

Briefing

Welfare Reform Act 2012: Size Criteria

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Introduction

The Welfare Reform Act gives the Government the power to introduce new size criteria (also known as ‘under-occupation penalty’ or ‘Bedroom Tax’) for housing benefit claims in the social rented sector. The criteria will mean that any working-age household deemed to be under-occupying their home will lose part of their housing benefit from April 2013. More details of the scheme will be set out in regulations, which are expected to be published in May 2012.

What do the size criteria mean?

The size criteria in the social rented sector will restrict housing benefit to allow for one bedroom for each person or couple living as part of the household, with the following exceptions:

- Children under 16 of same gender expected to share
- Children under 10 expected to share regardless of gender
- Disabled tenant or partner who needs non resident overnight carer will be allowed an extra room.

Any household deemed to have more bedrooms than they require, as defined by the criteria, will lose a proportion of their housing benefit.

Examples of households who could be affected by the measure include:

- Separated parents who share the care of their children and who may have been allocated an extra bedroom to reflect this. Benefit rules mean that there must be a designated ‘main carer’ for children, who receives the extra benefit
- Couples who use their ‘spare’ bedroom when recovering from an illness or operation
- Foster carers because foster children are not counted as part of the household for benefit purposes
- Parents whose children visit but are not part of the household
- Families with disabled children
- Disabled people including people living in adapted or specially designed properties.

How is ‘working age’ defined?

The Government has said the measure will affect only tenants of working age – those below the Pension Credit age. The Pension Credit age is expected to be 61 at the time the criteria come into effect in April 2013, and will rise in line with the women’s state pension age until equalisation with men is achieved in 2018. The Government has introduced proposals to increase the state pension age for everyone to 66 by 2020. It is likely that the Pension Credit age will follow this, leaving more people subject to the size criteria.

What about couples in which one partner is of working age and one is of Pension Credit-qualifying age?

For couples currently claiming Housing Benefit, both the claimant and their partner need to be under the Pension Credit qualifying age to be treated as working age and subject to the size criteria.

Pensions Minister Steve Webb has said, in response to a Parliamentary Question: ‘It is intended that those already in receipt of Pension Credit at April 2013 will be protected, and continue to receive Pension Credit as long as they continue to meet the other qualifying conditions.’¹

¹ Hansard 29 Feb 2012 : Column 393W

From October 2013, when Universal Credit is introduced, if either member in a couple is under the qualifying age for Pension Credit then the couple will be ‘treated as working age’. This means they would be expected to claim the Universal Credit, and would therefore be subject to the size criteria.

However, it is not clear what will happen to couples who begin to straddle the Pension Credit age after April 2013 but before the Universal Credit is introduced from October 2013. The Federation continues to seek clarification on this issue.

How much Housing Benefit will people lose?

The cut will be a fixed percentage of the Housing Benefit-eligible rent. This will be set initially at a 14% cut for one extra bedroom and a 25% cut for two or more extra bedrooms. Therefore the higher the rent the higher the amount of money will be deducted from Housing Benefit each week. The same percentage cut will be applied to the new ‘affordable’ rents, set at up-to-80% of the market rate.

The Government has said those with one ‘spare’ bedroom will lose on average £12 per week (£624 per year) and those with two or more ‘spare’ bedrooms will lose on average £22 per week (£1,144 per year). Overall, those affected will lose on average just over £14 per week, or £738 per year.

The Federation is seeking assurances that the Government has no plans to increase the percentage cuts to Housing Benefit in subsequent years.

How many people will see their benefit cut?

In April 2013, the proposal will immediately affect an estimated 670,000 working-age social tenants – 32% of existing working-age Housing Benefit claimants in the social sector. The majority of these people have only one extra bedroom. Of the 670,000 estimated to be affected, 450,000 (66%) are disabled (as defined by the Disability Discrimination Act).

Under-occupation of accommodation by:	Estimated number of affected claimants	Percentage of affected claimants	Average Weekly Housing Benefit loss per affected claimant (2013/14)
1 bedroom	530,000	78%	£12
2 or more bedrooms	150,000	22%	£22
ALL BEDROOMS	670,000	100%	£14

The number of people affected is forecast to increase to 760,000 by 2020, as the qualifying age for Pension Credit increases.

What about regional variations?

There is a regional variation in the percentage of social housing tenants affected – a much higher percentage of tenants are affected in the North East and North West of England than in London and the South East. The amounts that people lose per week will be greater in the South East and London than in the North of England because the cut is a percentage of the rent.

Government Office Region	Estimated number of claimants affected	Affected claimants as % of working-age social rented sector Housing Benefit claimants by region
North East	50,000	46%
North West	120,000	43%
Yorkshire & Humberside	70,000	36%
East Midlands	50,000	37%
West Midlands	60,000	33%
Eastern	60,000	36%
London	70,000	19%
South East	50,000	26%
South West	30,000	28%
Wales	40,000	42%
Scotland	70,000	32%
GREAT BRITAIN	670,000	32%

Will people in work be subject to the size criteria?

Yes – and working people will lose the same amount as workless households. This is because any deduction will be calculated as a percentage of Housing Benefit-eligible rent – not the actual amount of Housing Benefit received. This means, for example, that a worker who may be receiving £14 per week in Housing Benefit could stand to lose their entire support.

