

Changes to Housing Benefit in the Social Sector

From 1 April 2013 there will be changes in the way Housing Benefit is calculated for claimants living in accommodation rented to them by Orkney Islands Council or Orkney Housing Association Limited.

This means there will be restrictions on the size of property Housing Benefit will pay for, based on who lives in the property. If someone is assessed as having more bedrooms in their accommodation that is necessary according to the new rules, they will be considered to be under-occupying that property and a percentage reduction will be applied to their eligible rent and service charges.

How will this be worked out?

The new rules will allow one bedroom for:

- every adult couple (married or unmarried)
- any other adult aged 16 or over
- any two children of the same sex aged under 16
- any two children aged under 10
- any other child (other than a foster child or child whose main home is elsewhere)
- a carer (or team of carers) who do not live with the claimant but provide them or their partner with overnight care

What does this mean for people claiming Housing Benefit?

Anyone who receives Housing Benefit on or after 1 April 2013 will only be entitled to Housing Benefit that covers the size of property calculated as appropriate for the size of their household using the above rules.

The local authority will compare how many bedrooms there are in their property with the number of people living there. They will then use the above rules to assess whether they are under-occupying their accommodation.

If someone is considered to be under-occupying their accommodation there will be a reduction in the amount allowed for rent and any service charges of:

- 14% if they are considered to have one extra bedroom
- 25% if they have two or more extra bedrooms

EXAMPLE

Stuart and Isabel have three children, Jenny who is 12, Max who is 9 and Alice who is 6. Under the size criteria rules Stuart and Isabel would be entitled to Housing Benefit for three bedroom accommodation.

One bedroom for themselves, one for Jenny and Alice and one for Max.

EXAMPLE

Prima and Rajesh have two children, Priya who is 8 and Krish who is 6.

They live in a three bedroom apartment and currently receive £85 Housing Benefit a week to cover the full rent.

Under the new size limit rules they would only be entitled to Housing Benefit for two bedroom accommodation, one bedroom for themselves and one for Priya and Krish who would be expected to share a room because they are both under 10.

The local authority would consider Prima and Rajesh to be under-occupying their current accommodation by one room and would apply a 14% reduction.

EXAMPLE

Sonia is a single parent with two children, Rachel who is 11 and Peter who is 9

She lives in a three bedroom flat and currently receives £100 Housing Benefit a week to cover the full rent.

Under the size criteria rules Sonia would be entitled to Housing Benefit for a three bedroom house. As Rachel is over 10 she and Peter would not be expected to share a room. Sonia would therefore not see any reduction in her Housing Benefit.

JOINT TENANTS

The size limit rules will take into account everyone living in the property when calculating how many bedrooms Housing Benefit should be paid for. If it is decided that the accommodation is under-occupied, a percentage reduction will be taken off the rent for the household and Housing Benefit will be paid on the basis of the proportion of the rent the claimant is liable to pay.

EXAMPLE

Stewart lives in a three bedroom flat which he shares with Eusebio. The rent is £100 a week and they split the rent 50/50. Stewart currently receives Housing Benefit to cover his share of the rent.

Under the size limit rules Stewart would be considered to be under occupying as him and Eusebio would only require two rooms.

As he is under-occupying by one room a 14% reduction would be applied to the full rent making it £86, as Stewart is liable for half the rent he would then receive £43 Housing Benefit a week.

If Stewart decided to remain in the flat he would need to make up the remaining £7 himself.

EXAMPLE

Ella is a lone parent with one child, Laura. She lives in a four bedroom flat as a joint tenant with her friend Jane and pays half of the £130 weekly rent. Jane's earnings take her above Housing Benefit eligibility, but Ella is unemployed and entitled to Housing Benefit of the full eligible rent (half of £130 = £65).

Under the size limit rules, the accommodation is under-occupied by 1 room. Total rent = £130, minus the 14% reduction of £18.20 = £111.80. Ella's eligible rent is half of this – that is, £55.90.

