary.

In view of the contentious nature of the sanction decisions, we assume the rate of appeal will be at the top end of appeal rates for social security benefits. Of the cases sanctioned, we assume that 10% of them would appeal. The average appeal rate is 1-2% of cases and the highest appeal rate against a single benefit is thought to be around 8%. The average cost of hearing an appeal is £253 so we assume that if there were 5-10 appeals this would cost The Tribunals Service significantly less than £5,000. They estimate costs of £250 per member to train staff to deal with the new measure.

A proportion of cases will also appeal to the Social Security Commissioners.

Impact on local authorities- functions to tackle ASB

Local authorities could also incur some additional costs if their role in tackling ASB is expanded. Upon receipt of a notification that a tenant is to be, or has been, evicted due to ASB, the local authority representative will:

- Need to be involved at the initial contact with the person discuss the availability of rehabilitation and warn them that their benefit may be sanctioned if they refuse to co-operate;
- Liaise with the person who is to assess for and offer rehabilitation; and
- Keep DWP informed. DWP will maintain a database and will need to know what has happened at different stages of the process. This will enable DWP to advise LAs if a person meets the condition for a sanction and to track people who move around the country to ensure they cannot avoid being sanctioned by moving.

There could also be costs if a person decides to apply for a Judicial Review. Local authorities estimate that the costs to the LA of administering these can vary from £30,000 to £250,000 if there is an appeal against the outcome. However, due to the small number of cases involved in piloting, the Government would expect the numbers to be very low, if any.

Impact on local authorities – adult and children's services

The proposal has a potential impact on the current services that local authorities offer to adults and children. This is because they have certain legislative responsibilities to fulfil in protecting vulnerable people. If tenants are evicted and refused benefit then this could lead to other parts of the local authority having to help them and meet the costs of doing so. The intention is to avoid simply increasing costs in other parts of the local authority.

For both adults and children, the Government expects the normal procedures in relation to assessing people as eligible for emergency homeless person's accommodation to apply. If people are evicted they will access these services as they do now and the proposal to sanction will have no impact on this.

At present, if a person deemed to be intentionally homeless (for example, due to their ASB), they could secure accommodation with either friends or family or in the private rented sector, although no information is collected on where people live post eviction. Under the new proposal, it would be harder for them to secure accommodation in the private rented sector without benefit or if they do they may not be able to meet rent liability for the period of the sanction. However, as this is due to a refusal to co-operate with the local authority where there is clearly a need to do so, the ability to improve their position secure benefit is clearly in the claimant's own hands.

The Government does not know what the effect of the sanction will be on this group until piloting. However, the assumption is that the impact on services will be small because of the small numbers involved and safeguards built in.

For adult services, the safeguards built in to the process should also protect vulnerable people such as those, for example, with mental health problems and will not overlap with local authority duties to house certain adults. This, combined with the fact that for piloting, the number of cases will be so low, mean the Government expects no additional costs for adult social services.

For children's services, it is possible that families with children will be defined as vulnerable and if they were found to be homeless (intentionally or not) and unable to secure benefit to pay for accommodation, that social services may step in to house them, or consider taking children into care. The Government does not propose to make any changes to the Children's Act that defines when children may be taken in care. The current position is that it must be with the consent of parents or if not, where there are child protection issues.

As with adult services, the safeguards built in will enable the local authority to decide not to offer rehabilitation if it decides that this would not be the best outcome for the family. Additional safeguards will be hardship provisions so that the level of the sanction will be reduced where families meet hardship criteria (such as having children in the family).

The Government does not envisage that the sanction will result in an increased number of children being taken into care. But by way of illustration, the cost of taking children into care in 2004/5 was almost £800 a week in inner London and the cost of the court hearing would be £4500 per case.

Ministers intend to monitor this very carefully so as to understand who gets sanctioned, where they live following eviction and what impact this has on local services.

In terms of offering rehabilitation, in some areas the capacity already exists and in others it will grow as local authorities respond to the need to tackle anti social behaviour. The Government does not propose to provide additional funding for rehabilitation in order to pilot but will work with authorities that already have or are developing the capacity. However, it will need to look at this again if, after piloting, Ministers decide to rollout the proposal.

Impact on legal system

In England and Wales the courts will have to notify DWP when a relevant possession order is made and officials intend to develop a standard proforma for this purpose. Due to the small number of cases, for the purpose of piloting the expected costs are minimal. If people apply for judicial review, there could be increased legal aid costs. The average costs, including court fees, are around £3,000 per case.

Impact on Landlords

There are 408 local authorities, just under 1500 Registered Social Landlords in England, 247 in Scotland and 98 in Wales, and an estimated 160,000 to 190,000 landlords operating in the Housing Benefit sub-sector. Neither of the options involves placing new duties on landlords or regulating the landlord/tenant relationship. The contractual relationship between the tenant and landlord remains the same: it remains the duty of the tenant to pay rent and the responsibility of the landlord to collect it. People may have more difficulty in securing accommodation following eviction and sanction. They will also have more difficulty paying the rent if income is withdrawn or reduced. However, this is the penalty for their actions. If at any point during the sanction the tenant decides to accept rehabilitation, benefit will be reinstated in full and the amount of the sanction repaid

Virtually all social landlords, and the majority of private landlords, have their tenants' Housing Benefit paid direct to them. If benefit payments are withdrawn or reduced, landlord would have to collect the balance of the rent from the tenant. However, they have to do this already where there is a shortfall between benefit and the rent payable. Furthermore, rent collection is a landlord's responsibility and part of the normal tenancy agreement.

