

Housing Benefit for supported housing

Changes introduced by the Housing Benefit and Universal Credit (Supported Housing) (Amendment) Regulations 2014

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Introduction

The Government has at last acted in response to pressure to do something to protect supported housing projects that have been at threat from either the household benefit cap or the arrangements for housing costs in Universal Credit.

The Government has introduced the Housing Benefit and Universal Credit (Supported Housing) (Amendment) Regulations 2014 which create something called “specified accommodation” where help with the rent is excluded from both of these changes.

The regulations were laid before Parliament on 20 March and can be found on the legislation website (<http://www.legislation.gov.uk/id/uksi/2014/771>).

The Government has not yet sent information about the changes to Housing Benefit departments.

A. Four categories of “specified accommodation”

“Specified accommodation” consists of four categories and it is quite possible for a project to fall into more than one category but the most important category is the first as it also has other advantages.

1. Exempt accommodation

Accommodation which meets the “exempt accommodation” definition has considerable protection from having Housing Benefit calculated on less than the full rent (minus ineligible service charges) but it is also excluded from:

- Household benefit cap
- Social housing size criteria (“bedroom tax”)
- Universal Credit housing costs arrangements – calculated and paid monthly in arrears into a claimant’s bank account.

The “exempt accommodation” definition is still as written in 1995 and only covers claimants in accommodation where the landlord also provides the claimant with care, support or supervision – even if through a sub-contractor.

For further information about the definition of “exempt accommodation”, see existing materials such as Sitra’s briefing here: <http://www.sitra.org/documents/exempt-accommodation-briefing/?preview=true>

2. Supported housing where the landlord does not provide the care, support or supervision

The second category of “specified accommodation” deals with two developments that have reduced the proportion of supported housing covered by the “exempt accommodation” definition:

- Separate commissioning of the care, support or supervision by local authority and other commissioners from organisations other than the landlord
- Cancellation of block contracts and their replacement by personal budgets where tenants now purchase care, support or supervision from an organisation other than the landlord.

The second category is similar to the definition of “exempt accommodation” except:

- It does not matter who provides the claimant with care, support or provision.

- The claimant must have been “admitted” to the accommodation “in order to meet a need for care, support or supervision” – so it only applies to people who have moved into supported accommodation, not people in general needs accommodation who are later given a package of care or support.

This second category only covers claimants with the same landlords as “exempt accommodation” so it does not help claimants whose landlord is either a:

- Housing authority – but see the next two categories for possible help
- Private “for profit” individual or organisation.

3. Domestic violence refuges

The third category of “specified accommodation” covers accommodation provided not only by the same landlords as the first and second categories but also by a local housing authority.

The accommodation must consist of a building or part of a building that is used wholly or mainly for non-permanent accommodation of people who have left their homes as a result of domestic violence.

The definition of domestic violence is the same as in other social security legislation. It includes controlling and coercive behaviour and different kinds of abuse.

There is no requirement that the claimant needs or receives any care, support or supervision.

4. Housing authority non-self-contained supported housing (such as hostels)

The Government has finally agreed to extend protection from Universal Credit housing costs and the household benefit cap to housing authority supported housing – but only if the claimant’s accommodation is not self-contained.

The regulations use the expression “hostel” but that expression has a long and complicated definition in the Housing Benefit Regulations which ends up covering more accommodation than most people expect.

Please note the additional requirement that the tenant must actually receive care, support or supervision – see Appendix.

The definition of a hostel is that it must be a building (other than a care home):

“in which there is provided for persons generally or for a class of persons 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”

“Self-contained” is generally understood to mean the claimant must have in their own premises facilities for:

- Eating
- Sleeping
- Cooking – unless, perhaps, all meals are provided
- Washing – of the person, not just a toilet and a handbasin of the claimant’s own.

The result is a lot of supported housing may qualify but not any but the very oldest forms of sheltered housing where tenants share bathrooms.

