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DEPARTMENT OF SOCIAL SECURITY

HOUSING BENEFIT EXCEPTIONAL HARDSHIP PAYMENTS

by Roy Sainsbury



RESEARCH
REPORT No

91

DEPARTMENT OF SOCIAL SECURITY

RESEARCH REPORT No 91

HOUSING BENEFIT EXCEPTIONAL HARDSHIP PAYMENTS: THE USE OF DISCRETIONARY POWERS

Roy Sainsbury

A report of research carried out by the Social Policy Research Unit at
the University of York on behalf of the Department of Social Security

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Any responsibility for errors or omissions in the report remains with the Social Policy Research Unit, and the views expressed are not necessarily those of the DSS or other government department.

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Dr Roy Sainsbury is a Senior Research Fellow at the Social Policy Research Unit (SPRU) at the University of York where he has worked since 1988. His previous research has included projects on various aspects of the Housing Benefit system such as the review and appeals arrangements and, recently, the Housing Benefit Verification Framework. His other work has included research on Income Support, the New Deal for Disabled People, disability benefits, and benefit fraud.

SPRU was established in 1973 as an independent research unit within the University's Department of Social Policy and Social Work, employing around 25 research staff. The Unit has an international reputation for research in key areas of social policy, including social security, and health and community care.

EXECUTIVE SUMMARY

Introduction Local authorities have a range of discretionary powers which can be used in the administration of Housing Benefit. This study evaluates authorities' use of discretionary powers in making exceptional hardship payments to claimants whose Housing Benefit does not cover the cost of their rent (under regulations in force since January 1996). The main objective of the research was to investigate how the system of exceptional hardship payments is operated by local authorities and, in particular, why expenditure has varied so significantly between authorities and, overall, has been lower than expected.

The research methods comprised visits to 18 local authorities during which face-to-face interviews were conducted with Housing Benefit managers and assessment staff and a telephone survey of Housing Benefit managers in all authorities in Great Britain. Successful interviews were conducted in 305 local authorities, a response rate of 75 per cent.

Expenditure on exceptional hardship payments Each local authority has an allocation of funds from central government for spending on exceptional hardship payments. An authority is also allowed to spend above this amount up to a ceiling, the 'permitted total'.

In the first full year of the exceptional hardship payment scheme (1996/97) local authorities spent 27 per cent of the government allocation of £18.25 million. The results from the survey suggest that expenditure increased to around 48 per cent of the government allocation in 1997/98. The government funding for exceptional hardship payments was, therefore, still under-spent to a considerable degree, and overall expenditure was well below the aggregate 'permitted total' of £42 million for all authorities.

Nearly a third of the authorities in the survey (30 per cent) spent less than ten per cent of their government allocation in 1997/98. A small number of authorities (18) reported spending nothing. All the authorities reporting expenditure in excess of their government allocation – including the two highest spenders who had spent over twice the allocation – were still within their permitted totals.

Two out of three Housing Benefit managers thought that their allocation was 'about right', the most common reason being that it was expected that demand for exceptional hardship payments would increase in future.

Applications for exceptional
hardship payments

Most local authorities had to deal with very few applications for exceptional hardship payments in 1997/98. One in four authorities had fewer than one application per month; eight authorities reported receiving no applications at all in the year. Application rates tended to be highest in the London Boroughs and Metropolitan authorities which have larger Housing Benefit caseloads than most other authorities.

The research findings suggest that applications are increasing but are still at a low level. From the data on Rent Officer restrictions, there is seemingly a very large pool of potential applicants whose rent is not met in full by their Housing Benefit.

There is some evidence from the survey that publicising the availability of exceptional hardship payments in a range of different ways, rather than relying solely on decision letters, could increase applications. Many authorities were using combinations of sometimes innovative methods to inform claimants about exceptional hardship payments.

Why claimants apply for
exceptional hardship payments
and how local authorities make
decisions

Local authorities can make an exceptional hardship payment in any case where it judges that the claimant or members of their family, would suffer exceptional hardship if the shortfall between the claimant's Housing Benefit and their rent is not met. There is no statutory definition of 'exceptional hardship' but the DSS has issued guidance to local authorities in Circular HB/CTB A7/96.

The most common reasons put forward by claimants in their applications were as follows:

- inability to afford rent,
- existence of a medical condition (illness or disability),
- inability to pay bills
- being under 25 years old (and therefore being subject to the 'single room rate'),
- need for room for children to stay,
- pregnancy,
- inability to pay for food,
- need to get away from domestic violence

Most claimants included a number of reasons in their applications rather than a single one.

Many authorities have developed their own approaches to deciding claims reflected in written policy documents, guidance to assessment staff, application forms, and publicity materials. Some authorities relied mainly on the DSS guidance. Others reported in the survey that they used neither the official guidance nor their own policy. Accordingly, local authorities' approaches to decision making could be characterised in the following ways:

- the 'comprehensive' approach, using both DSS and own guidance (adopted by 50 per cent of authorities),
- the 'independent' approach, principally using own policies (19 per cent),
- the 'DSS-based' approach, principally using the official guidance (23 per cent),
- the 'case-based' approach, using neither form of guidance (nine per cent)

Using this typology the findings from the survey included the following

- Scottish authorities rely on DSS guidance the most, London Boroughs and Welsh authorities the least,
- the independent approach is used most in London,
- more metropolitan authorities adopt the comprehensive approach than other authorities

The scope and content of the documentation used by local authorities in deciding applications varied enormously. Particularly striking was the number of authorities who require applicants to complete detailed expenditure forms as part of their application. Some authorities had devised scoring systems for assessing applications.

Housing Benefit claimants can ask a local authority to supply them with a *pre-tenancy determination* giving an indication of the likely amount of benefit they would receive if they took on a particular tenancy. The large majority of authorities take pre-tenancy determinations into account when deciding applications for exceptional hardship payments, although the existence of a determination would not be a sufficient reason to reject an application.

Outcomes of applications for exceptional hardship payments

Of the 305 local authorities in the survey, 288 authorities supplied figures for the number of exceptional hardship payments awarded in 1997/98. Of these, 248 were also able to supply figures for the number of unsuccessful applications. Aggregating the responses from these latter authorities shows that 9,483 exceptional hardship payments were made from 22,034 applications, an overall success rate of 43 per cent. The mean number of payments in these authorities was 38 within a range of between one and 664.

One in five authorities were making some relatively high weekly payments, in excess of £50 and a small number had made payments of over £100 per week. However, almost all authorities reported *average* weekly payments of £30 or less. Exceptional hardship payment cases then tended to fall into one of two types: cases where the nature of the exceptional hardship was considered temporary, which would be removed when the claimant found more suitable accommodation, and cases where the nature of the exceptional hardship was considered permanent and which could not be alleviated by a move to other accommodation.

The survey data suggest that people whose circumstances are related in some way to their health (disabled people, those with mental health problems, or pregnant women) are the most successful types of claimant. However, the most numerous beneficiaries of exceptional hardship payments were lone parents. Pensioners appeared to fare badly in the sense that applications were seemingly low compared with the large number of pensioners in the population.

Wide variations between local authorities were also apparent in the range of exceptional hardship payments made and the average amounts paid to individual claimants. In some authorities apparently large weekly payments and large aggregate amounts were the norm rather than the exception.

Relatively few unsuccessful applicants pursued their cases to appeal (or internal review in the first instance). The success rate of about one in four is in line with success rates for other means-tested benefits.

Administering the scheme Just under a half of the authorities in the survey had experienced some difficulties in the administration of exceptional hardship payments and a small number (eight authorities) reported that they had had 'serious problems'. The most common difficulties were:

- lack of guidance on what constitutes exceptional hardship (mentioned by 51 local authorities),
- computer problems including setting up systems and with software (43),
- ensuring staff were sufficiently trained and equipped (22)
- length of time needed to investigate applications (20),
- keeping track of cases and expenditure (18),
- amount of work involved gathering information (17)

There was no consistent pattern in the types of difficulties reported by the eight local authorities with serious problems. Only one of the eight said that they had had computer-related problems.

Exceptional hardship payments
- Summary and Discussion Variations between local authorities in the ways they administer aspects of Housing Benefit policy are the norm rather than the exception. It is not surprising, therefore, to find wide variations in authorities' administration of the exceptional hardship payment scheme.

On the basis of this research, it is fair to infer that applicants for exceptional hardship payments and importantly potential applicants receive very different treatment in different local authority areas. Local variations in rent levels, the number and amounts of rent restrictions and the demographic constitution of the claimant population will all contribute to differences in application rates, success rates and value of exceptional hardship payments. However, these variations cannot explain why some authorities have zero application rates and zero success rates while other authorities attract hundreds of applications, and some have 100 per cent success rates.

There is some, though not conclusive, evidence from the study that the low level of applications and awards suggest that the guidance set out in Circular A7/96 could possibly be drawn too tightly such that local authorities are making decisions that exclude claimants who are suffering a degree of considerable hardship but not to the extent suggested in the guidance. The policy of exceptional hardship payments may therefore, not be helping some of the people for whom it was intended.

The variations discovered in the documents supplied by local authorities in the course of the research suggest that there is a case for a 'good practice' guide that contains examples of high quality publicity materials, appropriate wording to be used in decision letters, application forms, and internal documents used in decision making.

The policy option of reducing the budget for exceptional hardship payments is always available. The research suggests that the demands on the budget are increasing and likely to continue increasing. Housing Benefit managers are aware of this also. Any proposed reduction in budgets is therefore likely to generate opposition from a large number of authorities.

I INTRODUCTION

In January 1998 the Department of Social Security commissioned the Social Policy Research Unit to carry out research into local authorities' use of new discretionary powers to make exceptional hardship payments to claimants whose Housing Benefit does not cover the cost of their rent. The fieldwork for the project was carried out in February to June 1998.

Policy background Since January 1996, for most new claims for Housing Benefit from tenants in the private deregulated sector, calculations of awards have not been based on the actual rent paid by the claimant but on a local authority's 'local reference rent' a figure that reflects the general level of rents for properties of a similar size in the locality. In October 1996, similar restrictions were placed on single claimants under the age of 25 making new or renewal claims by using a local 'single room rent' for calculating Housing Benefit awards rather than the local reference rent. The single room rent is a figure reflecting the average cost of non self-contained accommodation without board in the locality. Both changes were intended to encourage claimants to seek 'reasonably priced' and appropriate accommodation. However, it has long been recognised that, in exceptional circumstances, the welfare of individual claimants and their families requires that a higher amount of Housing Benefit be paid than that allowed under a strict application of the regulations. Therefore, for many years, local authorities have had powers to vary the amount of an award in such circumstances. In January 1996, when local reference rents were introduced, new powers were introduced enabling local authorities to pay an additional amount to bring Housing Benefit up to the level of the contractual rent (less ineligible charges) where, in the assessment of the authority, the claimant or a family member would otherwise suffer *exceptional hardship*. In October 1996 the scheme was extended to cover people affected by the introduction of the 'single room rent' regulations. *Exceptional hardship* is not defined in legislation but local authorities have guidance on its interpretation in a DSS Housing Benefit Circular, A7/96.

In 1996/97 expenditure on exceptional hardship payments was under £5 million compared with the ceiling on expenditure (the 'permitted total') of around £42 million (to which the central government contribution was £18.25 million).

Aims of the research The main objective of the research was to investigate how the system of exceptional hardship payments is operated by local authorities and, in particular, why expenditure has varied so significantly between authorities and overall, has been lower than expected.

The specific aims of the project, set out below, were agreed between DSS and SPRU on the basis of the DSS's original research specification and SPRU's research proposal. Briefly the aims were to investigate the following research questions:

- Why do local authorities spend very different amounts on exceptional hardship payments?
- Why is expenditure lower than expected?
- What are local authorities' views about their allocations for exceptional hardship payments from central government?
- What are the patterns of applications and awards for exceptional hardship payments between local authorities?
- How do claimants become aware of the availability of exceptional hardship payments?
- Do particular types of claimants tend to be more or less successful in applying for an exceptional hardship payment than others?
- How many applications are made, and how many are successful?
- How much is the average exceptional hardship payment?
- How do local authorities make decisions on applications for an exceptional hardship payment?
- What criteria do they use?
- Does a pre-tenancy determination affect the decision whether to make a payment?
- How easy or difficult has it been to implement the exceptional hardship payment scheme?
- What is the nature of any problems experienced?