EXEMPTIONS

There are certain circumstances where the size limit rules will not be applied.

State Pension credit age – The size limit rules will only apply to claimants of working age. Any claimant over state pension credit age or with a partner over state pension credit age will be exempt from the size limit rules from April 2013.

Non-Mainstream accommodation – These are mooring charges for house boats and site charges for caravans and mobile homes as well as various “excluded tenancies” within schedule 2 to the Housing Benefit Regulations, such as regulated tenancies.

Temporary accommodation – Any claimant who is accepted as homeless under Homelessness legislation of the Housing Act 1996 and placed in temporary accommodation by the local authority, as described in regulation A13(3), because they are homeless or to prevent homelessness

Exempt accommodation – The size limit rules will not be applied to those in supported ‘exempt’ accommodation. This is a particular type of supported accommodation defined for Housing Benefit purposes as accommodation provided by a non-metropolitan county council in England, a housing association, a registered charity or voluntary organisation where that body or a person acting on its behalf also provides the claimant with care, support or supervision as set out in paragraph 4 of Schedule 3 to the Consequential Provisions Regulations 2006.

How will existing Housing Benefit claimants be contacted?

Local authorities will assess who may be under-occupying their accommodation. If someone is identified as under-occupying the local authority will get in touch with them to notify them of this and to highlight what options they have.

The local authority will contact claimants in plenty of time before the implementation of the size limit rules to allow time for people to make alternative arrangements.

It is important that as soon as a claimant receives notification they start to consider their options and seek appropriate advice.

What options do people have?

If someone is assessed as under-occupying their accommodation and experience a reduction in Housing Benefit, there are a number of courses of action open to them. They may wish to find more appropriately sized accommodation or stay where they are and make up the shortfall in rent themselves.

Move – Someone may decide that it would be sensible to move to appropriately sized accommodation in the social rented sector. Their landlord will be able to talk this through with them and advise them as to whether this is a viable option.

They may decide that moving to the private rented sector would be appropriate. Again their landlord or the local authority will be able to advise them about this.

It may be possible to claim a Discretionary Housing Payment for help with moving costs.

Ask non dependants to contribute – If someone decides to stay in their current accommodation and make up the shortfall in rent themselves they may wish to ask other non dependants living with them to contribute to the additional rent.

Take in a lodger – Taking in a lodger to fill an extra bedroom may be a good option for some claimants. The lodger would be assessed as part of the household, meaning they would not necessarily be considered to be under-occupying and may have more income due to the extra rent. However, taking a lodger may affect the treatment of your income for benefit purposes and may also affect your tenancy agreement. You should seek further advice before considering this option.

Increase hours of work – If a claimant is in employment they may consider increasing their working hours if possible to make up the shortfall in rent.

Take a job – If a claimant is not currently in employment, finding a job could help them pay the additional rent.

Apply for a DHP – In certain circumstances a claimant may be entitled to a payment from the Discretionary Housing Payment Fund. This is a fund administered by the local authority for those they consider in real need of additional help with their housing costs.

Other Support and Advice

Talk to your landlord in the first instance. They should be able to advise on the prospects for changing accommodation. If a claimant decides to stay in their current accommodation they will be able to discuss with their landlord how they will pay the additional rent.

Contacts

- Orkney Islands Council – Housing Benefit Service or Housing Service to find out exactly how these changes will affect you. Council Offices, Kirkwall, Orkney, KW15 1NY; Tel 01856 873535
- Orkney Housing Association, 39A Victoria Street, Kirkwall, Orkney, KW15 1DN; Tel 01856 875253.

