

## Housing Benefit Urgent Bulletin

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<https://www.gov.uk/government/organisations/department-for-work-pensions>

ISSN 2054-2844 (Online)

**HB U1/2016**

**28 January 2016**

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| <b>Who should read</b> | All Housing Benefit (HB) staff   |
| <b>Action</b>          | For information  |

### **Court of Appeal judicial review decision concerning the maximum rent (social sector)**

1. Yesterday the judgment of the Court of Appeal was handed down in the joined judicial review cases *R v. Secretary of State for Work & Pensions, ex parte Rutherford and R v. Secretary of State for Work & Pensions, ex parte A*. The full judgment is available at: <http://www.bailii.org/ew/cases/EWCA/Civ/2016/29.html>
2. The Court has found that the claimants have suffered discrimination contrary to A14 of the European Convention on Human Rights. However, the Court of Appeal repeated the finding at first instance that the Secretary of State had complied with the Public Sector Equality Duty.
3. The Court has granted the Secretary of State permission to appeal the decision to the Supreme Court, and it is the Secretary of State's intention to appeal.
4. No action needs to be taken by local authorities following this judgment. It has not changed the applicability of the maximum rent (social sector)

provisions and no action should be taken to re-assess the Housing Benefit (HB) of claimants in the appellants' situation.

5. The Department remains of the view that Discretionary Housing Payments (DHPs) are the appropriate means of protecting HB claimants in the appellants' circumstances.
6. Provided below are some Q&A to enable you to respond to any enquiries you might receive.

## **Q&A**

### **Q. Is the government going to appeal?**

A. The Court of Appeal granted permission to appeal and it is the government's intention to appeal.

### **Q. What does this mean for claimants with panic rooms or a disabled child who requires overnight care?**

A. The maximum rent (social sector) must continue to be applied to all claimants as before yesterday's judgment.

### **Q. As a local authority should we continue to apply the maximum rent (social sector) in these cases?**

A. Yes, the legislation underpinning the size criteria remains in force. DHPs remain the appropriate mechanism for providing support where there is an under-occupancy deduction because of a panic room or a bedroom used to accommodate an overnight carer for a disabled child.

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