Research design The main element of the research design was a telephone survey of all local authorities in England, Scotland and Wales. This was conducted on behalf of SPRU by Public Attitude Surveys Ltd (PAS) of High Wycombe. The survey was preceded by a development stage comprising visits to 18 local authorities.

Initial development stage The principal objective of the development stage of the project was to collect information on the main research issues in order to inform the development of a questionnaire for use in the telephone survey. The 18 local authorities were selected on the basis of the following criteria:

- size of Housing Benefit workload (using benefit expenditure as an indicator),
- type of authority,
- geographical area,
- expenditure on exceptional hardship payments (using DSS data for the first half of 1997/98)

Table 1.1 Sample of local authorities for the development stage

	Number
English District and Unitary authorities	8
English Metropolitan authorities	3
London authorities	3
Welsh authorities	2
Scottish authorities	2
Total	8

In each authority we conducted interviews with a Housing Benefit Manager and one or more officers with responsibility for making exceptional hardship payment decisions. Fieldwork visits took place in late February and early March 1998.

The telephone survey

A pilot of the telephone interviews was conducted with six local authorities. A copy of the final questionnaire can be found in Appendix 1. Housing Benefit Managers in the 412 local authorities in Great Britain were sent introductory letters from DSS and SPRU (reproduced as Appendix 2) a background document explaining the research and a copy of the questionnaire¹. PAS conducted interviews in April and May. Successful interviews were carried out with 305 managers: a response rate of 75 per cent. Table 1.2 shows the response rate for each local authority type.

Table 1.2 The achieved sample by local authority type

	Possible	Achieved	Response rate (%)
English District and Unitary authorities	289	221	76
English Metropolitan authorities	36	27	75
London authorities	33	19	58
Welsh authorities	22	15	68
Scottish authorities	32	23	72
Total	412	305	75

The table shows that London authorities (i.e. the 32 London Boroughs and the City of London) are under-represented in the achieved sample. Since these authorities are generally larger than most other authorities, their under-representation affects the overall representativeness of the achieved sample. From data supplied by DSS, we compared the non-response authorities with the total population of authorities by the size of

¹ During the fieldwork information was also collected on local authorities' use of a separate set of new discretionary powers aimed at increasing the scope of counter-fraud activity. The results of this research appear in the DSS' in-house research report series.

their privately rented sector (using rent allowance expenditure as an indicator) and their expenditure on exceptional hardship payments (using data for the first half of 1997/98). Table 1.3 presents the results of the comparison.

Table 1.3 Analysis of non-response

Percentage of authorities in each quartile of the rent allowance distribution	Non-response authorities	All local authorities
1 st quartile	29.0	25.5
2 nd quartile	24.7	25.3
3 rd quartile	19.4	24.2
4 th quartile	26.9	25.0
Percentage of authorities in each quartile of the exceptional hardship payment distribution		
1 st quartile	20.2	24.9
2 nd quartile	25.5	24.9
3 rd quartile	24.5	25.2
4 th quartile	29.8	24.9
Base	94	380

Source: Department of Social Security

The table shows that, as suggested above, we have lost from our achieved sample more of the larger authorities than expected. We have also lost more of the smaller authorities (by size of private sector). From previous research work with local authorities this outcome is not surprising. Many small authorities appear to be reluctant to engage with research projects sometimes because their resources are small, but also because they do not see the relevance of the research to their authority. However, the two most common reasons cited by Housing Benefit managers from non-participating authorities were inability to meet the tight deadlines for the project, and the amount of work that would have been needed to gather the information we required.

- Available data
- As well as the data generated from the survey, the following data were also made available by the DSS at the local authority level:
- Expenditure on Housing Benefit for 1995/96
 - Expenditure on rent allowances for 1995/96
 - Allocations to local authorities for exceptional hardship payments for 1997/98,
 - Expenditure on exceptional hardship payments in first half year of 1997/98,
 - Restricted rent statistics for each local authority for the first three quarters of 1997/98

As mentioned earlier, the rent allowance and exceptional hardship payment expenditure data have been used to group local authorities into quartiles for the purposes of comparing the non-response authorities with all local authorities. The half year exceptional hardship payment expenditure data were used in the selection of local authorities for the development stage and to calculate expenditure rates for each authority. The rent restriction data were used as proxy indicators of the potential demand for exceptional hardship payments in each authority.

The final source of data was a selection of written policy documents and list of criteria that local authorities use to help them in making decisions on individual applications for exceptional hardship payments. These were requested from 161 authorities, of whom 88 responded. Their contents are analysed in Chapter 4.

Structure of the report Chapter 2 analyses local authorities' expenditure on exceptional hardship payments using official DSS statistics and data from the survey. Housing Benefit managers' views on the allocation of funds and the adequacy of their allocations are also explored. In Chapter 3 the survey data on application rates are analysed and compared with local authorities' approaches to publicising the exceptional hardship payment scheme. The potential demand and take up for exceptional hardship payments are also examined. Chapter 4 presents the data on why people apply for exceptional hardship payments, and contains an analysis of how local authorities make decisions on applications, including their use of the DSS guidance and their own local policies. Chapter 5 looks at the outcomes of applications, including an analysis of the amounts awarded and success and failure rates by claimant types. The chapter also examines the survey data on appeals against adverse decisions by claimants. Chapter 6 turns its attention to the administration of the scheme, and in particular identifies the types of problems encountered by local authorities in implementing the new regulations. Chapter 7 presents a summary of the findings on exceptional hardship payments and a discussion of their implications for policy development.

2 EXPENDITURE ON EXCEPTIONAL HARDSHIP PAYMENTS

Introduction This chapter analyses the expenditure of local authorities on exceptional hardship payments in the year 1997/98, using the survey data and compares it with the overall budget for the scheme. Housing Benefit managers' views on the adequacy of their budgets are also examined.

Overall expenditure The amount of money that can be spent on exceptional hardship payments is cash-limited. When the scheme was introduced in January 1996, the ceiling for expenditure was set at 0.9 per cent of in-year expenditure on deregulated tenancies. In October 1996 this percentage was increased to 1.08 per cent, yielding a permitted total of around £42 million for the year 1996/97. The central contribution to this budget was £18.25 million. The intention was that expenditure above that amount would be met from local authorities' own budgets. Actual expenditure for the first full year of the scheme was actually less than £5 million. This represents around 27 per cent of the government contribution and less than 12 per cent of the permitted expenditure.

For 1997/98 the budget constraints were the same as for the first year. The central government contribution was frozen at £18.25 million with the permitted total remaining at 1.08 per cent, giving an expenditure ceiling of £47 million. At the time the fieldwork was carried out the DSS had not yet collated details of expenditure on exceptional hardship payments for 1997/98. Hence, in the survey for this project local authorities were asked to provide as accurate a figure as possible for exceptional hardship payment expenditure for the period 1 April 1997 to 31 March 1998. Information was provided by 295 of the 305 local authorities in the survey and showed that these authorities spent nearly £6 million in 1997/98, representing around 48 per cent of their government contribution.

Table 2.1 presents an analysis of local authorities' spending as a percentage of their government allocation, broken down by local authority type. Spending above 100 per cent is legitimate but must be financed from the local authority's own budget provided it does not exceed the permitted total for that authority.

**Table 2.1 Expenditure on exceptional hardship payments
1997/98**

Type of authority	Percentage of government allocation spent (% of authorities)				Base
	0-10	11-20	21-50	51 and over	
	No (%)	No. (%)	No. (%)	No (%)	
English District and Unitary authorities	66 (31)	45 (21)	64 (30)	38 (18)	213
English Metropolitan authorities	5 (19)	4 (15)	10 (37)	8 (30)	27
London authorities	6 (33)	3 (17)	3 (17)	6 (33)	18
Welsh authorities	5 (36)	3 (21)	4 (29)	2 (14)	14
Scottish authorities	8 (35)	5 (22)	7 (30)	3 (13)	23
All authorities	(30)	(20)	(30)	(19)	295

Table 2.1 shows that nearly a third of the authorities in the survey (30 per cent) spent less than ten per cent of their government allocation. A small number of authorities (19) reported spending nothing. These were mostly small District or Scottish authorities. All the authorities reporting expenditure in excess of their government allocation, including the two highest spenders who had spent over twice the allocation, were still within their permitted totals. The numbers of London and Welsh authorities in the sample were small (18 and 14 respectively) so percentages based on them must be treated with caution. However, there is an indication from the table that London authorities and English Metropolitan authorities tend to spend larger proportions of their allocations than other authorities.

Views about budgets In the survey, Housing Benefit managers were asked their views about the amount they were allowed to spend on exceptional hardship payments (i.e. their 'permitted total' rather than their government allocation). Table 2.2 presents their responses analysed by their level of expenditure.

Table 2.2 Views on local authorities' permitted totals, by level of expenditure on exceptional hardship payments

Level of expenditure (% of government)	Views of Housing Benefit managers about permitted total (percentage of local authorities)			Base
	Too much	Too little	About right	
0-10	46	2	51	84
11-20	34	5	61	56
21-50	22	7	71	86
51 and over	11	9	80	56
All authorities	29	6	65	282

The table shows, as might be expected, that local authorities with low levels of exceptional hardship payment expenditure were more likely to consider that their permitted total was too much than higher spending authorities among which there was a greater tendency to consider their budgets 'about right'

Given the number of authorities which could be considered to be 'low spending', it is surprising that almost two-thirds thought their permitted total was 'about right'. In order to explore the basis for the views expressed Housing Benefit managers were asked to give reasons for their answers.

Of the 29 Housing Benefit managers who said that their permitted total was too much, the majority mentioned all of the following reasons:

- Applying the DSS guidance meant that very few awards could be made
- The budget was too large in relation to successful claims
- There was a lack of demand for exceptional hardship payments
- There was a lack of awareness among claimants about the availability of exceptional hardship payments

The first two of these reasons are similar and make the point that the criteria for making exceptional hardship payments are (or are perceived to be) strict, such that too few claimants qualify to justify the size of their budgets.

Table 2.3 presents an analysis of the reasons given for the permitted total being 'about right'.

Table 2.3 Reasons why permitted totals were considered 'about right'

Reason	Number of Housing Benefit managers mentioning reason	%
Expectation that demand for exceptional hardship payments will increase in future	77	42
Because the local authority has not exceeded its budget	45	25
The budget allows a certain amount of flexibility	36	20
Because supply is matching demand	19	10

The most common reason for thinking the budget for exceptional hardship payments was 'about right', even though current expenditure was low, was that the demand for exceptional hardship payments was expected to rise in future. This comment is perhaps more a reflection of some managers' desire not to see the budget reduced rather than an endorsement of current levels. The general picture that seems to emerge from these

comments and from analysis of the visits to local authorities in the development stage is that current levels of allowable expenditure are generally considered acceptable because they

- are greater than actual expenditure,
- are adequate to cope with increases in demand if they happen
- allow local authorities to implement the exceptional hardship payment in their own way

Local authorities seemed generally to feel that at the current level of demand exceptional hardship payment budgets are not under stress

Discussion In the first year of the exceptional hardship payment scheme local authorities spent 27 per cent of the government allocation to the cash-limited budget of £42 million. The results from the survey suggest that expenditure has increased to around 48 per cent. The budget is, therefore still under-spent to a considerable degree. However it is to be expected that expenditure rose in the second full year (1997/98), particularly since the scope of the scheme was extended in October 1996 to cover 'single room rent' claimants.

Low expenditure in the first year is also to be expected. Local authorities will always implement new provisions and schemes at different rates. Some authorities are more prepared or have a greater need than others to implement measures quickly. Furthermore it is to be expected that knowledge of the scheme among claimants, and experience of how to succeed in getting a payment will increase in the future leading to higher rates of applications and awards.

3 APPLICATIONS FOR EXCEPTIONAL HARDSHIP PAYMENTS

Introduction This chapter examines the survey data on applications for exceptional hardship payments. Comparisons are made between application rates and the levels of publicity used by local authorities about exceptional hardship payments and with an indicator of the potential demand for exceptional payments derived from DSS data on Rent Officer restrictions.

