

Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

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HB/CTB A12/2011

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
ACTION	For information
SUBJECT	Changes made to the use of the shared accommodation rate

Guidance Manual

Please annotate this circular number against paragraphs A4.1810 and A4.1840 of the HB/CTB Guidance Manual and paragraphs 2.050 and 8.030 of the LHA Guidance Manual

Queries

If you

- want **extra copies of this circular/copies of previous circulars**, they can be found on the website at <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/user-communications/hbctb-circulars/>
- have any queries about the
 - **technical content of this circular**, contact Dave Jones
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Shared accommodation rate changes – January 2012

Introduction

1. The Local Housing Allowance rules in Housing Benefit currently restrict the level of help for single people aged under 25 who live on their own to the shared accommodation rate. This reflects the rent levels of properties with sole use of a bedroom and shared use of at least a living room, kitchen or bathroom. This age threshold has now been increased to include those aged under 35.
2. This change was announced by the Chancellor of the Exchequer as part of the Comprehensive Spending Review last year. Introduction was brought forward from April 2012 to January 2012 to avoid those people already receiving Local Housing Allowance from before April 2011 being affected twice; first by the Local Housing Allowance reductions and then by this measure three months later.
3. Current exemptions extend into the new age group, other than those for former care leavers which continue to apply up to age 22. Two further exemptions have been introduced at the same time but these are only for those aged 25 and over. The first exemption is for those who have spent at least three months in a hostel or hostels for the rehabilitation or resettlement of homeless people.
4. The second new exemption is for those ex-offenders who are being managed under active multi-agency management, within the Multi Agency Public Protection Arrangements (MAPPA), to be rehabilitated back into the community. This exemption will apply to those claimants who might present a risk of causing serious harm to the public.
5. The change in the age threshold comes into force from 1 January 2012 through amending legislation; SI 2011/1736 - The Housing Benefit (Amendment) Regulations 2011. The legislation was laid in Parliament on 19 July 2011 and can be seen using the link below¹.
6. This circular supports the guidance already issued in **HB/CTB Circular A6/2011** and gives further information on implementing the change in the age threshold and applying the new exemptions. It also includes a link to DWP products² provided for you to use in letting those likely to be affected know about the changes as soon as possible so that they can think about where they live or how they meet potential shortfalls in their ability to pay their rent.

Implementing the changes

7. How the change will be introduced into an individual's Housing Benefit award will vary depending on a number of factors as we have outlined below.

¹ <http://www.legislation.gov.uk/ukxi/2011/1736/contents/made>

² <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/claims-processing/local-housing-allowance/communications/>

Local Reference Rent cases

8. Those who have been on Housing Benefit since before the introduction of the Local Housing Allowance in April 2008, and are still subject to the local reference rent rules will have their eligible rent based on the single room rent from the annual review which falls on or after 1st January 2012. This is because they will then come within the definition of “young individual” in HB regulation 2(1) for that rent officer referral.

Local Housing Allowance – *Pathfinder protection awards*

9. Those cases still receiving transitional protection in the Pathfinder Authorities are unaffected by these changes.

Local Housing Allowance – *pre April 2011 awards****Protected cases***

10. Those who have made a claim for Housing Benefit, or who have moved since the Local Housing Allowance was introduced from April 2008, and are receiving transitional protection from the April 2011 Local Housing Allowance changes, will move to the shared accommodation rate when the transitional protection expires. For these cases the transition period runs for 9 months from the first anniversary of their claim on or after 1 April 2011.
11. The shared accommodation rate that must be applied at the end of the nine month protection period will be the appropriate rate at the time it is to be applied (and subject to the 30th percentile and £250 cap). The nine month protection will apply even when the anniversary date falls after the implementation date of 1st January 2012.
12. There will be those who will be transitionally protected although they do not have any financial benefit from it. They are more likely to be those whose eligible rent prior to April 2011 equaled the cap rent plus the £15 addition because the cap rent plus £15 was lower than the applicable local housing allowance and whose cap rent still remains below the applicable LHA rate from April 2011.
13. While the £15 addition will be lost immediately from the anniversary date that falls on or after 1st April 2011, the cap rent will be protected for 9 months, even though there is no extra money to protect. The shared accommodation rate will take effect from the end of that 9 months transitional protection rather than the anniversary date in 2012. In all cases, the setting of a new maximum rent (LHA) at the end of 9 months does not reset the anniversary date.

Example – anniversary date is after 1st January 2012

14. A person aged 28 lives in a one bedroom self contained property and claims Housing Benefit in March 2011. They are entitled to the one bedroom self contained rate from the outset. At the March 2012 anniversary date the transitional protection would apply for the next 9 months until December 2012 when the current shared accommodation rate would apply.

