Sale and rent back – a market study

Annexe E - Financial assistance for homeowners and tenants

October 2008

OFT1018e
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E.1 FINANCIAL ASSISTANCE FOR HOMEOWNERS AND TENANTS

E.1.1 This annexe describes state support for both rental and mortgage payments.

Housing benefit

E.1.2 Housing benefit is payable to tenants to support rental payments. For eligible tenants, the amount payable is determined with reference to average rents for that type of property in that location, rather than with reference to the actual property occupied.

E.1.3 Eligibility for housing benefit is determined by the local authority based on individual facts and evidence, and on guidance issued by DWP. There are two particular issues that authorities would need to consider with respect to sale and rent back tenants applying for housing benefit.

E.1.4 First, the housing benefit guidance states that tenants would not be eligible for housing benefit if they previously owned the property, unless they could not have continued to live there without relinquishing ownership. This implies that, if claimants were facing repossession before they undertook sale and rent back, then the local authority can consider awarding housing benefit.

E.1.5 Second, claimants might be ineligible for housing benefit following sale and rent back if the sale released capital. Any level of capital from £6,000 to £16,000 means a reduction in housing benefit, while capital over £16,000 means housing benefit would not be payable.

E.1.6 Furthermore, claimants can be treated as having notional capital if they deprived themselves for the purpose of receiving housing benefit. Those who have undertaken sale and rent back have generally deprived

2 HB Reg 9 & (SPC) 9
themselves of capital by selling at below market value, and could be ineligible for housing benefit if the local authority concludes that obtaining housing benefit was their main purpose or a significant purpose of doing so.

E.1.7 The issue also arises if people use the capital released at sale to pay off other debt. On this, the guidance states that: 'To decide whether securing entitlement to benefit was a significant purpose, you must establish whether the claimant has exercised choice when disposing of the resource. If claimants do no more than satisfy their need for one of the necessities of life, they have not exercised a real choice in the transaction. When capital has been used to repay a debt, give careful consideration as to whether the debt needed to be repaid at that time. If there was no legal obligation to do so then it may be that part of the claimant’s purpose was to obtain or increase the amount of benefit.'

E.1.8 It is clear that, in considering whether people who have undertaken sale and rent back are eligible for housing benefit, local authorities need to exercise a good deal of judgement in interpreting the facts and evidence concerning the circumstances of the transaction. The exercise of this judgement inevitably creates uncertainty for applicants. There is no clear line between those sale and rent back transactions which would render claimants eligible and those which would render them ineligible for housing benefit.

E.1.9 We understand that sale and rent back firms sometimes discuss the circumstances of an individual case with the local authorities in advance of proceeding with the transaction. However, the local authorities cannot pre-determine the outcome of any application.

**Income Support for Mortgage Interest (SMI).**

E.1.10 Support for Mortgage Interest (SMI) can be paid to people on Income Support, Pension Credit and income-based Jobseeker’s Allowance if they

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3 www.dwp.gov.uk/housingbenefit/manuals/hbgm/parts/ptbw_01c.asp#b_w1700
are experiencing problems with the interest payments on their mortgage. SMI does not provide help towards arrears, endowment policies or capital repayments. Interest calculated at the Bank of England’s base rate, plus 1.58 per cent - if a customer’s actual interest rate exceeds this limit, he is liable for the shortfall.

E.1.11 On 2 September the Government announced reforms to the system to more accurately reflect the value of people’s property and reduce the waiting time before they receive SMI.

E.1.12 Presently, working age homeowners have to wait 39 weeks before help towards their mortgage is paid. (Pensioners getting pension credit do not have to wait to get help with their mortgage interest payments.) As a temporary measure, from April 2009 that waiting period will be cut to 13 weeks for all new working age claims. In addition, as a temporary measure, also from April 2009, the capital limit on loans upon which SMI is based will be increased from £100,000 to £175,000 for new working age claims.

E.1.13 From April 2009 there will be a time limit on SMI of two years for new Jobseeker’s Allowance claims only. Time-limiting will not apply to existing claims or to new claims from those in receipt of Income Support, Pension Credit or income-related Employment and Support Allowance when it is introduced on October 2008.

E.1.14 The Government will keep this system of support under review.