Application rates The number of applications for exceptional hardship payments for each authority in the survey was calculated by adding the number of awards to the number of refusals. Not all authorities were able to give a figure for the number of refusals because records of refusals are not routinely kept. For the same reason, some other authorities were able to supply estimates only. The number of applications, based on the sum of the figures supplied for successful and unsuccessful applications, is therefore also an estimate. Table 3.1 presents an analysis of application rates by type of authority for the 267 authorities which provided data.

Table 3.1 Monthly application rates, by local authority type (number of authorities, with row percentages in brackets)

Type of authority	Number of applications per month				Base
	<1	>1-5	>5-10	>10	
	No (%)	No (%)	No (%)	No (%)	
English District and Unitary authorities	59 (30)	89 (45)	24 (12)	27 (14)	199
English Metropolitan authorities	0 (0)	3 (17)	1 (6)	14 (78)	18
London authorities	1 (7)	2 (14)	1 (7)	10 (71)	14
Welsh authorities	1 (8)	9 (69)	1 (8)	2 (15)	13
Scottish authorities	10 (45)	10 (45)	1 (5)	1 (5)	22
All authorities	(27)	(43)	(10)	(20)	267

The table shows that most authorities had to deal with few applications for exceptional hardship payments in 1997/98. The lowest category (fewer than one application a month) includes eight authorities who reported no applications at all in the year. These were mostly small District authorities. As might be expected, application rates tended to be highest in the London and Metropolitan authorities which have larger Housing Benefit caseloads than most other authorities.

Application rates could be related to a number of factors, two of which the survey and DSS data allow us to explore. These are

- the levels of publicity given to the exceptional hardship payment scheme
- the potential demand for applications

Levels of publicity and application rates

In the development stage of the research project, local authorities were asked how they publicised the availability of exceptional hardship payments. The most common responses were (a) decision letters notifying claimants that their award of Housing Benefit did not cover the full rent because it had been restricted by the Rent Officer, (b) information leaflets, (c) some form of special application form or tear-off slip on letters, and (d) information supplied to local advice agencies. In the survey, therefore, local authorities were asked if they used any of these forms of publicity, and asked to specify any other publicity they used. Table 3.2 presents local authorities' responses.

Table 3.2 Analysis of how local authorities publicise exceptional hardship payments

Type of publicity	Number of authorities using this form of publicity	% (of 305 authorities)
In decision letters	237	78
Leaflets	188	62
Separate form/tear off slip	102	33
In information provided to advice agencies	206	68
No publicity at all	10	3

There were a range of other methods of publicity mentioned in the survey responses including

- Posters in public places (mentioned by 20 authorities)
- Meetings with landlords (15)
- Newsletters or local press (13)
- Special information packs (9)
- Informing claimants in contact with local authority departments (7)
- Meetings with welfare groups/tenants' associations (4)
- Direct mailshots (3)

It is perhaps surprising that 22 per cent of the sample (68 authorities) said they did not publicise exceptional hardship payments in the decision letters sent to claimants. Of these, ten authorities reported that the scheme was not publicised in any way in their authorities (five of which were small Scottish authorities).

Trying to isolate the impact of publicity on application levels is problematic, particularly because, as we explain in the next section, we only have rough indicators of some of the other factors which might have an influence, such as the number of claimants whose rent is restricted.

Furthermore we have no information directly from claimants about the role that publicity might have played in their decisions about applying for an exceptional hardship payment. Nevertheless we can look at the relationship between different levels of publicity and applications. The intention is not to establish causal relationships but to draw lessons for the development of policy and practice. Table 3.3 begins by comparing levels of publicity with local authority type.

Table 3.3 Level of publicity for exceptional hardship payments, by local authority type (number of authorities, with row percentages in brackets)

Authority type	Level of publicity					Base
	None	Letter only	Letter plus one other method	Letter plus 2 or more other methods	No letter but other publicity	
	No. (%)	No. (%)	No. (%)	No. (%)	No. (%)	
English District and Unitary authorities	3 (1)	21 (10)	42 (19)	119 (54)	36 (16)	221
English Metropolitan authorities	0 (0)	1 (4)	5 (19)	18 (67)	3 (11)	27
London authorities	1 (5)	0 (0)	2 (11)	11 (58)	5 (26)	19
Welsh authorities	1 (7)	1 (7)	3 (20)	4 (27)	8 (40)	15
Scottish authorities	5 (22)	3 (13)	2 (9)	5 (22)	8 (35)	23
All authorities	(3)	(9)	(18)	(52)	(19)	305

Including information about exceptional hardship payments in decision letters is clearly the simplest way of telling claimants about their availability. However, there is research evidence that some social security claimants either do not or cannot read or understand official letters (Stafford et al., 1997). Presumably with this in mind, the large majority of those authorities who do send information in letters also use some other form of publicity, the most popular being dissemination of information through local advice agencies. We do not know from the survey data why nearly one in five authorities have chosen an alternative way (or ways) of publicising exceptional hardship payments to letters, but Table 3.3 suggests that Welsh and Scottish authorities in particular are more likely to find alternatives than English authorities.

The effect of publicity will depend on its quality as well as its quantity. We know from the development stage, for example, that there are variations in the amount of information provided in letters and in the tone and wording used. Some authorities provided a very brief statement and invited claimants to contact the local authority, while others went into more detail. Some Housing Benefit managers expressed a concern

to balance the need to inform claimants sufficiently without generating excessive demands or raising false expectations

Unlike decision letters other forms of publicity (with the possible exception of direct mailshots) are not guaranteed to reach the population of potential applicants. However, we cannot conclude from this that authorities relying on alternatives to letters are taking a restrictive approach to publicity. For example, our analysis shows that over half of these authorities publicised exceptional hardship payments in at least two other ways most often through the supply of information to local advice agencies. Although the numbers of applications depends on many factors, a comparison of applications and levels of publicity does yield some useful insights

Table 3 4 Levels of publicity and application rates

Levels of publicity	Number of applications per month (% of local authorities)				Base
	<1	>1-5	>5-10	>10	
Letter only	48	48	4	0	23
Letter plus one other method	36	39	11	14	44
Letter plus two other methods	17	44	11	29	139
No letter but other publicity	33	43	12	12	51
All authorities	27	43	10	20	266

The pattern of applications for those authorities using decision letters suggests strongly that additional publicity does encourage more claimants to ask for exceptional hardship payments. The pattern for the authorities which use alternatives to letters is less easy to interpret but the evidence for example that 12 per cent of these (i.e. six authorities in the survey) still attracted more than ten applications a month possibly lends support to the suggestion earlier that the *quality* of information has an important influence on application levels

Potential demand

The other factor that might influence application levels that we are able to explore is the number of people having their rent restricted. Every Housing Benefit claimant whose award is based on a restricted rent, using either a local reference rent or a single room rate is entitled to make an application for an exceptional hardship payment. These claimants represent the potential demand for exceptional hardship payments. From the visits to local authorities in the development stage it became clear that although there was no practical way for Housing Benefit departments to measure potential demand there may be a large unmet demand for exceptional hardship payments among the claimant population. The survey responses reported in Chapter 2 present a similar picture although expenditure on

exceptional hardship payments was generally low many Housing Benefit managers considered their allocation to be 'about right' because it would allow them to cope with expected increases in demand in the future

Local authority benefit departments do not collect data on the number of restricted rent awards they make, but it is possible to get a sense from the quarterly returns that local authorities submit to DSS containing data on the number of Rent Officer restrictions in force in the relevant quarter

For the purposes of this research DSS supplied statistics on the number of Rent Officer restrictions in force in each local authority for the first three quarters of 1997/98 (Q1 to Q3). This allows us to get a sense of the order of magnitude of potential demand for exceptional hardship payments. For each authority, the number of Rent Officer restrictions in force in Q1, Q2, and Q3 was known. By taking the maximum value we have an indicator of potential demand in a particular quarter. This cannot be translated into the potential demand over the whole year because there are flows into and out of the register of restricted rents. Many claimants will appear in the statistics for all four quarters of the year. Furthermore, claimants do not have to apply for a payment when their claim is determined. They may wish to apply at some point during the benefit period when they find they are in hardship. What we can say however is that the potential demand for exceptional hardship payments *could not be less* than the maximum figure for rent restrictions in the year.

The distribution of these maximum figures is presented in Table 3.5 below

Table 3.5 Maximum quarterly rent restrictions as indicators of potential demand for exceptional hardship payments

Maximum quarterly number of rent restrictions	Number of local authorities	%
0-500	95	31
501-1000	83	27
1001-1500	39	13
1501-2000	31	10
Over 2000	56	18
Total	304	

The purpose of this table is to make a simple point. Table 3.5 suggests that the potential demand for exceptional hardship payments is very much higher than current application rates: the data for which were presented earlier in Table 3.1. That table showed that only 20 per cent of local authorities received more than ten applications a month, whereas Table 3.5 suggests that most authorities *could* receive applications in the order of hundreds and sometimes thousands.

These results are intriguing. They suggest that the vast majority of claimants whose rents are restricted, and therefore do not receive the full amount of their rent in Housing Benefit, find some means of meeting the shortfall. A survey of local authority Housing Benefit managers cannot answer the question of how these claimants respond to having their rent met only in part rather than in full. Evidence from the development stage suggests that very few leave their accommodation as a result (since this would result in benefit awards ceasing and could therefore be identified from Housing Benefit records). However, from the face-to-face interviews with managers, front-line assessment staff, and fraud officers a large body of anecdotal evidence emerged. Below we list some of the reasons offered by local authority staff:

- shortfalls which are small can be met from claimants' income,
- some claimants negotiate a lower rent with their landlord,
- the rent cited on the Housing Benefit claim was fictitious, the landlord knowingly exaggerating the rent in an attempt to obtain a high level of Housing Benefit, but settling for what the local authority will pay,
- landlords accept whatever award of Housing Benefit is made in payment for rent, but treat the shortfall as arrears which is offset against the tenant's bond when they leave the property. (This was viewed by local authority staff as a particularly cynical abuse of tenants by landlords.)

Discussion In the first two full years of the exceptional hardship payment scheme, the number of applications has clearly fallen well below the expectations of the DSS and local authorities. The evidence is that applications are increasing but are still at a low level. From the data on Rent Officer restrictions, there is seemingly a very large pool of potential applicants.

There is some evidence from the survey that publicising the availability of exceptional hardship payments in a range of different ways, rather than relying solely on decision letters, could increase applications. Many authorities are using combinations of sometimes innovative methods to inform claimants about exceptional hardship payments. There may be scope therefore for a good practice guides containing examples of different wordings that could be used in decision letters and other forms of written information, and examples of more proactive methods of publicity.

4 WHY CLAIMANTS APPLY FOR EXCEPTIONAL HARDSHIP PAYMENTS AND HOW LOCAL AUTHORITIES MAKE DECISIONS

Introduction Local authorities have had, for many years prior to the exceptional hardship payments scheme, powers to pay additional Housing Benefit (i.e. above the maximum prescribed by regulations) in *exceptional circumstances*. As explained in Chapter 1, from January 1996, when local reference rents were introduced, new powers were introduced enabling local authorities to pay an additional amount to bring Housing Benefit up to the level of a claimant's contractual rent (less ineligible charges) where, in the assessment of the authority, the claimant or a family member would otherwise suffer *exceptional hardship*. In October 1996, the scheme was extended to cover people affected by the introduction of the 'single room rent' regulations.

As mentioned earlier, there is no definition of exceptional hardship in law but DSS guidance is contained in Circular HB/CTB A7/96. The circular makes it clear that local authorities have discretion to decide what constitutes exceptional hardship within 'its normal everyday meaning and usage'. However, some examples are given of factors which might be relevant. These include:

- risk of eviction
- amount of shortfall between the claimant's rent and their Housing Benefit,
- claimant's other income (including disregarded income), assets and outgoings,
- possibility of claimant negotiating a lower rent,
- availability of alternative cheaper accommodation (including friends or relatives),
- the health of the claimant and/or family in relation to housing conditions
- effects on children of having to meet the shortfall,
- possibility of financial help from non-dependants in household,
- risk of (statutory) homelessness

The circular is clear that this list is not exhaustive. Local authorities have discretion to consider any circumstances they see as appropriate and relevant.