As a worst case, if no tenants subject to a sanction paid their rent and no effective collection or eviction action could be taken, landlords would effectively bear the cost of the sanction and have to pursue the arrears. For piloting, the Government would expect a sanction to be applied in only a few cases.

Issues of equality and fairness

Although a measure that affects people on benefit, the Government does not suggest that ASB is confined to those in rented housing or those on a low income. These proposals are not the only primary tool for tackling ASB. The Government has a wide range of measures to tackle ASB across the board. However, evidence suggests that ASB is perceived to be more of a problem for tenants in social housing and those in deprived areas. Housing Benefit measures could be an effective way to address this.

The decision to offer rehabilitation or not and whether this should lead to a sanction will be at the discretion of a local authority. However this is justifiable as all local authorities have a duty to tackle ASB and will be able to deploy a range of other discretionary powers. Not taking steps to tackle ASB is not fair to the law-abiding residents of an area. Impact on charities and voluntary bodies

A sanction could result in additional work to charities and voluntary bodies for example:

- Providing advice and guidance;
- Counselling services;
- Financial help to pay rent; and
- Help with appeals.

It is difficult to assess how much extra work will be generated over and above the normal and day-to-day activity and what the costs will be. Many of these tenants may have already sought advice from the voluntary sector regardless of the new proposal. Because of the small number of cases involved the Government does not feel that this will create additional burdens. However, this is an area that we expect the pilot schemes to address and we will evaluate it.

Small firms impact test

Landlords will be the principle small businesses affected by a Housing Benefit sanction. The government intends to pilot these measures to assess the impact of the sanction on both registered social and private sector landlords. The expected effect on landlords is covered in the section on costs.

Landlords are likely to be concerned about the impact on their income. Tenants may accrue debts because of the sanction that are difficult to collect and they may result in chasing arrears. This could dissuade some of them from offering accommodation to benefit claimants. The impact on landlords depends on whether they offer accommodation to tenants who are subject to a benefit sanction, the behaviour of their tenants and how both parties respond to a sanction. As set out above, there are almost 300,000 landlords operating in Great Britain whilst the Government anticipates that during piloting, which will take place in England only, no more than a handful of claimants will have their benefit sanctioned.

Competition Assessment

There is no one company or interest that holds exclusive or significant interests in the housing market. The sanction is going to be piloted in a limited number of local authorities therefore the impact of will be limited to the private and social landlords in those pilot areas. However, it is not expected that the number of sanctions or resultant costs for landlords are likely to be great and not enough to have implications for competition. In any case, the number of sanctions could decline over time as the deterrent effect becomes more evident.

Enforcement, sanctions and monitoring

The broad framework as to how the sanction would operate will be set out in the Welfare Reform Bill supported by regulations and guidance. Although the power will be available to all local authorities, the Government will test it first in a small number of them.

The pilots will be fully and independently evaluated as soon as practicable. The intention is to have pilots in up to 10 local authorities in England, which will then be evaluated as soon as practicable after that. The evaluation will cover the following sorts of issues:

- Whether the sanction is an effective incentive to take up rehabilitation;
- What resources are needed to set up and run it;
- If it has an impact on ASB;

- The impact on landlords;
- The effect on rent arrears;
- How it can be best operated;
- Impact on housing and the homelessness;
- Impact on the police;
- Impact on charities and voluntary bodies; and
- The profile of those sanctioned.

Any pilots would have to run over at least a two year. Exact details of pilots will be finalised after careful consideration with the Respect Task Force, DCLG and DFES to ensure they fit with the complementary work being developed as part of the Respect Agenda, DWP analysts and individual Local Authorities.

As already stated, there will be a robust evaluation and a full RIA would precede any decision to roll out the sanction across the UK. This would include careful assessment of the interaction between the measures and the legislation and policy of the devolved administrations.

Implementation and delivery plan

The intention is to pilot the measures first so that their effects can be evaluated. It is unlikely that a sanction could take effect before April 2008. This will enable regulations to be made and operational guidance issued to pilot authorities in good time for them to implement it. The Department for Work and Pensions will be working with local authorities on the guidance during the passage of the Welfare Reform Bill.

Post implementation review

There will be a post piloting review before a decision is taken to rollout the measure nationally.

Summary and recommendation

The Government recommends that **option two** is the best option.

Summary of costs and options**:**

Option	**Total new benefits**	**Total new costs**
(1) Do nothing	Nil	Nil
(2) HB sanction	Local community/police: Improvement in local areas. Landlords: 'Problem families' dealt with and problem not simply	Implementation and running costs of pilots: £0.467 m Evaluation: £0.2 m

	displaced. Government: Costs of ASB reduced. Underlying issues tackled. Community/wider society: Reduced costs of ASB for taxpayers.	