Appendix 2 – HOUSING BENEFIT SANCTIONS and Anti Social Behaviour

1. Outline of Government Position

1.1 The Government produced its white paper – “Respect and Responsibility – taking a stand against anti social behaviour”, in order that the welfare state could be based on rights and responsibilities.

1.2 On March 27 2003 the Home Secretary published the Anti Social Behaviour Bill which sets out a wide range of measures to promote civic responsibility on estates and in neighbourhoods. The Bill will bring in powers for Social Landlords in England and Wales to secure injunctions to provide quick relief from anti social behaviour. The Bill also sets out plans for demoted tenancies giving the tenant a less secure form of tenancy, which in turn will make it quicker for evictions to take place.

1.3 Shortly afterwards a draft housing bill was published informing local authorities of powers to license neglectful landlords, and where a combination of unruly tenants prevent sustainable communities.

1.4 The Government realises that Housing Benefit sanctions may impact upon landlords in both the private and public sectors.

2.0 Objectives of Housing Benefit Sanctions

2.1 The Government’s aim is to reinforce individual responsibility and tackle anti social behaviour. Its idea is to provide a workable, swiftly applied and fair measure to act as a deterrent.

2.2 The benefit sanction is not to act as the only or main weapon in the battle against anti social behaviour.

2.3 The Government has key principles for success and that any sanction must:

- Send a strong signal about the unacceptability of anti social behaviour;

- Be capable of being applied quickly and decisively – people who commit or condone anti social acts must know that a sanction is likely to be applied to them and will not be long delayed;

- Act as a deterrent – the threat of the sanction must be sufficiently credible to nip anti social behaviour in the bud before it becomes entrenched;

- Be fair and seen to be fair – any sanction must take proper account of people’s circumstances and, where applied in response to actions of the family members or friends of a Housing Benefit claimant, be a response to behaviour that the claimant could reasonably have been expected to control;
➤ Be practical and usable, without creating a need for excessive extra bureaucracy – organisations responsible for confronting anti social behaviour and responsible landlords must see it as a useful additional weapon in the armoury against anti social behaviour;

➤ Reduce, not increase social exclusion – bearing in mind that the victims of anti social behaviour can also be at risk of exclusion if it is not dealt with.

➤ Be compatible with the European Convention on Human Rights.

3. **Actions**

3.1 The Government suggests that in order for the sanctions to be applied the law would have to be changed in order for the claimant to be responsible for household members and visitors to the property.

3.2 Mechanisms must be in place giving clear advice to potential tenants of actions that may take place to curtail anti social behaviour. It will also be vital for help and support to be in place to assist those who are the subjects of sanctions.

3.3 The Government suggests that a reduced rate of deduction should be available to take into account hardship, and landlords should be advised of the sanctions well in advance and a fair and proper appeals process be put in place.

4. **Proposals for Sanctions**

4.1 In order for all the key features and principles to be taken into consideration two models of housing benefit sanctions have been suggested: -

**Option 1 – Sanctions Triggered by Court Action**

The first option would allow for sanctions to sit on top of an offence involving anti social behaviour. A declaration would be applied, the Department of Work and Pensions would be notified and a check would be made whether or not the person was claiming housing benefit. The local authority would then be notified.

**Option 2 – An Administrative Sanction**

The second option favoured by the Government gives the advantage of a sanction being applied without going through the Court process. An officer of the local authority would identify and determine cases of anti social behaviour and would notify the Housing Benefit service. The option allows for the action to be integrated with mechanisms already in place within a local authority for tackling anti social behaviour.

4.2 It is important to point out that either of the sanctions would require a change in law in order that the entitlement to housing benefit “conditional on the socially responsible behaviour of the claimant themselves”.


5. **Implications**

5.1 Neither of the two options for benefit sanctions would involve placing new duties on landlords; however there are cost implications. Housing Benefit is currently paid direct to all social landlords and when a shortfall arises and the balance has to be collected from the tenant, costs will increase.

5.2 Tenants who commit acts of anti social behaviour and do not pay the extra money to make up any shortfall in rent, will mean that landlords have to bear the cost of the sanction.

5.3 The Government feels that such costs would be absorbed by the drop in costs of time being spent directly dealing with anti social behaviour, and legal fees.

6. **Argument**

6.1 It is highly likely that the Government is committed to imposing sanctions on Housing Benefit and anti social behaviour.

6.2 Concerns have been raised that the proposals for introducing Housing Benefit Sanctions could make an already flawed benefit system more complex and cause further hardship resulting in further hardship for families.

6.3 Arguments have been produced that there are quicker remedies for tackling anti social behaviour such as the Police Reform Act 2002 which amended the Crime and Disorder Act 1998, which gave rise to social landlords being able to apply for Anti Social Behaviour Orders.

6.3 Consultations have taken place with Tenants Representatives, Officers and the Safer Rotherham Partnership’s Anti Social Behaviour Task Group all of whom feel that such sanctions should not be applied as they will add to Social Deprivation rather than erase it.

6.4 Issues have also been raised during consultation that a stigma will be applied to those on Housing Benefits, which will have an adverse effect on estates and communities.

7. **What the Government would like to know**

7.1 Consultation is to be answered by the form of a letter or email by 12 August 2003 and the Government has asked for the following points to be answered and discussed in the reply:

- General views on the proposals, and comment on which of the options outlined meets our objectives.

- Do we agree with the principles for the operation of the benefit sanctions outlined, including making receipt of Housing Benefit dependent on acceptable behaviour.
If so, which of the two options outlined is most consistent with those principles and would best act as a preventative deterrent to anti social behaviour.

Which option could be administered most fairly, efficiently and effectively?

Do we agree with the Government’s preference for the second, administrative option?

How might housing benefit sanctions be triggered?