In this chapter we examine two related issues. First, we look at the reasons put forward by claimants in their applications for exceptional hardship payments, and secondly we explore how local authorities have interpreted their discretionary powers and the mechanisms they use for making decisions.

Why people apply for exceptional hardship payments

From the development stage of the research, it was clear that, in their publicity materials, local authorities generally did not give examples of what might constitute *exceptional hardship* nor disclose how decisions will be made. It is left to the claimant to describe their circumstances in their own way. During this stage we collected numerous examples of the reasons put forward by claimants in their applications. For the survey, the reasons most frequently mentioned were listed and Housing Benefit managers asked to say whether, in their authority, the reason was 'common', 'not common' or 'had not been used by any claimant'.

Table 4.1 shows the percentage of Housing Benefit managers who said they had had examples of each reason in their authority.

Table 4.1 Claimants' reasons for requesting an exceptional hardship payment, distribution among local authorities¹

Reason	Number of local authorities which had heard of reason in applications	%
Claimant cannot afford rent	286	99
Claimant has medical condition or illness	269	93
Claimant has a disability	254	87
Claimant cannot afford to pay bills	242	83
Claimant is under 25	226	78
Claimant needs room for children to stay	213	73
Claimant is pregnant	185	64
Claimant cannot afford to pay for food	179	62
Claimant is getting away from domestic violence	136	47
Claimant has language difficulties	43	15

Housing Benefit managers were asked for examples of other reasons that they had come across in their local authorities. The following were mentioned:

- claimant unable to find other suitable accommodation (mentioned by 13 local authorities)
- claimant needs to live close to family (12),
- claimant needs to live close to schools (12),
- claimant has other demands on their income (12)
- family member is ill or disabled (7)
- relationship breakdown involving children (7),
- eviction (6)

¹ Analysis excludes 15 local authorities who had not received an application in 1997/98.

- claimant is victim of abuse (5),
- need to accommodate carer (2),
- claimant is drug-dependent (2),
- unfair treatment by landlord (2)
- claimant unable to find work (2)

Table 4.1 is based on data from all the authorities in the survey including those who had only had a small number of applications. To ask these authorities for examples of 'common reasons' is therefore inappropriate. Table 4.2 is based only on those authorities who had 20 or more applications in 1997/98 and compares the proportion of Housing Benefit managers who had heard of the reason with the proportion who said the reason was 'common' in their authority.

Table 4.2 Analysis of 'common' reasons for applications in local authorities with 20 or more applications, 1997/98

Reason	Proportion of local authorities which had heard of reason in applications	Proportion of authorities where the reason was 'common'
Claimant cannot afford rent	99	94
Claimant has medical condition or illness	97	74
Claimant has a disability	96	58
Claimant cannot afford to pay bills	88	71
Claimant is under 25	84	46
Claimant needs room for children to stay	84	36
Claimant is pregnant	79	18
Claimant cannot afford to pay for food	68	34
Claimant is getting away from domestic violence	55	13
Claimant has language difficulties	16	4
Number of authorities	160	160

Table 4.2 paints a slightly different picture to Table 4.1. Authorities which had higher levels of applications were clearly faced with a wide range of reasons on a regular basis. The high percentage of authorities saying that the inability to pay the rent was a common reason for applying for an exceptional hardship payment does not necessarily suggest that claimants misunderstand the scheme. It would certainly not be an adequate reason on its own for awarding an exceptional hardship payment but inability to pay the rent might have other consequences of more relevance. Indeed it was a finding from the development stage that applications for payments do not usually rely on one reason alone. Claimants generally

put forward a series of reasons which when put together presented a coherent narrative and plausible argument for exceptional hardship

The table is also interesting in that it highlights some of the sources of demand for private sector rented accommodation. Over one in ten of the authorities in this sub-sample said that women fleeing domestic violence was a common reason for applying for an exceptional hardship payment, nearly one in five cited pregnancy, and over a third cited parents needing room for children to stay occasionally. There may be some advantage, therefore, in providing advice to authorities about how the exceptional hardship payment scheme should be used in relation to circumstances such as these, which in the light of recent social trends might be expected to increase in number in future.

Some of the reasons cited by claimants fall into distinctive groups. One group contains reasons related to the consequences that would follow from using other parts of the household budget to meet the shortfall in rent (including inability to pay for food or other bills). The second group imply the negative effects of having to give up the accommodation (including not being able to have children to stay, changing schools). Other reasons appear to be concerned more with exceptional (or difficult) circumstances rather than the consequences of having a shortfall in rent. Here we could include illness and disability, pregnancy, fleeing violence and relationship breakdown.

How local authorities make decisions on exceptional hardship payments

As mentioned in the introduction to this chapter, local authorities have wide discretion in deciding applications for exceptional hardship payments. In the development stage, however, there was a perception in some authorities that the regulations, as explained in DSS Circular A7/96, were actually somewhat restrictive. When the exceptional hardship payment scheme was first introduced in January 1996, the DSS guidance was the only assistance available to Housing Benefit departments. Since then, many authorities have developed their own approaches to deciding claims, reflected in written policy documents, guidance to assessment staff, application forms and publicity materials.

The variety of documentation that was identified in the development stage of the project suggested that there was no common way of describing them that would be recognised by all authorities. We were shown 'policy documents', minutes of meetings, training materials and assessment pro-formas, all of which were used to help decision makers. In the survey we devised a limited list which might capture these differences and asked Housing Benefit managers to say if, in their authority, their approach to decision making was informed by one or more of the following:

- a written policy document,
- a list of criteria to aid decision makers,
- the DSS guidance circular.

Table 4.3 presents the responses to this question. A combined category of policy/criteria is used in the table because of the difficulty of making a clear distinction between the two.

Table 4.3 Aids to decision making used by local authorities, by local authority type

	Authorities use of aids to decision making (% of local authorities)			Base
	Policy/ criteria	DSS guidance	Neither	
English District and Unitary authorities	73	72	6	208
English Metropolitan authorities	66	85	7	27
London authorities	71	59	18	17
Welsh authorities	64	57	29	14
Scottish authorities	32	73	14	22
All authorities	69	73	9	288

The table shows that nearly three-quarters of the sample of authorities used the DSS guidance to assist in making exceptional hardship payment decisions. Almost as many had developed their own policy or set of criteria in addition or as an alternative. In contrast, nearly one in ten authorities said that they used neither. Authorities were also asked whether they decided each case 'on its merits'. Without exception, all authorities answered that they did.

Many authorities reported that they used both their own policy/criteria and the DSS guidance, while others relied on one form of guidance or the other. It is possible therefore to construct a typology of authorities based on whether they used their own policy and whether they used the DSS guidance, as Figure 4.1 shows.

Figure 4.1 Decision making typology of local authorities (based on data from 288 local authorities)

		Use DSS guidance?	
		yes	no
Have own policy criteria?	yes	The 'comprehensive' approach <i>144 local authorities (50%)</i>	The 'independent' approach <i>54 local authorities (19%)</i>
	no	The 'DSS-based' approach <i>65 local authorities (23%)</i>	The 'case-based' approach <i>25 local authorities (9%)</i>

Figure 4.1 shows that half the authorities in the sample used both their own policy/criteria and the DSS guidance. These authorities could be described as taking a 'comprehensive' approach to decision making. One in five authorities take a more independent line in using their own policy/criteria in preference to DSS guidance, but that does not imply that the guidance did not inform the authority's own approach. Nearly a quarter have been content to rely solely on the DSS guidance. Finally, almost one in ten authorities responded that they used neither their own policy nor DSS guidance. However, they did say that each case was considered on its merits, indicating a distinctive 'case-based' approach.

There is no intrinsic merit in any one of the approaches over the others, but the typology will be used in Chapter 5 to explore whether there is any evidence for a relationship between approaches to decision making and the outcomes of applications for exceptional hardship payments.

Table 4.4 shows the distribution of local authority types among the cells of the typology matrix.

Table 4.4 Approaches to decision making by local authority type

Type of authority	Local authorities' approach to decision making				Base
	Comprehensive	DSS-based	Independent	Case-based	
	No (%)	No (%)	No (%)	No (%)	
English District and Unitary authorities	108 (52)	44 (21)	44 (21)	12 (6)	208
English Metropolitan authorities	16 (59)	7 (26)	2 (7)	2 (7)	27
London authorities	8 (47)	2 (12)	4 (24)	3 (18)	17
Welsh authorities	7 (50)	1 (7)	2 (14)	4 (29)	14
Scottish authorities	4 (18)	12 (55)	3 (14)	3 (14)	22
All authorities	(50)	(23)	(19)	(9)	288

Some caution must be exercised in interpreting this table because of the relatively small base numbers for local authority types other than the English districts. Nevertheless, there are a number of observations that can be made:

- reliance on DSS guidance appears greater in Scotland than in other authorities,
- London and Welsh authorities rely on DSS guidance the least,
- the case-based approach is used most in Wales,
- the independent approach is used most in London,
- more Metropolitan authorities adopt the comprehensive approach than other types of authority.

Relevance of pre-tenancy determinations in decision making

The relevance of pre-tenancy determinations for exceptional hardship payments is that there might be an expectation that claimants who know (from a pre-tenancy determination) that they are unlikely to receive Housing Benefit which will meet their rent in full would either accept the tenancy and be prepared to meet the shortfall or look for alternative accommodation. In the survey, Housing Benefit managers were asked if the existence of a determination played a part in deciding an application for an exceptional hardship payment. Table 4.5 presents their responses.

Table 4.5 Relevance of pre-tenancy determinations for deciding applications for exceptional hardship payments, by local authority type

	Is PTD relevant? (% of authorities)		Base (number of authorities)
	Yes	No	
English District and Unitary authorities	92	8	208
English Metropolitan authorities	93	7	27
London authorities	88	12	17
Welsh authorities	100	0	14
Scottish authorities	82	18	22
All authorities	91	9	288

As Table 4.5 shows, the large majority of authorities take pre-tenancy determinations into account when deciding applications for exceptional hardship payments. This finding also reflects the findings from the development stage of the project. Many of the managers interviewed during that stage emphasised that a pre-tenancy determination was relevant but only one of a range of relevant factors. The existence of a determination would not be a sufficient reason to reject an application.

Content analysis of local authorities' policies/criteria

At the mid point of the telephone survey, we identified local authorities where a written policy or list of criteria was in use. These 161 local authorities were sent a request for copies of their documents, of which 88 responded.

The documents that were returned by local authorities varied enormously in their style and content. Many were not policy documents in the sense of a clear statement of how the authority viewed the exceptional hardship payment scheme. Many documents were application forms that claimants were required to complete. However, it is probably fair to say that the approach of the authority will be reflected in the forms, in the scope and detail of the questions asked.

There are a number of observations that can be made from studying the policy documents, lists of criteria, application forms and other material:

- many application forms were long and complicated, some stretching to many pages containing perhaps 20 or more questions.

- often the questions on forms were clearly based on the examples of possible relevant factors found in Circular A7/96 (such as 'have you tried to renegotiate the rent with your landlord?' or 'what other properties have you looked at?')
- many authorities required information about claimants' expenditure. This was often in the form of a list of expenditure items to complete. These commonly covered essential items such as food, fuel, water, clothing, and expenditure on repaying debts and loans. Some authorities asked for other details such as expenditure on cars, telephones or televisions, and leisure spending like cigarettes and alcohol. The longest expenditure form contained 68 items for the claimant to complete (including presents, children's pocket money, newspapers and prescriptions) and an additional form requiring details of creditors.
- a number of authorities had developed scoring systems for helping them assess the strength of a claimant's application.
- some authorities pointed out that their assessment procedures included visiting the claimant in their own home.