Example – those with rents consistently below the LHA

15. A person who is 32 years old is paying a rent of £80 a week for a one bedroom self contained property. They make a claim for HB in June 2010 when the LHA one bedroom self contained rate is £100. Their eligible rent is £95 (£80 + £15).
16. At their June 2011 anniversary date they are still paying £80 a week for the property but are no longer entitled to the £15 addition. The new LHA one bedroom self-contained rate is £95. Therefore their maximum rent (LHA) is their cap rent of £80. This is lower than their pre-April 2011 eligible rent of £95 so therefore they are entitled to transitional protection and applying regulation 12M(2)(b)(ii) their eligible rent is now £80.
17. Although they have no financial advantage, as they continue to have their rent met in full, they are still transitionally protected for 9 months from June 2011 until March 2012 at which point the shared accommodation rate applicable at that time will apply. Their eligible rent is now £66.(shared accommodation rate as at March 2012)

Protection ends early

18. Transitional protection ends where the claimant warrants a bigger or smaller dwelling or moves or experiences a death in the household. Where a change in the category of home occurs before the end of the transitional protection period a new eligible rent will be set and a new LHA anniversary date applied, for example if the claimant has become entitled to a larger category of dwelling because they now have a child.
19. Where transitional protection ends because the claimant experiences a death in the household during the transitional protection period, a new eligible rent would be set with a new anniversary date. However, this new eligible rent will not be implemented because of the 12 month protection of the existing rent, provided the new eligible rent is not more than or equal to the eligible rent which applied on the day before the death occurred. The shared accommodation rate would be implemented at the end of the 12 month protection.

Example – larger category of dwelling

20. A person who is 23 years old lives in a one bedroom self contained property and claims Housing Benefit in August 2010. Their eligible rent is set at the shared accommodation rate. Their anniversary date is August 2011 and their nine month transitional protection begins.
21. In December 2011 they have their 25th birthday when their transitional protection ceases because they are now entitled to a larger category of dwelling. Their eligible rent is set at the appropriate one bedroom self contained rate at the time of their birthday (30th percentile LHA rate). This resets their anniversary date and now the shared accommodation rate would not apply until December 2012.
22. If their 25th birthday had been after 1st January 2012 this would not trigger a change in category of dwelling and the transitional protection would have

continued until May 2012 at which point they will be entitled to the shared accommodation rate at the 30th percentile.

Example – smaller category of dwelling

23. A person who is 28 years old lives in a two bedroom self contained property with his wife and daughter and is entitled to Housing Benefit. Their eligible rent is set at the appropriate two bedroom self contained rate His anniversary date is in April 2011 and his transitional protection period begins.
24. However, in May 2011 his wife leaves him taking their daughter with her. His transitional protection ends as he has become entitled to a smaller category of dwelling and his eligible rent would now be set at the current one bedroom self contained rate. As this would reset his anniversary date the shared accommodation rate would not apply until May 2012.

Example – smaller category of dwelling – 12 month protection

25. A person who is 32 years old lives with their partner in a one bedroom self contained property and is entitled to Housing Benefit. Their anniversary date is July 2011 and their transitional protection period begins.
26. However, in November 2011 their partner dies. This death of a linked person ends the transitional protection. The 12 month protection on death then applies because the eligible rent which applied on the day before the death occurred is more than the eligible rent which applied after death due to the April 2011 changes. The shared accommodation rate would not apply until November 2012 when the 12 month protection on death expires.

Local Housing Allowance – post April 2011 claims

27. Those aged between 25 and 34 living on their own in a self contained property who claim Housing Benefit after 1st April 2011, but before 1st January 2012, will move to the shared accommodation rate on the first anniversary of their claim.

Local Housing Allowance – post January 2012 claims

28. Those aged between 25 and 34 living on their own in a self contained property who claim Housing Benefit after 1st January 2012 will be restricted to the shared accommodation rate from the beginning of their benefit award.

Two further exemptions

29. The Government has exempted a further two groups from the shared accommodation rate:
- former residents of specialist hostels for homeless people; and
 - ex-offenders who pose a risk to the public.

These exemptions are very specific and will only affect relatively small numbers nationally. These exemptions are in addition to the existing exemptions which

remain unchanged other than extending to the new age group (except those formerly in care which remains at those up to age 22).

30. These exemptions have been included within the definition of “young individual” in HB Regulation 2(1). Both exemptions relate only to those aged 25 and over, but under age 35, who live alone, who are living in a self-contained property and who otherwise would have had the shared accommodation rate applied to them.
31. Unlike the severe disability premium and former care leaver’s exemptions these new exemptions do not apply while the person who would otherwise qualify for these exemptions is actually living in shared accommodation. The new exemptions will apply from when the change in age threshold applies to a benefit award.

