

Housing Benefit on council-owned Gypsy caravan sites

As a result of the Rent Officers (Housing Benefit Functions) Order 1997 (1987 No 1984), the Housing Benefit payable to Gypsies on council-owned sites is being reduced to a fraction of the economic rent. Many County Councils are thus faced with the prospect that Gypsy tenants are building up large arrears, which are irrecoverable and have to be written off.

Schedule 1 of the Order introduces the idea of the 'local reference rent' (R), which is set by ascertaining the highest (H) and lowest (L) rents being charged in the locality for occupation of a pitch on a caravan site, after excluding any rents which are 'exceptionally high' or 'exceptionally low'. These amount, H and L, are averaged to give R, which is also the maximum amount of Housing Benefit.

The rents examined to give L and H are entirely on private sites, and since Gypsies do not normally live on private rented sites, the determination is made on the basis of rents charged to non-Gypsies, for a level of facilities which may be quite different from those normally provided on Gypsy sites. No account is taken of whether the occupation is of a single or double pitch. The 'locality' within which the determination is made is not defined in the Order, and is chosen by the Rent Officer so as to contain a reasonable number of private sites. The person whose Housing Benefit is reduced by the process of determining Reference Rent does not know what the 'locality' consists of until s(he) goes to appeal.

So far, it has been almost entirely County Council sites that have been referred to the Rent Officer, though nothing in the Order precludes the

reference of rents charged by District Councils or Unitary Authorities. However, it is the local authority which has the duty of referring the rent to the Rent Officer, and where the authority itself is the landlord, there would be no point in a reference. In those cases, the authority would suffer, whereas if the landlord is the County Council, the District saves money in reduced Housing Benefit. Therefore on sites owned by District or Unitary Authorities or those owned by Registered Social Landlords (RSL) (defined under the Housing Act 1996 as Housing associations, Registered Charities, or Industrial and Provident Societies), Housing Benefit normally covers the entire rent¹.

A major problem with the reference rent is that “the rent officer determines the rental levels, not by comparison with other local authority sites, but by comparison with private sites, holiday caravan sites and mobile home parks in a very localised area”². Also, “Caravan sites (of any type) are treated differently from Housing for Housing Benefit purposes. Caravan site plots are ‘excluded tenancies’ and the size of the plot, presence of amenity block and the facilities on it, are not taken into account when the ‘local reference rent’ is being calculated...[this] could then impair funding for site management, services provided for licensees, problem solving and even provision itself”³. The difficulty for County Council sites is that they must refer to the Rent Service whenever a claim for Housing Benefit is made, whereas RSLs are not obligated by law to do so⁴. Authority budgets are being reduced,

¹ Housing Act 1996.

² Unpublished Letter from Christiane Athey, Gypsy Policy Adviser, Leicestershire CC, Mar 27, 2001.

³ Bill Forrester, Revised Informal Briefing, May 2 2001.

⁴ Unpublished Letter from Terry Holland, December 5, 2000.

and the sites themselves are suffering from lack of funds for maintenance and repairs⁵.

The use of reference rents is also largely based on the “expert judgement” of the RO concerning his knowledge of the property market. This “expert judgement” has not been checked in the past, though it can be reviewed now: “From 2nd July [2001], rent officers will be required to provide reasons for their decisions to enable a claimant and local authority to understand how the rent officer has made their decisions and the information they have used to support it”⁶. Should a claimant ask for a re-determination, which is a review of the RO’s calculation of the reference rent, this can be made by a local authority and concluded within four weeks⁷. The 1987 Housing Benefit Regulations allows claimants to appeal if only part of their rent is paid by Housing Benefit under Regulations 61(2), though only in “exceptional circumstances”, such as burglary and non-payment of wages as examples⁸.

The Aston Firs Caravan Site in Sapcote, Leicestershire, is an example of a county owned site, managed by a District Council (Blaby), where the Housing Benefit has been calculated at a fraction of the economic ‘rent’. The charge for a double pitch at this particular site rose by £1 on April 1, 2001 to £45.40. The reference rent determined by the RO is £17.48, a £28.02 difference, which the claimants are expected to cover themselves⁹.

Residents who are unable to pay the additional rent could be faced with eviction proceedings, resulting in an increase in roadside encampments.

⁵ Unpublished Letter from Terry Holland, December 5, 2000.

⁶ Unpublished Letter from Malcolm Wicks MP, June 20, 2001.

⁷ Unpublished Letter from Angela Eagle, Mar 27, 2001.

⁸ Bill Forrester, Revised Informal Briefing, May 2 2001.

These proceedings are another expense which the county councils are forced to pay for. "In Hertfordshire, any costs of evicting individuals from authorised sites expressly reduce the amount for repairs and improvements to authorised sites"¹⁰, and this may well be the case in other counties . In the case of Aston Firs site, the County Council has decided to write off the loss of £28.02 per pitch, and as the site has 20 pitches, the loss comes to £560.40 a week, or £29.140 a year. Losses of this order may well have an adverse effect on local authorities' willingness to spend adequate amounts on the maintenance and administration of sites..

County Council owned sites in Cambridgeshire, on the other hand, the management of which is also delegated to District Council, have not had reference rents determined, and therefore the whole of the rent is paid for by Housing Benefit¹¹. The reason for the difference in treatment between the two counties is unclear.

The amount of Housing Benefit given to a claimant is also restricted by the date when the claim was made. For claims made prior to 1989, the Housing Benefit remains constant. For those made after 1989, but before Jan 2 1996, the Benefit is discretionary up to a fixed level, decided by the Housing Authority. For all residents who applied after Jan 2 1996, the amount of Housing Benefit paid is decided by the RO¹². These guidelines result in tenants on the same site receiving different levels of Housing Benefit payments¹³.

⁹ Unpublished Letter from Christiane Athey, Mar 27, 2001.

¹⁰ Bill Forrester, Revised Informal Briefing, May 2 2001.

¹¹ Verbal communication with Cambridgeshire County Council, July 2 2001.

¹² Unpublished Letter from Christiane Athey, Mar 27, 2001.

¹³ Unpublished Letter from Christiane Athey, Mar 27, 2001.

Possible solutions suggested include reducing the number of claimants for Housing Benefit, considering the costs of Social Services care separately from the costs of running the site, and increasing the skills of the tenants through programs provided by the Social Exclusion Unit¹⁴. In the meanwhile, however, the Government should consider exempting local authorities' Gypsy sites from Rent Officer determinations, because they result in considerable expenditure of officers' time, both in the Rent Service and local authorities, for a zero saving in the costs associated with Gypsy sites.

Jesse Carroll / The lord Avebury, September 2001

¹⁴ Bill Forrester, Revised Informal Briefing, May 2, 2001.