Local authorities had a range of different approaches to what constituted exceptional hardship. In one authority, the working definition in their guidance notes to staff included the requirement that a claimant *must* be facing eviction from their accommodation. Another authority took a dictionary definition as its guide (and mentioned this in correspondence to claimants). It was 'exceptional' means 'something unusual or uncommon' while 'hardship' means 'severe suffering, extreme privation'. From a scrutiny of the documents supplied by local authorities, the following list of factors has been identified that are additional to those included in the DSS guidance Circular HB/CTB A7/96 (set out at the beginning of this chapter):

- a recent death in the household,
- special dietary, heating or laundry requirements,
- whether claimant had applied for local authority or Housing Association accommodation,
- reasons for choosing current accommodation,
- how the claimant found out about the current accommodation,
- reasons for requiring 'over-large' rooms,
- reasons for claimant's financial position
- possibility of a third party negotiating with the landlord,
- possibility of claimant taking on a sub-tenant
- action claimant will take if exceptional hardship payment is not awarded
- likelihood of changes in circumstances in the near future
- possible income from social security benefits not claimed,
- possibility of assistance from Social Services Department

It is clear from the documents collected in the course of the project that local authorities have, from the common starting point of Circular A7/96, developed their approach to decision making in very different ways. At this stage, it is not possible to draw conclusions from this diversity, but

one specific concern can be raised. It is possible that many potential applicants will be put off submitting an award by the scale and detail of the information they are being asked to supply, particularly about their expenditure. Also, questions about spending on personal items, such as prescriptions, pocket money, presents and cigarettes, could be construed as unnecessarily intrusive.

Discussion As Chapter 3 demonstrated, the large number of Rent Officer restrictions on private sector rents has created a large pool of potential applicants for exceptional hardship payments whose circumstances will vary widely. It is not surprising, therefore, to find that local authorities encounter such a wide range of reasons in the applications they receive.

Many of the reasons cited by applicants appear to relate to the circumstances which gave rise to their claim for Housing Benefit, in other words, why they are in rented accommodation with a restricted rent. Other reasons appear to describe generally difficult circumstances, such as illness or disability, which can result in financial pressures on people with low incomes. It seems therefore that the range of factors which the DSS foresaw as being possibly relevant is only partially reflected in the reasons put forward by claimants. For example, few authorities had come across claims that eviction or homelessness would be the result of Housing Benefit not meeting the rent in full. In general, applications appear to arise primarily from the fact that claimants have to find some part of the rent from their income.

The results from the survey suggest that most authorities (around seven in ten) have chosen to devise some form of guidelines other than Circular A7/96 to assist their assessment staff. Around half have adopted a 'comprehensive' approach by using both. The scope and content of these 'policy documents' appear, from the examples sent by 88 local authorities, to vary enormously between authorities. Particularly striking was the number of authorities who require applicants to complete detailed expenditure forms as part of their application. It is possible that these could discourage applications. The most sophisticated approach to decision making was found in five local authorities which had devised (sometimes elaborate) scoring systems for assessing applications. (Three of these authorities had success rates for claimants making applications of over 60 per cent.)

5 OUTCOMES OF APPLICATIONS FOR EXCEPTIONAL HARDSHIP PAYMENTS

Introduction In this chapter we examine the outcomes of applications for exceptional hardship payments. Successful applications are analysed by the type of claimant making the application, and by the value of the awards made. Unsuccessful applicants are analysed by claimant group to explore the possibility that claimant groups fare differently when they apply. Finally, the number and outcomes of appeals against adverse decisions are analysed.

The data used in this chapter derive from the survey. Housing Benefit managers were asked for the following statistics for 1997/98:

- total number of exceptional hardship payments awarded,
- number of exceptional hardship payments awarded by claimant type,
- number of unsuccessful applications,
- number of unsuccessful applications by claimant type,
- lowest weekly amount of exceptional hardship payment awarded,
- highest weekly amount of exceptional hardship payment awarded,
- average weekly amount of exceptional hardship payment awarded,
- number of appeals/number of successful appeals.

Collecting data for the survey was not straightforward for local authorities. Almost every local authority kept records (in varying amounts of detail) of the number and the amounts of awards and payment periods. Most kept these on computer as a means of tracking payments and monitoring ongoing expenditure. Information on failed applications was not routinely held and in many cases had to be extracted manually from casepapers. Some authorities did not answer the questions on unsuccessful applications because they did not have the resources to do so. For these authorities it has not been possible to calculate numbers of applications or success rates.

Successful applications and success rates Of the 305 local authorities in the survey, 288 authorities supplied figures for the number of exceptional hardship payments awarded in 1997/98.

Successful applications Of these, 248 were also able to supply figures for the number of unsuccessful applications. Aggregating the responses from these authorities shows that 9 483 exceptional hardship payments were made from 22 034 applications, an overall success rate of 43 per cent. The mean number of payments in these authorities was 38 within a range of between one and 664.

The distribution of the number of awards between different authority types is shown in Table 5.1.

Table 5 1 Number of exceptional hardship payments awarded, by local authority type

	Exceptional hardship payments awarded (number of authorities)					Total
	Zero	1-10	11-40	41-100	101+	
English District and Unitary authorities	15	89	71	27	14	216
English Metropolitan authorities	0	6	8	7	6	27
London authorities	1	2	5	6	4	18
Welsh authorities	0	6	5	3	0	14
Scottish authorities	2	12	6	2	1	23
All authorities	18 (6%)	115 (39%)	95 (32%)	45 (15%)	35 (8%)	288

The raw data have been used in this table principally because the cell sizes are too small for percentage figures to be meaningful. Furthermore, because three-quarters of the authorities in the sample are English Districts, the percentage figures in the bottom row for all authorities are largely only a reflection of the distribution of the Districts. Nevertheless the table does present a picture of widely differing experiences between authorities. As might be expected the general pattern for the larger London and Metropolitan authorities is different from the general pattern for the smaller authorities in Wales and Scotland. That 45 per cent of authorities had made ten or fewer exceptional hardship payments in 1997/98 (including 18 authorities which had made no payments) suggests that the scheme is probably not working as expected.

There are several possible contributory explanations for the apparently low number of exceptional hardship payments in some authorities including

- more claims are being rejected than allowed
- the criteria used for decision making tend to exclude applicants rather than include them,
- local authorities may not making many awards in order to reduce their own costs and to keep the central government contribution to the budget
- claimants are mostly able to meet the shortfall in their Housing Benefit from their own resources or negotiate a lower rent with their landlord

The data from the survey allows us to explore the first two of these possibilities. We cannot make any systematic assessment of the third and fourth points, however.

Success rates Success rates were calculated for the 157 authorities with 20 or more applications in 1997/98. Table 5 2 shows the results of this analysis. Except

for English District authorities the numbers of local authorities in each category were too small to calculate percentages. The raw data are therefore shown for all authorities.

Table 5.2 Success rate of applications, by local authority type

	Success rates for exceptional hardship payment applications (number of authorities)				Total
	0-25%	26-50%	51-75%	76-100%	
English District and Unitary authorities	19	29	39	23	110
English Metropolitan authorities	9	5	3	1	18
London authorities	5	2	3	3	13
Welsh authorities	2	3	3	0	8
Scottish authorities	1	2	2	3	8
All authorities	36 (23%)	41 (26%)	50 (32%)	30 (19%)	157

Table 5.2 suggests that there is a wide range of fairly evenly distributed success rates across the country. There appears to be no intrinsic reason why some authorities granted most of their applications for exceptional hardship payments (or *all* applications in four local authorities), while others rejected most. One possible contributory explanation might be that local authorities have very different standards by which they assess claims, some taking a presumably tight approach to the definitions of the words 'exceptional' and 'hardship', and others taking a far wider and more inclusive interpretation.

Table 5.3 compares the overall success rates of applicants with the approach taken by authorities to decision making as identified in the previous chapter. The 'success rate' cited in the table is calculated from the total number of applications and the total number of successes across all the authorities in each of the categories of approaches to decision making.

Table 5.3 Overall success rates compared with decision making approach of local authorities

Type of decision making approach	Overall success rate of applications	Base number of local authorities
Comprehensive (ie based on own policy and DSS guidance)	43	131
DSS-based (using DSS guidance only)	51	47
Independent (using own policy only)	50	48
Case-based (no policy, DSS guidance not used)	30	21
All authorities	43	247

Although the number of local authorities using the 'case-based' approach is small the table suggests that this approach where each case is considered on its merits without reference to any form of guidance may lead to fewer awards than other approaches. The table also raises the question of whether decision makers with more than one source of guidance (the 'comprehensive' category) in practice have to consider more factors in making a decision than those who rely on either the DSS guidance or the authority's own policy. The effect of devising an in-house policy may have been to decrease the likelihood that a claimant will satisfy the criteria for 'exceptional hardship'.

Analysis of exceptional hardship payment recipients

One of the questions that the research set out to explore was whether particular types of claimant tended to be more or less successful in applying for an exceptional hardship payment than others. In the survey, therefore, Housing Benefit managers were asked to break down successful and unsuccessful applicants into the main claimant groups of lone parents, pensioners and disabled people. Although the administrative classification of claimants tends to treat these groups as mutually exclusive, it is possible for a claimant to fall into more than one. Hence, the analysis presented here is used only to indicate broad brush differences between them rather than statistically significant findings. Housing Benefit managers were also asked how many applicants were single people under 25, pregnant women, people with mental health problems or absent parents (again recognising that these are overlapping categories). This sort of information is not collected by local authorities in any systematic way, although the relevant information is usually contained within the case record. Some authorities were not able to supply the data required, others supplied estimates only. The data are therefore limited, but it is possible to get a sense of whether different claimant groups fare better than others in applying for exceptional hardship payments. Using data from only those authorities which could supply breakdowns of both successful and unsuccessful applicants we can calculate an aggregate success rate for each claimant group shown in Table 5.4.

Table 5.4 Success rates of different claimant groups

	Number of exceptional hardship payments made	Number of unsuccessful applications	% success rate	Base (number of authorities)
Lone parents	1585	1625	49	221
Disabled people	807	377	68	220
Pensioners	295	306	49	218

The table indicates that disabled people are more likely to succeed with an application for an exceptional hardship payment than either lone parents or pensioners. Nevertheless lone parents were awarded nearly twice as many payments as disabled people and five times as many as pensioners. It is not possible from the survey data to explore the reasons for these differences. Clearly the number of awards will be related to the number of applications from each of the claimant groups which in turn will be related to how many of each type of claimant is in the Housing Benefit population. Also, from what is known about take-up rates for means-tested benefits generally it is likely that numbers of applications from pensioners, will be considerably lower than for lone parents, for example. The table does indicate, though, is that the principal beneficiaries from the exceptional hardship payment scheme are lone parents.

It was also possible from the survey data to explore the relative success rates for claimants with particular characteristics (rather than as members of specific claimant groups). Table 5.5 presents the results of this analysis.

Table 5.5 Success rates of claimants with specific characteristics

	Number of exceptional hardship payments made	Number of unsuccessful applications	% success rate	Base (number of authorities)
Single claimant under 25	821	1010	45	223
Claimant with mental health problems	339	101	77	213
Pregnant women	173	68	72	215
Absent parents	55	48	53	214

It is interesting to compare this table with Table 5.4. It appears that in 1997/98 single people under 25, whose Housing Benefit will have been subject to the restrictions imposed by the 'single room rate', applied for exceptional hardship payments in comparable numbers to disabled people and far more than pensioners. Their success rate (45 per cent) was slightly lower than for lone parents and pensioners (both 49 per cent). Applications

by pensioners were outstripped by applications from people with mental health problems who according to Table 5.5 secured the highest success rate of all types of applicant. Pregnant women were also relatively successful in getting exceptional hardship payments although there were few of these. Absent parents represented a small fraction of applicants but were successful in over half their applications.

Value of exceptional hardship payments

We know from the development stage of the project that the value of exceptional hardship payments varies enormously depending on the shortfall between a claimant's rent and their Housing Benefit. Some claimants are awarded only modest amounts, sometimes as a contribution to the shortfall rather than the full amount, while the circumstances of other claimants justify very large payments. In the survey, we asked Housing Benefit managers the values of the lowest and highest weekly payments made in their authorities. This allows us to establish the range within which payments were made in 1997/98. We also asked for an estimate of the average weekly payment. Table 5.6 presents the results from the analysis of lowest and highest weekly payments.