Former residents of specialist homeless hostels

32. The exemption is for those who have spent at least three months in a specialist hostel (or hostels) for homeless people, where the main purpose of that hostel is to provide accommodation, care, supervision or support with a view to assisting homeless people to be rehabilitated or resettled in the community. Further, to be eligible for this exemption they would need to have been offered and accepted support services to enable them to be rehabilitated or resettled in the community during their time in the hostel.

33. Such a hostel must first satisfy the definition of a “hostel” in HB regulation 2(1):

“Hostel” means a building-

(a) in which there is provided for persons generally or for a class of person domestic accommodation, otherwise than in separate and self-contained premises, and either board or facilities for the preparation of food adequate to the needs of those persons, or both; and

(b) which is-

- (i) managed or owned by a registered housing association: or
- (ii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or agency or a local authority; or
- (iii) managed by a voluntary organisation or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community; and

(c) which is not-

- (i) a care home;
- (ii) an independent hospital; or
- (iii) an Abbeyfield Home.

34. The hostel's main purpose must be to provide accommodation together with care, support or supervision with the aim of resettling or rehabilitating in the community people who are homeless. Note that it is not necessary to make your own assessment of whether each individual applicant is homeless and in need of resettling or rehabilitating in the community, but to be satisfied that this is the main purpose of the specialist hostel.
35. It is not material to determining the hostel's main purpose whether or not the residents are owed a statutory duty of homelessness.
36. We would expect that this definition would generally include both homeless hostels that take direct referrals from street outreach teams and "second stage" hostels that support people to achieve stability and enable move-on to independent living. We would also expect that other kinds of specialist homeless hostels may be included where they provide services to resettle or rehabilitate homeless people within the community – for example this may include a drug rehabilitation hostel, or a domestic violence refuge. We would not normally expect general supported housing schemes to fall within this definition. However the main purpose of the hostel must still be to support and re-habilitate homeless people into the community. Authorities are advised to develop a list of suitable hostels in their area.
37. The claimant should also have been offered and accepted support services with the aim of rehabilitating or resettling them within the community. For example this might include support with physical or mental health needs, or recovery from the effects of domestic violence, resettlement support or treatment for substance misuse issues. The support services do not have to have been provided by the hostel, but must have been offered and accepted during the claimant's stay. No minimum or maximum level of support is specified; the requirement is to be satisfied that the claimant engaged with sufficient support services to enable rehabilitation.
38. It will not matter how long before the benefit claim is made that the person moved out of the hostel into settled accommodation, or at what age they were living in the hostel, although they will need to be aged 25 or over to qualify for the exemption. It would not be necessary for the three months stay to be continuous or to be spent in the same hostel, although we would anticipate it would be in the majority of cases.
39. For example, a claimant who spends 4 months in two different hostels aged 24, followed by 18 months in a (non-hostel) supported housing scheme, could then be eligible for the exemption if they move on to self-contained private sector accommodation. Once a person qualifies for this exemption it will remain in place until age 35 even following a change of address or further claim, but only whilst that person is occupying self-contained accommodation.
40. The claimant would need to provide evidence of their period of stay in an appropriate specialist hostel (or hostels) as well as confirmation that they had been offered and accepted support to help them be rehabilitated or resettled in the community. The onus is on the claimant to provide supporting evidence and details. This will normally be achieved through written confirmation from the relevant hostel (or hostels), with the claimant's consent.

41. Local Authorities will need to be satisfied that the hostel meets the criteria set; we recommend developing a list of suitable hostels that can be referred to for local use. It is also possible that the person may have moved away from the area where they used to live or that the hostel no longer exists. We recommend that local authorities work with other authorities or providers to establish whether a hostel or former hostel satisfied the criteria for this exemption when the claimant lived there.
42. Attached at Annex A is a suggested decision makers' check list.

Ex-offenders

43. The second new exemption will apply to a small group who are aged 25 or over who are subject to active multi-agency management under the Multi Agency Public Protection Arrangements (MAPPA³). Offenders subject to MAPPA arrangements are in the main 25 years or over. In Scotland MAPPA legislation is not yet fully in force in relation to violent and certain other offenders and so local authorities in those cases are to apply the exemption where they consider a claimant would present a risk of causing serious harm to the public. This exemption is considered appropriate in order to safeguard the public rather than relying on Discretionary Housing Payments.
44. We are working with the Ministry of Justice and the Scottish Government on the detail of how this exemption will work in practise but it is intended that a proforma will be completed by the relevant agency or MAPPA co-ordinator to say that the criteria for meeting the exemption have been met. This will then be sent through to a nominated contact on the relevant benefit section of the local authority. This personal sensitive data must be kept confidential and the Data Protection Act must be complied with. Further guidance will be issued on these procedures later in the year.