B. How is “specified accommodation” protected from the impact of recent benefit changes?

1. Household benefit cap

The changes to the Housing Benefit Regulations come into force on 10 April 2014.

From that date people who claim Housing Benefit in respect of “specified accommodation” will be ignored for the purposes of the benefit cap – as is already the case with “exempt accommodation”.

2. Size criteria

There is no change. The three new categories of “specified accommodation” are not protected from the social housing size criteria (the “bedroom tax”) because Housing Benefit is assessed under normal Housing Benefit rules for social housing unlike “exempt accommodation” where the size criteria do not apply.

3. Universal Credit

The changes to the Universal Credit regulations come into force on 4 November 2014.

At present Universal Credit is only ‘live’ in nine Jobcentres across Britain – Ashton-under-Lyne (Tameside), Bath, Hammersmith, Harrogate, Inverness, Oldham, Rugby, Warrington and Wigan with Shotton (North Wales) going live on 7 April.

In these areas a very small number of people have claimed Universal Credit and subsequently moved into “exempt accommodation”. Housing costs for those living in ‘exempt accommodation’ cannot be met through Universal Credit and must be paid through Housing Benefit instead. A tenant can still receive Universal Credit but has to make a separate claim for Housing Benefit to cover the cost of the rent in the ‘exempt accommodation’.

The new regulations include an amendment to Universal Credit regulations to add the three new categories of “specified accommodation” alongside the existing definition of “exempt accommodation”. So from 4 November 2014 anyone living in one of the three new categories of “specified accommodation” will not be able to claim housing costs through Universal Credit. He or she will be able to claim Housing Benefit under existing rules. This will mean that any income from Housing Benefit will not be taken into account in the calculation of the overall benefit cap and the tenant can choose to have their benefit paid direct to their landlord.

Prior to 4 November 2014 tenants of the three new categories of “specified accommodation” who are awarded Universal Credit will get help with their rent via the rent element of Universal Credit which means:

- It will be assessed and paid calendar monthly in arrears into a claimant’s bank account – unless in each case Alternative Payment Arrangements are requested and agreed – and
- The household benefit cap will still apply.

C. New register of supported housing

So that help with the housing costs is provided correctly through either Universal Credit or Housing Benefit it will be necessary that properties falling into the new

definitions are identified accurately. As Universal Credit staff will have a limited knowledge of the local housing sector local authorities are probably better placed to identify the supported housing in their area that meets the definition.

DWP is looking at creating a new list where lower-tier and unitary local authorities will ensure that all supported accommodation meeting the “exempt accommodation” and “specified accommodation” definitions is identified to the Universal Credit processing centres. To allow for discussion and the creation of this list over the summer the changes to the Universal Credit regulations do not come into force until 4 November 2014.

We will continue to work with local authorities and the DWP to ensure that the system for identifying ‘exempt accommodation’ and ‘specified accommodation’ claims is workable and does not place any undue bureaucratic demands on housing providers and local authorities.

There is concern that the new list could potentially give more people access to addresses of supported housing (including refuge services) which are better kept confidential: the more specific the list, the greater the risk that confidentiality could be compromised. We will therefore be working with the DWP to ensure that the whole system – the information it contains and the procedures for accessing it – are designed with the need for confidentiality in mind.

Appendix: Care, support and supervision – general principles

Whenever the regulations mention an organisation providing or a person receiving care, support or provision, it is important to remember that judges have decided the following always apply:

- The care, support or supervision must not be a “trifling” amount – it must make a difference to the claimant’s ability to maintain the tenancy
- It’s not enough that the care, support or supervision is available, the claimant must actually take advantage of it – or, if the benefit decision is being made at the beginning of the tenancy before there is any evidence, it must be likely the claimant will do so
- The claimant must actually need the care, support or supervision – if it’s provided and the claimant does not actually need it, it doesn’t count.

So the “exempt accommodation” rule applies in theory to individual benefit claimants and not necessarily to whole projects:

- Some tenants may not take up the support offered
- Others may receive support they don’t need.