Table 5.6 Lowest weekly exceptional hardship payments made by local authorities

	Percentage of local authorities
<i>Value of lowest weekly award</i>	
£1-5	73
£6-10	17
£11-20	6
Over £20	3
Base number of authorities	275
<i>Value of highest weekly award</i>	
£1-25	36
£26-50	44
£51-100	17
Over £100	4
Base number of authorities	275

Most authorities made some low weekly payments as Table 5.6 shows. This finding raises an interesting question. Can payments of a few pounds be a plausible response to a claimant in apparently exceptional hardship? In other words, what exceptional hardship could result from a claimant having to find only one or two pounds from their other resources? Several valid responses can be made to such questions. First, during the development stage we were given examples of claimants whose budgets, on a very low income, were so tight that having to find a shortfall of a few pounds would have had serious consequences for the claimant's ability to pay, for example, for food or essential services. Secondly, it must be

remembered that local authorities do not have to meet the shortfall in full but have the discretion to make any level of payment up to the full amount. The small amounts that are sometimes paid could therefore be in relation to cases where the local authority has decided to make a contribution to the shortfall. Several managers explained that when there is a large shortfall it is often the case that the claimant is able (and willing) to meet some of the extra cost but that exceptional hardship would result if they were forced to pay the full amount. In such circumstances an appropriate response is to make an exceptional hardship payment at an amount that will prevent exceptional hardship but no more.

Table 5.6 also shows that over one in five authorities made some relatively high weekly payments, in excess of £50, and a small number made payments of over £100 per week. However, these are likely to be isolated cases with particularly unusual sets of circumstances since, as Table 5.7 shows, almost all authorities reported *average* weekly payments of £30 or less.

Table 5.7 Average weekly exceptional hardship payments made by local authorities

Value of average weekly award	Percentage of local authorities
£1-10	33
£11-20	50
£21-30	15
Over £30	2
Base number of authorities	275

From the development stage of the project it was clear that the overwhelming majority of applications for exceptional hardship payments came at the start of a claim, when a claimant moved into a new property rather than as a result of a change in circumstances once a Housing Benefit award was in payment. Exceptional hardship payment cases then tended to fall into one of two types:

- Cases where the nature of the exceptional hardship was considered temporary, which would be removed when the claimant found more suitable accommodation
- Cases where the nature of the exceptional hardship was considered permanent and which could not be alleviated by a move to other accommodation

The first type of case typically included claimants who had had to move into new accommodation as a matter of some urgency, for example as a result of a relationship breakdown involving children or because of domestic violence. In such cases, exceptional hardship payments were usually awarded for a period of time long enough to enable the claimant to find alternative accommodation without adding to the pressure that

they might already be under. The second type of case typically included claimants who had some form of special needs which were ongoing rather than temporary and which required possibly large or high quality accommodation. Another example is the claimant who takes accommodation in a particular (usually expensive) area for some family or domestic reason, such as to provide care for a relative or to be near a particular school.

In the first type of case, an exceptional hardship payment might be awarded for something like three to six months. In the second type of case a payment might be continuous over several benefit periods. In either case the total value of an exceptional hardship payment to an individual claimant can be substantial. From the survey data, it was possible to calculate a rough indicator of the magnitude of the amounts paid to individual claimants, using the total expenditure on exceptional hardship payments and the number of successful claims. Table 5.8 presents the results of this estimation.

Table 5.8 Estimate of average value of exceptional hardship payments to successful applicants

Estimated average value exceptional hardship payments to individual claimants	Number of local authorities	Percentage
£1-250	78	28
£251-500	114	42
£501-750	43	16
£751-1000	18	7
over £1000	21	8
Base number of authorities	274	

Tables 5.7 and 5.8 present a consistent picture of the majority of exceptional hardship payments being at the lower end of the range (up to £20) which if paid for a period up to six months would accrue to the claimant a total amount up to £500. There are also some authorities where claimants are receiving much larger amounts. In particular Table 5.8 includes 21 authorities where claimants are receiving, on average, over £1000 from exceptional hardship payments.

Appeals As mentioned earlier, the survey data can be used to produce a success rate for exceptional hardship payment applications of 43 per cent. Hence over half of all applications end in failure. Like all Housing Benefit decisions, a refusal to award an exceptional hardship payment can be appealed by the claimant. In the survey data on appeals were provided by 228 local authorities. In these authorities, 3,272 appeals were lodged, an appeal rate of around 26 per cent. One authority was an outlier reporting 750 appeals. If we remove this authority from the calculation we arrive at a revised appeal rate of 21 per cent. Of all 3,272 appeals, 822

were successful – a success rate of 25 per cent. However, removing the outlier authority produces an amended success rate of 30 per cent (a figure comparable to the success rate of means-tested social security benefits).

Most authorities had dealt with very few appeals. Sixty-two (27 per cent) reported that they had not received any appeals, a further 96 (42 per cent) had received between one and five. Only one in five authorities had had more than ten appeals. Table 5.9 shows the distribution of appeals among local authority types. Except for English District authorities, the numbers of local authorities in each category were too small to calculate percentages. The raw data are shown instead.

Table 5.9 Number of appeals, by local authority type

	Number of appeals (number of authorities)						Base
	Zero	1-5	6-10	11-20	21-50	51+	
English District and Unitary authorities	52	77	20	8	9	4	170
English Metropolitan authorities	0	5	1	2	5	5	18
London authorities	0	4	1	1	2	4	12
Welsh authorities	4	3	2	3	0	1	13
Scottish authorities	6	7	2	0	0	0	15
All authorities	62 (27%)	96 (42%)	26 (11%)	14 (6%)	16 (7%)	14 (6%)	228

Although the cell sizes in the table are generally small, there is an indication that the larger authorities – i.e. the London and Metropolitan authorities – received more appeals than the smaller authorities in England, Scotland and Wales. There was also a small number of authorities where appealing against refusals to award exceptional hardship payments was, in comparison with most other authorities, a relatively common experience, in the order of at least one a week.

Appeal rates between individual local authorities varied widely. Table 5.10 shows the distribution of appeal rates for those authorities with 20 or more rejected applications for an exceptional hardship payment.

Table 5 10 Appeal rates within individual authorities with more than 20 rejected applications (base = 106 authorities)

Appeal rates	Percentage of authorities
<10%	40
11-20%	23
21-30%	14
31-50%	18
>50%	6
Base number of authorities	106

The table shows the wide range of appeal rates among individual authorities. The data from the survey do not allow us to explore the reasons for the variation but relevant contributory factors might include the personal motivation of claimants, the amount of exceptional hardship payment involved, the availability of alternative accommodation for claimants, and welfare rights services (their number, availability and effectiveness). Nevertheless, it is interesting that of the 25 authorities in the higher two bands (i.e. over 30 per cent) three are London Boroughs and six are coastal authorities (in England, Scotland and Wales).

Appeals against Housing Benefit decisions are decided in the first instance by an internal administrative review. Unsuccessful claimants have a further right of appeals to a Housing Benefit review Board comprising elected local authority councillors. In the authorities visited in the development stage, very few had held a single Review Board. This finding is in line with findings from previous research (Sainsbury and Eardley, 1991) that few unsuccessful claimants appeal beyond the internal review.

Discussion Chapter 3 demonstrated the wide variation between authorities in the number of applications for exceptional hardship payments in 1997/98. This picture of wide variation is repeated when we look at the number of awards that are made and the success rates of applicants. Why some authorities should apparently have success rates in single figures while others made payments to every claimant who applied is puzzling. What is clear, however, is that which local authority you live in appears to have a strong bearing on the likelihood of your application for an exceptional hardship payment succeeding. The comparison of success rates with authorities' approaches to decision making also suggests that how decisions are made (i.e. what forms of guidance are used) could have a bearing on whether applications succeed or not.

The suggestion that the DSS guidance is restrictive and imposes tough criteria on applicants was made by some of the Housing Benefit staff interviewed in the development stage of the project. The results from the survey on this point are inconclusive. Success rates for claimants were highest in authorities relying on the DSS guidance and comparable to

those in authorities which used their own policy (51 and 50 per cent respectively). We can interpret this finding in different ways. It may be that local authorities' own policies are equally as restrictive as the DSS guidance and therefore excluding some claimants in the same way. It may also be possible that the guidance is not as restrictive as suggested by the managers interviewed in the development stage.

From the survey data we can infer that people whose circumstances are related in some way to their health (disabled people, those with mental health problems, or pregnant women) are the most successful types of claimant. However, the most numerous beneficiaries of exceptional hardship payments were lone parents. Pensioners appeared to fare badly in the sense that applications were seemingly low compared with the large number of pensioners in the population.

Wide variations between local authorities were also apparent in the range of exceptional hardship payments made and the average amounts paid to individual claimants. In some authorities apparently large weekly payments and large aggregate amounts were the norm rather than the exception.

Relatively few unsuccessful applicants pursued their cases to appeal (or internal review in the first instance). The success rate of about one in four is in line with success rates for other means-tested benefits.

6 ADMINISTERING THE SCHEME

Introduction Implementation of the exceptional hardship payment scheme has been undertaken in various ways in different authorities. Arrangements for publicising, deciding applications, dealing with appeals, recording and monitoring have all been required. From the development stage of the project, it was apparent that most authorities used their computer systems to some degree to keep records and manage expenditure.

Views about administration In the survey, Housing Benefit managers were asked the extent to which administration of the scheme was easy or caused difficulties. Table 6.1 presents the responses by local authority type.

Table 6.1 Experience of administering the exceptional hardship payment scheme, by local authority type

Type of authority	Experience of administration by local authorities				Base
	Very easy	Mainly easy	Some difficulties	Serious problem	
	No (%)	No (%)	No (%)	No (%)	
English District and Unitary authorities	15 (7)	99 (47)	92 (44)	4 (2)	210
English Metropolitan authorities	0 (0)	8 (30)	18 (67)	1 (4)	27
London authorities	1 (6)	7 (41)	8 (47)	1 (6)	17
Welsh authorities	1 (7)	6 (43)	6 (43)	1 (7)	14
Scottish authorities	3 (14)	8 (41)	8 (41)	1 (5)	22
All authorities	(7)	(44)	(46)	(3)	290

The table shows that just under a half of the authorities in the survey have experienced some difficulties in the administration of exceptional hardship payments and that a small percentage (eight authorities) reported that they had had 'serious problems'. In the survey, Housing Benefit managers were invited to explain the nature of the difficulties that they had encountered. The most common among the 142 respondents were as follows:

- lack of guidance on what constitutes 'exceptional hardship' (mentioned by 51 local authorities),
- computer problems, including setting up systems and with software (43)
- ensuring staff were sufficiently trained and equipped (22),
- length of time needed to investigate applications (20),
- keeping track of cases and expenditure (18),

- amount of work involved gathering information (17)
- informing claimants of new provisions (15)
- concerns about exceeding the budget (8),
- using manual systems (5)

When we looked at the responses from the eight local authorities which reported serious problems we found no consistent pattern in the types of difficulties described. Interestingly only one of the eight mentioned that they had had computer problems.

Table 6.2 compares local authorities' experiences of administering exceptional hardship payments with the rate of applications they received.

Table 6.2: Experience of administration, by rate of applications

Number of applications per month	Experience of administration (% of authorities)				Base
	Very easy	Mainly easy	Some difficulties	Serious problem	
<1	14	63	23	0	64
>1-5	4	44	50	2	113
>5-10	11	37	48	4	27
>10	6	28	57	9	54
All authorities	7	45	45	3	258

The inference that can be drawn from this table is that the local authorities with the higher rates of applications tended to report more problems with implementation than those with lower application rates. This suggests that it is possibly the process of routinely having to deal with often difficult decisions that local authorities have experienced as problematic rather than, say, the task of introducing appropriate computer systems. The types of problem cited by local authorities (listed above) tend to add support to this interpretation since most are concerned with decision making processes. The 43 authorities who reported computer problems represent only 15 per cent of the 290 authorities which have implemented the scheme (in the sense of having any applications to deal with).

