

BRISTOL CITY COUNCIL

Business Change and Resources Scrutiny Commission

(14/03/2016)

Report of: Strategic Director – Business Change

Title: Under Occupancy Charge – Legal Development

Ward: City Wide

Officer Presenting Report: Patsy Mellor

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RECOMMENDATION

Ruling of the Supreme Court due to sit on 29 February 2016 – 03 March 2016 is awaited.

Summary

It is difficult to predict what the Supreme Court will rule and it could create a number of variables. The Supreme Court for instance may rule that DHPs offer sufficient mitigation against the discrimination, or the Government could change the law and add additional categories that require a bedroom.

On the 27 January 2016 the Appeal Court in the case of '*R v. Secretary of State for Work & Pensions, ex parte Rutherford and R v. Secretary of State for Work & Pensions, ex parte A*' declared in two specific cases the following: '*the Appellants have suffered discrimination contrary to Article 14 of the ECHR on the basis set out in the judgement*'.

The ruling of the Appeal Court requires no action as these cases along with others are due to be heard by the Supreme Court 29 February 2016 – 03 March 2016. As the case is being heard by the Supreme Court the law requires that the Authority takes no action.

The significant issues in the report are:

The Appeal Court case dealt with two situations, the first one being the Social Sector Size Restriction (SSSR) applying to a Sanctuary Case that had a panic room installed. The second case involved the need for an extra room for the overnight care of a child.

In brief the Court concluded there was discrimination on these two points and further that discrimination was not justified. In other cases the Courts have concluded that aspects of the SSSR discriminate but that Discretionary Housing Payments (DHPs) was an appropriate mitigation.

The Supreme Court will now rule on the Judgement in this case and another case involving 5 disabled appellants. The Supreme Court will effectively be looking at the SSSR and DHPs to establish whether the discrimination in the Housing Benefit regulations can be justified, in other words do DHPs offer the appropriate mitigation.