- Orkney Citizens Advice Bureau – Anchor Buildings, Bridge Street, Kirkwall, KW15 1HR; Tel: 01856 875266.
- Shelter offers confidential housing, welfare benefits and debt advice through a network of advice services; freephone Housing Advice Helpline on 0808 800 4444 8am-8pm Monday-Friday and 8am-5pm Saturday-Sunday and online at www.shelter.org.uk
- Information about Housing Benefit can also be found at www.direct.gov.uk

Frequently Ask Questions (FAQs)

When was the size limit measure announced?

The Chancellor announced the introduction of size limit rules in the social rented sector in the June 2010 emergency budget. It now forms part of the Welfare Reform Act 2012, which received Royal Assent on 8 March 2012.

When will the change come into force?

The regulations are due to take effect from 1 April 2013

What does under-occupying mean?

- If someone is assessed as having more bedrooms in their accommodation that is necessary according to the new rules they will be considered to be under-occupying that property.

How many rooms am I allowed?

The new rules will restrict the size of accommodation you can receive Housing Benefit for based on the make up of your household.

The new rules allow one bedroom for:

- every adult couple (married or unmarried)
- any other adult aged 16 or over
- any two children of the same sex aged under 16
- any two children aged under 10
- any other child (other than a foster child or child whose main home is elsewhere)
- a carer (or team of carers) who do not live with you but provide you or your partner with overnight care

What will happen if I am under-occupying?

If you are assessed as under-occupying your accommodation a percentage reduction will be made to your eligible rent and any eligible service charges. This percentage will depend on how many rooms you are under-occupying by:

- 14% if someone is considered to have one extra bedroom
- 25% if someone has two or more extra bedrooms

Who is affected?

The size limit measure will affect anyone who is of working age and is receiving Housing Benefit or has made a claim for Housing Benefit.

What does working age mean?

Anyone under state pension credit age.

What if my partner is over state pension credit age?

If one member of a couple receiving Housing Benefit is over state pension credit age then the size limit will not apply to them.

Is anyone exempt?

There are certain circumstances where the size limit rules will not be applied.

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Temporary accommodation – Any claimant who is placed in temporary accommodation by the local authority because they are homeless or to prevent homelessness.

Exempt accommodation – The size limit rules will not be applied to those in supported ‘exempt’ accommodation. *This is a particular type of supported accommodation defined for Housing Benefit purposes as accommodation provided by a non-metropolitan county council in England, a housing association, a registered charity or voluntary organisation where that body or a person acting on its behalf also provides the claimant with care, support or supervision as set out in paragraph 4 of Schedule 3 to the Consequential Provisions Regulations 2006.*

Will the shared accommodation rate apply?

There is no shared accommodation rate in the social rented sector. A person living on their own will require one bedroom, whether the property is self contained or not regardless of their age.

Are you allowed a room for a foster child?

No, when calculating how many bedrooms a family unit require, a room for a foster child will not be taken into account. Therefore, a household that has an extra room for a current or potential foster child will be treated as under-occupying.

If assessed as under-occupying, foster carers or those being assessed to become foster carers should apply to their local authority for help with the shortfall in their rent from the Discretionary Housing Payment fund. (This is administered by the Housing Benefit office, not the Fostering Service – although they can ask the Fostering Service for help with the application).

I share the house with someone else, how is my room allowance worked out?

If you occupy your accommodation jointly with someone else the size limit rules will take into account everyone living in the property when deciding whether you are under-occupying for Housing Benefit purposes. If it is decided that you are under-occupying, a percentage reduction will be taken off the whole eligible rent and any eligible service charges and your Housing Benefit will then be based on the proportion of the rent you are liable to pay.

EXAMPLE

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Under the size limit rules Stewart would be considered to be under-occupying as he and Eusebio would only require two rooms.

As he is over occupying by one room a 14% reduction would be applied to the full rent making it £86, as Stewart is liable for half the rent he would then receive £43 Housing Benefit a week.

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EXAMPLE

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Under the size limit rules, the accommodation is under-occupied by 1 room. Total rent = £130, minus the 14% reduction of £18.20 = £111.80. Ella's eligible rent is half of this – that is, £55.90.