Discussion The question in the survey interview did not ask specifically about setting up the scheme but referred more widely to local authorities' experiences of administering exceptional hardship payments. As mentioned above many of the problems described were about day-to-day administrative issues (such as resource management, training, and monitoring) that are essentially within the power of local authorities themselves to alleviate rather than being issues of policy. The data from the survey suggest that few authorities experienced serious difficulties in setting up the exceptional hardship payment scheme. The lack of problems may in part be the result of the generally low take-up of payments in the first year and since

One of the enduring problems (mentioned by over 50 Housing Benefit managers) concerns the interpretation of what constitutes 'exceptional hardship'. This difficulty was also mentioned in some of the local authorities in the development stage of the project. Some authorities would clearly welcome more detailed advice and guidance. Equally others are comfortable with the broad framework of exceptional hardship payments which allows them the flexibility to devise local policies which fit with the general policy direction of benefits in their authority.

7 EXCEPTIONAL HARDSHIP PAYMENTS - SUMMARY AND DISCUSSION

One of the main objectives of this research into local authorities discretionary powers was to investigate how the exceptional hardship payments scheme is operated by authorities and, in particular why expenditure has been lower than expected while at the same time varying so significantly between them

The research was designed to explore a number of specific questions which were set out in Chapter 1. In this concluding chapter, we draw on the findings of the study to address each of these. Finally we offer some further comments on possible policy development in this area.

The research questions *Why do local authorities spend very different amounts on exceptional hardship payments?*

How many applications are made, and how many are successful?

What are the patterns of applications and awards for exceptional hardship payments between local authorities?

These questions are linked but there is clearly no simple answer to any of them. In some ways it would be surprising if local authorities, given the diversity of their geography, demography, political control and other factors, displayed consistency in the way they administered exceptional hardship payments. The current research can contribute to an understanding of why expenditure patterns are so different between authorities but there is a range of other factors which affect spending which the research could not address. A provisional list of the principal factors would include the following: some of which are independent and some of which are related.

1 Demand

Expenditure on exceptional hardship payments is, in the first instance, demand-led. No applications would mean no expenditure regardless of any other factors. Demand will be influenced by factors which contribute to levels of take-up, and non take-up of benefits such as knowledge, value, perceived need, hassle and the monetary and social costs to the claimant. Claimants' knowledge about exceptional hardship payments will in turn be influenced partly by the amount of information provided by the local authority in its letters and other publicity material. The level and effectiveness of local advice and advocacy agencies will also affect demand. The responses of landlords to tenants whose Housing Benefit falls short of the asking rent will also be relevant.

2 Need

Exceptional hardship payments are payable only to people whose Housing Benefit does not meet their actual rent. The number and size of the shortfalls depend on the implementation of local reference rents and single room rents by the Rent Officer.

3 Local authority policy

The exceptional hardship payment scheme is discretionary. Local authorities have the DSS guidelines but are also able to devise their own policies for how the funds are spent. For example, there may be a policy on whether shortfalls are met in full or whether a contribution only is made instead. The length of time for which payments are made may also be a matter of policy.

4 Housing Benefit management

Housing Benefit managers will have responsibility for controlling expenditure on exceptional hardship payments. They are likely to monitor or control the budget. How they respond to this responsibility will influence front-line decision making. For example, they may limit expenditure early in the year for fear of overspending later.

5 Front line decision making

Decisions are made by a range of different grades of staff. How they interpret guidelines, local policy etc. and the extent to which they are allowed to use their own discretion will influence outcomes.

It can be seen from this list there is no simple relationship between, for example, the size of a local authority's Housing Benefit caseload or the amounts paid out to tenants in private sector accommodation, and the amounts paid by a local authority in exceptional hardship payments. Nevertheless, despite the complexity of the picture presented above, the research can offer some suggestions as to why the variations in exceptional hardship payment expenditure are so wide. Expenditure is principally dictated by the number of awards made and the amounts of those awards. Local authorities have been shown to differ widely in the number of awards they make (from zero to many hundreds) and in the amounts they pay (some apparently making modest payments and others occasionally making very large awards).

The number of awards is linked in part to the number of applications made by Housing Benefit claimants, and again local authorities varied widely in the number they received. The question is therefore raised of why application rates vary so much (as discussed in Chapter 3). The research suggests two contributory reasons. First, local authorities publicise the availability of exceptional hardship payments in different ways. Some

take the simple but minimal, approach of informing claimants in letters notifying claimants of the outcome of their claim. Others use different methods in addition such as providing information to local advice agencies, which the research indicates is associated with higher levels of applications.

The number of awards is also linked to the way authorities decide claims. Analysis of the success rates of applicants shows once again that local authorities differ widely in the ratio of applications they allow to those they reject. It is possible that some authorities attract mostly claims which are likely to be successful. This scenario might arise, for example, if the publicity for exceptional hardship payments effectively discouraged cases with little chance of success. It is possibly more likely that differential success rates are the result of authorities taking a 'harder' or a 'softer' approach in deciding what cases fit the criteria for exceptional hardship.

Why is expenditure lower than expected?

What is perhaps more surprising than the variation between authorities in the awards they make and therefore their expenditure, is the apparently very low level of applications compared with the potential number of applications (as indicated by the analysis of the Rent Officer statistics supplied by DSS). It may be the case that, as Chapter 3 suggested, tenants are able to find the shortfall in their rent from elsewhere, or are negotiating lower rents with their landlords. It may also be the case that people *are* suffering hardship but that there are barriers to applying for an exceptional hardship payment. This research, however, was not aimed at understanding non-take-up of exceptional hardship payments. Nevertheless, our analysis of some of the application forms and publicity materials collected in the course of the project, suggests strongly that they have the possibility, or even the probability of putting off a large proportion of claimants from applying. Many were long and required an immense amount of detail which could be difficult to provide. Detailed information about household expenditure in particular could well discourage a lot of claimants. At this stage, this must remain an hypothesis, although other research on take-up of benefits (such as Corden, 1995; van Oorschot, 1995) would indicate that it is a strong hypothesis.

The research has indicated that, when official returns are made later in the year, expenditure on exceptional hardship payments for 1997/98 will be found to have increased substantially over the previous year. Expenditure is on the increase although the budget for exceptional hardship payments is still considerably under-spent.

How much is the average exceptional hardship payment?

Chapter 5 has shown the wide variation in the amounts of money paid by authorities in exceptional hardship payments. Amounts that are small,

and for relatively short periods may be justified on the criteria used by an authority, as much as payments that are large and likely to continue for a long time. Most exceptional hardship payments, however, appear to be at the lower end of the spectrum – up to £20 per week.

The analysis of estimated amounts of money accruing to individual claimants over the duration of an exceptional hardship payment showed that in some authorities claimants were receiving average amounts that were substantial, in excess of £500 in a quarter of authorities – and more than £1000 in over 20 authorities.

What are local authorities' views about their allocations for exceptional hardship payments from central government?

Chapter 2 showed that while some of the lower spending authorities considered their budgets too high, the majority thought them about right. This could be interpreted as a somewhat inconsistent set of responses considering the evidence that most authorities spend only a small fraction of their budgets. The most common explanation for the dominant view was that an increase in applications was expected. This view is not unrealistic since experience tells most Housing Benefit managers that demand for additional payments, from whatever source, inexorably increases as awareness of their availability spreads. The evidence of the increased spend in the second year of the scheme further supports their view.

Apart from increased demand, there is another reason why expenditure is likely to increase each year. This was suggested by the finding from Chapter 5 that exceptional hardship payments tend to be awarded either as temporary measures or as ongoing payments to claimants whose exceptional hardship is expected to continue indefinitely. It is possible to foresee, therefore, a scenario for future trends in exceptional hardship payment expenditure that resembles the pattern of growth for the old Invalidity Benefit (i.e. before its replacement by Incapacity Benefit – a policy change intended to stem the rise in the number of awards). For Invalidity Benefit, the steeply rising cost of awards was explained principally by the growing number of *long term* recipients rather than by an increase in the caseload. Similarly, one can foresee a flow on and off exceptional hardship payments of claimants whose circumstances giving rise to exceptional hardship are temporary – but at the same time an inexorable rise in the numbers of 'permanent' recipients whose circumstances are unlikely to change.

The long term picture in such a scenario is a growing demand for exceptional hardship payments in each authority year on year until a point when expenditure approaches and reaches the permitted total.

Do particular types of claimants tend to be more or less successful in applying for an exceptional hardship payment than others?

It was difficult for some authorities to provide information about the characteristics of claimants who were either successful or unsuccessful in their application for a payment. However from the data we have some interesting findings emerged. It appears that some types of claimant had high success rates compared with others. Disabled people, people with mental health problems and pregnant women appeared to have the greatest chance of success. The numbers of applications from people under 25 was comparable to the number of applications from disabled people but they were not as successful.

Lone parents were no more successful than pensioners but applied in far greater numbers and so emerged as the largest group of beneficiaries. The low level of applications from pensioners was striking but perhaps not surprising given their low take-up of benefits in general. However, this finding does indicate that greater targeting of publicity or a more pro-active approach by authorities is needed to overcome the apparent reluctance of pensioners to apply.

How do claimants become aware of the availability of exceptional hardship payments?

Chapter 3 described the various ways in which Housing Benefit claimants are informed about the availability of exceptional hardship payments. Three-quarters of the authorities in the sample included information in the decision letters notifying claimants of the outcome of their benefit claim. Over two-thirds disseminated information through local advice agencies. Leaflets were another common means of publicity.

Other means of publicity, which might be usefully employed in other authorities included, meetings with claimants, welfare groups or landlords, posters, newsletters, the local press, or direct mailshots. Most authorities publicised exceptional hardship payments in more than one way, but ten authorities in the sample reported that they did not publicise their availability at all. As mentioned earlier, the survey evidence suggests that the number of different ways in which exceptional hardship payments were publicised influenced the number of applications from claimants. We were not able to assess the quality, style or content of the publicity, but it is likely that the way and the detail in which the scheme is described will serve either to encourage or discourage applications.

How do local authorities make decisions on applications for an exceptional hardship payment?

What criteria do they use?

Does a pre-tenancy determination affect the decision whether to make a payment?

Chapter 4 described how most authorities use either the DSS guidance, their own policy or set of criteria, or both to help them decide applications for exceptional hardship payments. The extent to which the DSS guidance was useful varied between authorities. Some Housing Benefit managers reported that they experienced problems with the scheme because of a *lack* of guidance on what constitutes 'exceptional hardship'. Other authorities were apparently content to rely solely on the DSS circular for guidance.

Pre-tenancy determinations were clearly a consideration for most authorities in deciding applications. There was a general feeling that a claimant who had taken on a rented property in the knowledge that they were unlikely to get Housing Benefit to the full amount of the rent would have to present a stronger case than other claimants to establish 'exceptional hardship'. Some authorities were also suspicious of claimants who did not ask for a pre-tenancy determination before taking a tenancy. They considered that since these had been available for around two years, claimants *should* know about them and request one in all cases. If a pre-tenancy determination was not requested by a claimant, there was a suspicion that this was deliberate in order to be able to claim later that they were unaware that the rent would not be met in full.

Many authorities emphasised that, while they were certainly relevant, pre-tenancy determinations were not the only or main factor when they considered applications.

How easy or difficult has it been to implement the exceptional hardship payment scheme?

What is the nature of any problems experienced?

Before the introduction of the exceptional hardship payment scheme in 1996, local authorities were already empowered to make additional payments of Housing Benefit to claimants in exceptional circumstances. One of the main differences with the new scheme is that it is partly funded by central government and has spending ceilings attached. Local authorities are therefore required to introduce systems for managing and controlling the flow of expenditure. Another difference is that awards under the new arrangements must be decided on a test of *exceptional hardship* rather than the existence of exceptional circumstances.

The evidence from the survey suggests that most authorities have managed the introduction of the exceptional hardship payment scheme without major difficulties. Difficulties with computer systems were experienced in 43 authorities, but only one authority (in nearly 300) associated their 'serious' problems with administering exceptional hardship payments with their computer systems.

Most of the difficulties with exceptional hardship payments were related either to the intrinsic nature of the scheme (i.e. problems in interpreting what 'exceptional hardship' means), or to day-to-day administration (such as the time and effort required to investigate applications).

