Housing Benefit

Urgent Bulletin

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http://www.dwp.gov.uk/local-authority-staff/housing-benefit/

HB U5/2013 5 August 2013

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Who should read	All Housing Benefit (HB) staff
Action	For information

Judicial Review: R (on the application of MA & others) and the Secretary of State for Work and Pensions

1. The judgment in the cases of **MA & others** was handed down on 30 July 2013. This judgment is in respect of ten judicial review claims brought against the Secretary of State for Work and Pensions, which challenged the Government's policy to reduce Housing Benefit for social sector tenants who are deemed to be under occupying their property by reference to the size criteria set out in the Housing Benefit Regulations 2006.

2. The claimants challenged the validity of the Housing Benefit (Amendment) Regulations 2012 (SI 2012 No. 3040) (which inserted regulation B13 into the Housing Benefit Regulations 2006) on two principle grounds:

   - that regulation B13 discriminates against them by virtue of their disability, contrary to article 14 and article 1 protocol 1 of the European Convention on Human Rights (ECHR)

   - that the Secretary of State for Work and Pensions failed to have due regard to disability when formulating the policy, in breach of his public sector equality duty under section 149 of the Equality Act 2010

The hearing took place in May 2013.

3. In its judgment, the Court found in favour of the Department in relation to disabled adults and held that the policy did not breach their ECHR rights and that the duty to have due regard to the impact of the policy on disabled claimants had been complied with.

4. In relation to disabled children who are unable to share a bedroom as a result of their disability, the Court has instructed that the legislation be amended to reflect the Court of Appeal's decision in Gorry v. Wiltshire Council and Secretary of State for Work and Pensions [2012] EWCA Civ 629; [2013] P.T.S.R. 11.

5. The Secretary of State and the Prime Minister have already stated that families within this category are to be allowed an extra room. This is set out in guidance (circular HB U2/2013). The legislation will be amended in the autumn to reflect this. In the meantime, local authorities should continue to apply that guidance until the new legislation is in force.

6. The Divisional Court did not give the Claimants permission to appeal their cases to the Court of Appeal. However, the claimants have indicated that they will apply to the Court of Appeal directly for permission.

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