

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (USE OF INFORMATION FOR HOUSING BENEFIT AND
WELFARE PURPOSES) REGULATIONS 2008

2008 No. 2112

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

2. Description

2.1 This statutory instrument will help to improve the current data sharing arrangements between Department for Work and Pensions or local authority benefit teams who administer social security benefits, and local authority teams who administer the Supporting People programme. The new data sharing arrangements will mean that tenants who apply for help under the Supporting People programme do not have to provide the same information twice and that staff administering the Supporting People programme do not have to seek informed consent from tenants to obtain details of their entitlement to a social security benefit.

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

3.1 None

4. Legislative Background

4.1 Legislation currently provides for information relating to certain income-related benefits, i.e. housing benefit, income support, income-based jobseeker's allowance and state pension credit, administered by the Department for Work and Pensions or local authorities, to be supplied to the local authority Supporting People teams for purposes connected with applying for a grant towards housing-related welfare services.

4.2 However there are no powers for Supporting People teams to contact benefit teams to seek information. Section 42 of the Welfare Reform Act 2007 replaces and extends the current provisions. Section 42(1) enables a two-way supply of information between benefit teams and Supporting People teams. This order enacts those provisions.

4.3 This will mean that the Supporting People teams can assess a claim more speedily without having to seek the consent of the client in every case where further information is required regarding their eligibility for certain benefits. It means the client will not have to provide additional information to the Supporting People team when such information has already been provided to the benefit team.

4.4 In addition, Supporting People teams will be able to share information with housing benefit teams which will allow housing benefit teams to consider information relating to the vulnerability of a claimant or the probity of a landlord when considering

whether to pay housing benefit to the claimant or to the landlord. For example, in considering whether a payment of housing benefit should be made to the claimant or to the landlord it would contribute to the decision-making process in housing benefit teams for them to know whether the claimant is receiving Supporting People assistance because of a disability and, if so, whether that disability may indicate a level of vulnerability.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Supporting People programme was introduced on 1 April 2003. Supporting People teams for local authorities in England and Wales administer grants from the Department for Communities and Local Government and the National Assembly for Wales to provide welfare services. These services provide housing-related welfare services to assist vulnerable groups in society, including the elderly, people suffering from substance abuse and people with mental health or learning difficulties.

7.2 The primary purpose of such support is to help people to remain in their own homes and live independently. Some examples of housing-related support include enabling individuals to access their correct benefit entitlement, ensuring they have the correct skills to maintain a tenancy, and providing the assistance of a support worker. Examples of people assisted include those who have been homeless, ex-prisoners, people with drug or alcohol problems and those with a history of tenancies breaking down. Around 1.2 million people benefit from this support.

7.3 As part of the development of Supporting People services, the Government decided that, unless otherwise exempt, clients in receipt of housing benefit, income support, jobseeker's allowance or incapacity benefit would not need to undergo a second means test to allow assistance with their Supporting People charges. This would simplify administration and reduce the need for clients to supply financial data more than once. Following a Government commitment to amend the law to allow for greater flexibility in data-sharing, provisions were included in the 2007 Act.

7.4 Such data-sharing could also be utilised by housing benefit and council tax benefit teams under the Local Housing Allowance (LHA) scheme. Information relating to whether a tenant is receiving support under the Supporting People programme will assist in deciding whether the landlord or tenant should be paid where a question arises on whether a client is able to deal with their own finances. The policy intent of LHA is to make the majority of payments direct to the tenant rather than the landlord to promote personal responsibility and prepare those tenants of working age for the transition to work. While meeting this goal, the Government are committed to put in place procedures to protect vulnerable tenants who may have difficulty in managing their own affairs, or

may be unlikely to use their LHA to pay their rent. As such, provisions have been put in place to allow housing benefit in these cases to be paid direct to the landlord, subject to the landlord being a fit and proper person to receive housing benefit. These Regulations will assist in that aim, by allowing data-sharing in relevant circumstances.

7.5 Information shared under section 42 of the 2007 Act will be protected by section 43 which makes any unauthorised disclosure of that information a criminal offence.

Consultation

7.6 The Local Authority Associations were consulted and have no objections.

Guidance

7.7 Any necessary guidance on these Regulations will be provided to decision-makers as soon as possible.

Consolidation

7.8 As these are new, free-standing Regulations, the issue of consolidation does not arise.

8. Impact

8.1 An full impact assessment has not been published for this instrument as it has no impact on the private or voluntary sectors.

8.2 The impact on the public sector is minimal. There may be marginal costs for local authority Supporting People teams in providing information to housing benefit and council tax benefit teams in making decisions on who to pay, but this would be offset by savings, as they would no longer have to gain individual informed consent for information sharing, making this a cost neutral package.

9. Contact

Carol Foster-Middleton at the Department of Work and Pensions (telephone number 020 7712 2377, email address carol.foster-middleton@dwp.gsi.gov.uk) can answer any queries regarding the instrument.