Comments on policy
development

Variations between local authorities in the ways they administer aspects of Housing Benefit policy are the norm rather than the exception. It is not surprising, therefore, to find wide variations in authorities' administration of the exceptional hardship payment scheme. Whether the variations in practice and outcomes are acceptable or not will depend in part on whether one views the right of local authorities to administer discretionary powers in their own way as more or less important than the right of Housing Benefit claimants to be treated with a degree of equity regardless of wherever they happen to live. On the basis of this research, it is fair to infer that applicants – and importantly potential applicants, in different local authority areas are not treated equitably. Local variations in rent levels, the number and amounts of rent restrictions, and the demographic constitution of the claimant population will all contribute to differences in application rates, success rates and value of exceptional hardship payments. However, it is inconceivable that such variations could explain why some authorities have zero application rates and zero success rates while other authorities attract hundreds of applications and some have 100 per cent success rates.

Clearly there is a need for some form of arrangements that allow claimants in exceptional circumstances or liable to exceptional hardship to obtain help with their rent above the normal entitlement. However, there is some – though not conclusive evidence from the study – that the low level of applications and awards suggest that the guidance set out in Circular A7/96 could be drawn too tightly such that local authorities making decisions based on them, which they may have amended or added to themselves, are excluding claimants who are suffering a degree of considerable hardship but not to the extent suggested in the guidance. The policy of exceptional hardship payments may, therefore, not be helping some of the people it was intended for. One policy response could be to issue further guidance that effectively broadens the number and type of circumstances in which claimants could be helped by the exceptional hardship payment scheme.

The variations discovered in the documents supplied by local authorities in the course of the research suggest that there is a case for a 'good

practice guide that contains examples of high quality publicity materials appropriate wording to be used in decision letters, application forms and internal documents used in decision making

The policy option of reducing the budget for exceptional hardship payments is always available. The research suggests that the demands on the budget are increasing and likely to continue increasing. Housing Benefit managers are aware of this also. Any proposed reduction in budgets are therefore likely to generate opposition from a large number of authorities.

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APPENDIX I QUESTIONNAIRE FOR TELEPHONE SURVEY

Questions 1-13: Quantitative and financial data		
1	How many claimants were awarded exceptional hardship payments which began between 1 April 1997 and 31 March 1998, that is excluding those that were already in payment before 1 April 1997?	ENTER NUMBER _____ [IF ZERO, GO TO Q 8]
2	How many of these cases were	[READ OUT AND ENTER NUMBER] lone parents disabled people retired people single under 25s pregnant women people with mental health problems absent parents
3	How many exceptional hardship payments are currently in payment?	ENTER NUMBER _____
4	How much money was paid out in exceptional hardship payments in the period 1 April 1997 to 31 March 1998?	ENTER AMOUNT £_____
5	Of the payments made in 1997-98 what was the lowest weekly amount?	ENTER AMOUNT £_____ per week
6	And what was the highest weekly amount?	ENTER AMOUNT £_____ per week
7	And what was the average weekly amount?	ENTER AMOUNT £_____ per week
8	How many applications for exceptional hardship payments were turned down in the period 1 April 1997 to 31 March 1998?	ENTER NUMBER _____
9	How many of these cases were	[READ OUT AND ENTER NUMBER] lone parents disabled people retired people single under 25s pregnant women people with mental health problems absent parents

10	In 1997-98 how many Housing Benefit awards were restricted on the basis of a local reference rent or a single room rent?	ENTER NUMBER _____
11	And what proportion made contact with the authority after getting notification of their Housing Benefit award?	[READ OUT CODE ONE RESPONSE ONLY] the large majority of cases more than half about half fewer than half only a small minority of cases none at all (DK)
12	Do you think that your 'permitted total' (that is, the total amount of money you are allowed to spend on making exceptional hardship payments) is	[READ OUT, CODE ONE RESPONSE ONLY] Too much Too little About right (DK - GO TO Q 14)
13	Why do you say that?	[PROBE AND WRITE IN]
Questions 14-23: The operation of the exceptional hardship payment scheme		
14	Is the availability of exceptional hardship payments referred to in	[READ OUT AND ENTER RESPONSE] decision letters sent to claimants? Y N DK Housing Benefit leaflets? Y N DK Separate form/tear off slip Y N DK Information supplied to advice agencies? Y N DK Other answer [WRITE IN] _____
(Routing instruction: IF Q 1 = ZERO AND Q 8 = ZERO, GO TO Q.19)		

15	<p>We are interested in the types of reasons claimants put forward in their applications for exceptional hardship payments. I will read out a number of examples which have been given to us. Can you say in each case whether, in your authority, you have received applications citing these reasons. And could you say whether they are common or not?</p>	<p>[READ OUT AND ENTER RESPONSE] (KEY Y/C = yes a common reason Y/N = yes, but not a common reason N = no examples of this reason in this authority)</p> <p>Claimant has a medical condition or illness Y/C Y/N N DK Claimant has a disability Y/C Y/N N DK Claimant can't afford rent Y/C Y/N N DK Claimant is pregnant Y/C Y/N N DK Claimant has language difficulties Y/C Y/N N DK Claimant can't afford to pay for food Y/C Y/N N DK Claimant can't afford to pay other bills Y/C Y/N N DK Claimant is under 25 Y/C Y/N N DK Claimant needs room for children who stay occasionally Y/C Y/N N DK</p> <p>Any other common reasons? [WRITE IN] _____</p>
<p align="center">(Routing instruction: IF Q.8 = ZERO, GO TO Q.18)</p>		
16	<p>You said that, in 1997-98 there were [RETRIEVE ANSWER TO Q.8] unsuccessful applications for an exceptional hardship payment. How many of these appealed?</p>	<p>[PROBE FOR WHETHER ANSWER IS EXACT OR ESTIMATE] ENTER EXACT NUMBER _____ OR ENTER ESTIMATE _____ (DK)</p>
17	<p>And how many of these were successful?</p>	<p>[PROBE FOR WHETHER ANSWER IS EXACT OR ESTIMATE] ENTER EXACT NUMBER _____ OR ENTER ESTIMATE _____ (DK)</p>
18	<p>We are interested in how you are making decisions on exceptional hardship payment applications. Which of the following statements describes the situation in your authority? You can answer yes to more than one</p>	<p>[READ OUT AND ENTER RESPONSE] We have our own written policy about what constitutes exceptional hardship Y N DK We have developed a check list of criteria that we use in deciding cases Y N DK We mainly use the DSS guidance circular Y N DK We decide each case on its particular merits Y N DK</p> <p>[NOW GO TO Q.20]</p>

19	We are interested in how you will make decisions on exceptional hardship payment applications in the future. Which of the following statements describes the situation in your authority? You can answer yes to more than one	<p>[READ OUT AND ENTER RESPONSE]</p> <p>We have our own written policy about what constitutes exceptional hardship Y N DK</p> <p>We have developed a check list of criteria that we will use in deciding cases Y N DK</p> <p>We will mainly use the DSS guidance circular Y N DK</p> <p>We have not yet developed a policy on dealing with applications for exceptional hardship payments but plan to Y N DK</p> <p>We decide each case on its particular merits Y N DK</p> <p>[NOW GO TO Q 21]</p>
20	Is a Pre-Tenancy Determination a relevant consideration in deciding an exceptional hardship payment application?	<p>Yes</p> <p>No</p> <p>DK</p> <p>[NOW GO TO Q 22]</p>
21	Will a Pre-Tenancy Determination be a relevant consideration in the future in deciding an exceptional hardship payment application?	<p>Yes</p> <p>No</p> <p>DK</p>
22	Thinking about what you have done in your authority to enable you to put the exceptional hardship payment scheme into operation - such as changes to administrative or computer systems training etc - how easy or difficult has it been to administer the scheme since January 1996?	<p>[READ OUT, CODE ONE RESPONSE ONLY]</p> <p>Very easy [END INTERVIEW]</p> <p>Mainly easy [END INTERVIEW]</p> <p>Some difficulties [GO TO Q 23]</p> <p>Serious problems [GO TO Q 23]</p>
23	Can you explain what the main problems or difficulties have been?	[WRITE IN]

**APPENDIX 2 INTRODUCTORY LETTERS TO LOCAL AUTHORITIES FROM DSS
AND SPRU**



DEPARTMENT OF SOCIAL SECURITY

The Adelphi, 1-11 John Adam Street, London WC2N 6HT

Telephone 0171-962 8000

Gtn 391

1 April 1998

Dear Housing Benefit Manager

Research into Local Authorities' Use of Key Housing Benefit and Council Tax Benefit Discretionary Powers

I am writing to ask for your help with a survey which the Department of Social Security has commissioned on the use of discretionary powers in the administration of Housing Benefit and Council Tax Benefit claims

The aim of the research is to gather information on the use of certain discretionary powers the exceptional hardship payment scheme and the power to withhold benefit where there are doubts about the propriety of the landlord or suspend benefit because of doubts about the eligibility of the claimant Local Authority Associations have been informed of this research

We have commissioned the Social Policy Research Unit (SPRU) at the University of York and Public Attitude Surveys Ltd (PAS) to undertake the research on our behalf The study will be based on telephone interviews with all local authorities Development work has already been carried out in a small number of local authorities

We would very much like you to participate in this survey This will involve a 20 minute telephone interview with the person in your local authority who would be best able to answer questions on exceptional hardship payments and the new discretionary powers In order to carry out the research within our timetable we need to conduct the interviews after the Easter holiday The accompanying letter from the Social Policy Research Unit explains more about how the research will be carried out

Although your participation in this survey is voluntary, it is very important that as many local authorities are involved as possible I can assure you that all information provided during the research will be treated in strict confidence by the research team The results of this study will be presented in such a way that no individual or local authority can be identified in the report which is provided to the Department Each participating authority will receive feedback on the findings of the study once it has been completed

They will contact you in the next few days to discuss the research with you If you would like to know more about the study, or if you have any queries, please do not hesitate to get in touch with Rachel Trott (0171 962 8555) here in the Department or the lead researcher from SPRU, Dr Roy Sainsbury (01904 433608)

Thank you in advance for your help with this research

Yours sincerely

Bernard Mitton
Housing Benefit Policy

1 April 1998

Dear Housing Benefit Manager

Research into Local Authorities' Use of Key Housing Benefit and Council Tax Benefit Discretionary Powers

Thank you for agreeing to take part in this project. The accompanying letter and fact sheet from the DSS explain the scope of the study and the roles played by the research team at SPRU and the survey agency PAS Ltd. I am sure that you will find the findings from the research interesting and useful.

I have enclosed a 'questionnaire outline' which explains the questions we would like to ask you during the interview. The work of developing the questionnaire has been assisted by the staff of 18 authorities in Great Britain who were visited by members of the York research team in February and March of this year.

Some of the questions require statistical data relating to your discretionary powers and you may have to prepare these in advance of the actual interview. The outline is intended as a guide. The exact wording of the questions may change following pilot testing of the questionnaire this week.

The discretionary powers that are the subject of the project fall into two distinct types. The first concern your powers established initially in January 1996 to grant exceptional hardship payments to claimants whose Housing Benefit awards have been restricted on the basis of a local reference rent or single room rent (Circular HB/CTB A7/96 contains the details). We ask about these in Section A of the questionnaire.

The second set of powers derive from the Social Security Administration (Fraud) Act 1997 and are intended to increase the capability of local authorities to combat Housing Benefit fraud. These are set out in Circular HB/CTB A48/97. We are aware that these powers only came into force in November 1997 but the Department is very interested in authorities' early experiences (or plans for the future). We ask about the new powers which relate to landlords in Section B of the questionnaire, and those relating to claimants in Section C.

The next step in the research study is that PAS will contact you direct to book a convenient time after the Easter holiday for the interview to take place. If you have any queries regarding the research I will be happy to answer them as best I can.

Yours sincerely

Dr Roy Sainsbury
Research Team Leader

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Local authorities have a range of discretionary powers which can be used in the administration of Housing Benefit. These include the power to make exceptional hardship payments to claimants whose Housing Benefit is less than their rent because of regulations introduced since 1996. These regulations incorporated the local reference rent and the single room rent into Housing Benefit calculations. This study evaluates local authorities use of exceptional hardship payments. The findings are based on telephone interviews with Housing Benefit managers. The Social Policy Research Unit at the University of York carried out the research.

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