Implementing the new exemptions to existing awards

45. Where a person who is already aged 25 or over, but younger than 35, and entitled to Housing Benefit reaches their anniversary date after 1st April 2012, or the end of their transitional protection, you will need to consider whether the above new exemptions should apply.
46. Where one does apply and the person is living in a self contained property, they will continue to be eligible for the one bedroom self contained rate. Otherwise the shared accommodation rate should apply.
47. A person who is not yet 25 and who is living in a self contained property would have their Housing Benefit based on the shared accommodation rate. However, where they become 25 years old after 1st January 2012 you will need to consider whether the above new exemptions should apply.

³ MAPPA are the statutory arrangements for managing sexual and violent offenders. It is a mechanism through which agencies discharge their statutory responsibilities and protect the public in a co-ordinated manner.

48. Where one does apply they will be eligible for the one bedroom self contained rate. This would result in a change of category of dwelling. This will result in a new maximum rent LHA and probably the end of the transitional protection where the relevant LHA rate is greater than the pre April 2012 eligible rent.

Example – exemption applies to a transitionally protected case

49. A person who is 32 years old, living in a self contained property and receiving transitional protection, who spent 18 months in a specialist hostel, after long periods of sleeping rough, which provided the support he needed to assist with his drug addiction as part of rehabilitating him into the community. His transitional protection expires in March 2012.

50. He will continue to be eligible for the one bedroom self contained rate from the end of the transitional protection until his 35th birthday from when the shared accommodation rate will apply.

Example – exemption applies to a post April 2011 case

51. A person aged 28 claims Housing Benefit in May 2011 having been released from prison. Due to the nature of their offence they are subject to MAPPA arrangements. They are living in a self contained flat and are eligible for the one bedroom self contained rate.

52. On their anniversary date in May 2012 they are still subject to MAPPA arrangements so continue to be eligible for the one bedroom self contained rate.

Example – exemption applies from 25th birthday

53. A person who is 24 years old, living in a self contained property and receiving transitional protection, who spent 2 years in a specialist hostel for former rough sleepers, has their eligible rent based on the shared accommodation rate.

54. From their 25th birthday in February 2012 they become eligible for the one bedroom self contained rate as the new exemption applies. This is greater than the pre April 2011 shared accommodation rate so their transitional protection ends.

Communicating the change

55. We recommend that Local Authority teams working on Housing Options, housing advice or homelessness are engaged in planning communications and implementation at an early stage.

56. In our circular HB/CTB A6/2011 we encouraged local authorities to start notifying those customers who would be affected by the changes as soon as possible. We provided the text to be included in a notification letter, as well as for a flyer, which we have since put on the internet, see link below

57.¹.

58. We have added the text for a leaflet and poster to these products to help in getting across the substance of the changes to encourage those affected to consider their housing options and how they might meet any shortfall in their ability to pay their rent. Hard copies of the poster have been sent to each local authority and a limited number of additional copies are available on request from Mark.Bonnington@dwp.gsi.gov.uk

¹¹ <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/claims-processing/local-housing-allowance/communications/>

DECISION MAKERS CHECKLIST

VERIFICATION OF HOSTEL RESIDENCE FOR SHARED ACCOMMODATION RATE EXEMPTION

Claimant's name:.....

Date of Birth:

National Insurance Number:

Date of decision

Name of hostel(s):.....

Address:.....

.....

Phone number.....

Period(s) spent in specialist hostel: from.....to.....

The evidence received from the hostel confirms that:

Yes <input type="checkbox"/> No <input type="checkbox"/>	The main purpose of the specialist hostel is to provide accommodation together with care, support or supervision for homeless people with a view to assisting such persons to be rehabilitated within the community.
Yes <input type="checkbox"/> No <input type="checkbox"/>	The hostel provides a home that is not separate or self-contained premises and either board or facilities for the preparation of food, or both, are provided that is adequate for the residents needs.
Yes <input type="checkbox"/> No <input type="checkbox"/>	While living in the hostel the claimant was offered and accepted support services with a view to assist with their being rehabilitated or resettled within the community.
Yes <input type="checkbox"/> No <input type="checkbox"/>	The hostel was managed or owned by a registered housing association: or
Yes <input type="checkbox"/> No <input type="checkbox"/>	The hostel was operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or agency or a local authority; or
Yes <input type="checkbox"/> No <input type="checkbox"/>	Managed by a voluntary organisation or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community.
Yes <input type="checkbox"/> No <input type="checkbox"/>	The claimant lived in this hostel for three months ⁵ receiving support to assist them to be rehabilitated within the community. The actual period of stay in the hostel: from.....to.....

Note: An exemption will only be appropriate if you can answer 'Yes' to all the questions (and to one of the questions in the shaded boxes)

⁵ or a series of hostels for a combined minimum period of 3months