What about supported and sheltered housing?

During debate on the Welfare Reform Bill at Committee Stage in the House of Lords, Welfare Reform Minister Lord Freud stated, with reference to supported and sheltered housing, that ‘we envisage that people in this type of accommodation will not be affected by the size criteria’.² The DWP has yet to clarify the definition of supported and sheltered housing; the Government recently consulted on changes to housing benefit for ‘exempt’ accommodation and any definition is likely to affect liabilities under the size criteria. Most people living in sheltered housing will not be affected because they are above the qualifying age for Pension Credit.

Will people have the option to move to a smaller home?

Many landlords support people to downsize from their property to free up badly needed family size homes, and the size criteria for Housing Benefit will bring a greater financial imperative to downsizing. However, the DWP’s impact assessment admits there is a ‘mismatch’ between household size and the availability of suitable homes in the social sector for under-occupying claimants to downsize into. It says: ‘In many areas this mismatch could mean that there are insufficient properties to enable tenants to move to accommodation of an appropriate size even if tenants wished to move and landlords were able to facilitate this movement.’³ Housing associations will know from their own stock profile the situation within their local area. A number of associations are already including the impact of the new size criteria in discussions with other local landlords and local authorities operating Choice Based Letting schemes.

² Lord Freud, 18 October 2011 Hansard Column GC102,

www.publications.parliament.uk/pa/ld201011/ldhansrd/text/111018-gc0002.htm

³ DWP Impact Assessment (February 2011) www.dwp.gov.uk/docs/social-sector-housing-under-occupation-wr2011-ia.pdf

Can people rent out a room?

The DWP has suggested that people could respond to the new size criteria by taking in a lodger to fill a 'spare' bedroom. Current benefit regulations allow claimants to keep the first £20 of any weekly income from renting out a room. The lodger would be entitled to claim Housing Benefit in their own right. A secure tenant may take in a lodger; the landlord's permission is not required. While there is no statutory provision about whether an assured tenant can take a lodger, common law allows a tenant to do so unless the tenancy agreement prohibits it or states that the landlord's permission must be obtained. The decision to rent out a room is a personal one for the tenant: families with young children may be concerned about sharing their home with another adult who is not part of their household; some people may feel that there is not enough living space for another adult or there may be no market for the room.

What about local lettings policies?

In some parts of the country, families have been purposefully allocated properties that under the new size criteria would be considered too large for them. This may have been in order to prevent a concentration of children on an estate, or in high rise flats, or because there is a severe shortage of suitable smaller accommodation, for example in rural areas. The new size criteria will not take into account these local circumstances.

How will the system be administered?

Initially, local authorities will administer the size criteria. The Government has said it intends to transfer the new size criteria into the Universal Credit so that the calculation of the element of the Credit for housing costs will be based on the actual rent of the property minus any deduction for the additional bedroom(s). As people move onto Universal Credit, local authorities will gradually lose their responsibility for administering support for housing costs. It is not clear as yet what tenants will be expected to do, who will verify claims and how local authorities will deal with adjusting a huge number of claims at the same time. Housing associations should start discussing these issues with their local authority housing benefit officials at an early opportunity.

Can Discretionary Housing Payments (DHP) help?

The Discretionary Housing Payment budget for local authorities has been increased but this support is dwarfed by the amount the Government expects to cut from housing assistance each year and there will be a huge increase in the demands made on this budget. By 2014/15 Government estimates that it will have cut £2.1bn per year from support for housing costs.

The process for determining a DHP will remain the same and local authorities will continue to be reluctant to offer a permanent solution allowing people to remain in their home for the long term. New claimants will make demands on the cash-limited local pot and therefore any claim will be time limited.

The Federation is seeking assurances from Government that it will try to create a level playing field, across tenures, for access to Discretionary Housing Payments.

Is the Government providing any help for vulnerable groups?

The Department for Work and Pensions has announced that an additional £30m per year will be made available in the form of discretionary payments for local councils, specifically to help 'around 40,000

households', including disabled people and foster carers, caught by the under-occupation penalty. Of this, £25m is expected to be targeted at disabled people in adapted properties and £5m at foster families.

When will more details be available?

The Government has said it will set out more details regarding the size criteria in regulations, expected to be published in May 2012. Several outstanding questions will need to be addressed, including:

- How will a bedroom be defined?
- Who will be responsible for determining whether a bedroom is of suitable size for sharing by, for example, teenagers of the same sex?
- How will the intended exemptions for supported and sheltered housing be guaranteed?
- What grace periods will be offered to claimants after a member of the household dies, or to those who have lost a job?
- What will be the arrangements for temporary absences for respite care, rehabilitation, hospital or residential care, imprisonment or university?
- What will the promised review into the impact of the size criteria involve, and when will it report?

Further Information

- DWP Impact Assessment (February 2011) <http://www.dwp.gov.uk/docs/social-sector-housing-under-occupation-wr2011-ia.pdf>
- DWP Equality Impact Assessment (October 2011) <http://www.dwp.gov.uk/docs/eia-social-sector-housing-under-occupation-wr2011.pdf>
- Welfare Reform Act 2012, Clause 11 & 69