I share care of my children with my ex-partner, are we both entitled to a room for them?

Where parents who don't live together have shared care of their children, the children will be treated as living with the parent who is treated as responsible for them and provides their main home.

For someone to be treated as responsible for a child or young person, the child or young person must normally be living with them. If a child or young person spends equal amounts of time in different households, or there is a question as to whom they normally live with, they will be treated as living with the person who is receiving Child Benefit for them.

The parent who is not considered to provide their main home will not be entitled to receive Housing Benefit for an extra room for their child/children. If they wish to remain in their current accommodation they will need to make up the shortfall in rent themselves. See *section on 'what options do I have?' below.*

My house has been adapted to cater for my disability, am I included in the size limit rules?

Other than the cases stated above there will be no exceptions to the application of the size limit rules. If there is a reason that an extra room is necessary your local authority may be able to help you with the extra rent through the Discretionary Housing Payment fund.

My child has a disability and is not able to share a room; will I be allowed an extra room for them?

Generally there will be no exceptions to the application of the size limit rules, other than the cases stated above. If there is a reason that an extra room is necessary your local authority may be able to help you with the extra rent through the Discretionary Housing Payment fund.*

My child is away at university, can I keep their room for when they are home in the holidays?

The new size limit rules do not allow for this, unless the absence is temporary (less than thirteen weeks or 52 weeks for students) and the young person concerned intends to return home.

Will my housing association find me a smaller house?

If you wish to move to smaller accommodation it is advisable to talk to your landlord. They should be able to advise you if moving to smaller accommodation is possible and what steps you need to take.

My partner has just passed away, am I going to be expected to move as well?

There may be circumstances where someone in receipt of Housing Benefit would be considered to be under-occupying because of a death in their household. In these circumstances they would be protected and the size limit rules would not be applied until after 12 months or they moved home or there was another change of circumstances (whichever came first).

I could afford my rent but just lost my job and need to claim Housing Benefit. Does this mean I won't get benefit to cover all my rent because I have an extra room?

If you could previously afford to pay your rent and find yourself in a situation where you now cannot, for example because of a loss of job, provided you have not claimed Housing Benefit in the last 52 weeks, the size limit rules will not be applied for the first 13 weeks. They will be applied earlier than 13 weeks if you move home or have another change of circumstances.

How will my rent be paid?

If you are assessed as under-occupying, your reduced Housing Benefit will be paid as it has been previously and the remainder of the rent will need to be paid by you to the landlord. It will be a decision for you and your landlord how this is done.

How will I make up any shortfall in rent?

If you are assessed as under-occupying your accommodation and experience a reduction in your Housing Benefit, there are a number of courses of action open to you. You may wish to find more appropriately sized accommodation or stay where you are and make up the shortfall in rent yourself.

Move – You may decide that it would be best to move to appropriately sized accommodation in the social rented sector. Your landlord will be able to talk this through with you and advise you as to whether this is a viable option.

You may decide that moving to the private rented sector would be appropriate for you. Again your landlord or local authority will be able to advise you about this.

Ask non-dependants to contribute – If you decide to stay in your current accommodation and make up the shortfall yourself you may wish to ask other non-dependants living with you to contribute to the rent.

Take in a lodger – You may wish to take in a lodger to fill the extra room you have. You should check this is allowed by your landlord. If you do this the lodger would be assessed as part of the household meaning you would not necessarily be considered to be under-occupying and you may have more income from their rent.

Increase hours of work – If you are in employment you may consider increasing your working hours to make up the shortfall in rent.

Take a job – If you are not currently in employment, finding a job could help you pay the additional rent.

Apply for a DHP – In certain circumstances a claimant may be entitled to a payment from the Discretionary Housing Payment Fund. This is a fund administered by the local authority for those they consider in real need of additional help with their housing costs.

September 2012