

Bedroom tax

Changes to Housing Benefit size criteria



Major changes have been brought in to how support is provided to people who need help with their rent through Housing Benefit.

One of these changes is called the Housing Benefit Size Criteria Rules. This is commonly referred to as the ‘bedroom tax’, or the Government calls it the ‘removal of the spare room subsidy’.

The information in this factsheet applies to people living in England, Wales and Scotland.

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What is the ‘bedroom tax’?

In April 2013 major changes were made to the support provided to people who need help with their rent through Housing Benefit.

One of these changes is called the Housing Benefit Size Criteria Rules. This is commonly referred to as the ‘bedroom tax’, or the Government calls it the ‘removal of the spare room subsidy’. It means that working age people who get help towards their rent through Housing Benefit will have the amount they can receive restricted if they are considered to have too many bedrooms.

Similar rules will also apply to people who claim Universal Credit. This is a new benefit that is gradually replacing a number of existing benefits, including Housing Benefit.

Who does the ‘bedroom tax’ affect?

The ‘bedroom tax’ will affect **working age** Housing Benefit claimants who rent **social housing**.

Working age claimants are those who are under the state pension credit age. The state pension credit age is the qualifying age for Pension Credit. The qualifying age for Pension Credit is rising steadily. When you reach the qualifying age depends on your date of birth.

Social housing includes properties rented from a council or a housing association.

If you are renting from a private landlord your Housing Benefit will already be restricted by the same size criteria rules.

It will not apply if your home is temporary accommodation (made available by a local authority for homeless households).

People who own a share of their home and pay rent on the remaining share will not be affected by the size criteria rules.

‘Bedroom tax’ and pensioners

The ‘bedroom tax’ applies where both members of a couple are under the state pension credit age. Couples where one person is working age and the other is over the state pension credit age will not be affected.

However, this will change for some claimants under Universal Credit. If either member in a couple is under the state pension credit age when a new claim is made, the couple will be treated as working age and will therefore be subject to the size criteria rules.

Couples where one person is working age and the other is over the state pension credit age who are already claiming Pension Credit when the changes come in will not be affected (unless or until there is a break in your Pension Credit claim for some reason).

What are the size criteria rules?

The size criteria rules limit the number of bedrooms that you can have in your home and still get all of your eligible rent paid. If you have more rooms than are allowed by the size criteria rules you are considered to be under-occupying.

The new rules will restrict Housing Benefit to allow for one bedroom for:

- a person over 16
- a couple
- two children of the same sex under 16
- two children who are under 10
- any other child (other than a foster child or child whose main home is elsewhere)
- a non-resident carer (or group of carers) providing overnight care to the tenant or their partner where this is considered to be required
- a disabled child who is in receipt of the middle or higher rate care component of Disability Living Allowance, where the local authority decision maker is satisfied that the child cannot reasonably share a room
- an adult child who is in the Armed Forces, including the Reserve Forces, but who continue to live with parents (**note:** they are treated as continuing to live at home, even when deployed on operations)
- approved foster carers (and formal kinship carers in Scotland) so long as they have fostered a child, or become an approved foster carer in the last 12 months

How much will Housing Benefit be restricted by?

Where households are seen to be under-occupying because they have 'spare' bedrooms according to the size criteria rules, they will see a reduction in their Housing Benefit. Their 'eligible rent' (the figure used to calculate Housing Benefit) will be reduced by:

- 14% for one extra bedroom
- 25% for two or more extra bedrooms

Examples of under-occupancy:

- A father with two daughters under 16 living in a three bedroom house would be under-occupying by one bedroom, because the new rules would say the daughters should share, and would see a cut in his Housing Benefit by 14%.
- A couple with two sons aged 10 and a daughter aged 11 in a three bedroom house would not be under-occupying.
- A working age couple who have two bedrooms because they need to sleep separately due to health problems would be under-occupying by one room and would have a reduction of 14% in their Housing Benefit.
- A family with one disabled child and three bedrooms, one of which is used for storing the equipment the disabled child uses, would be under-occupying by one bedroom and see a cut in their Housing Benefit by 14%.

When do the size criteria rules allow for an extra room for overnight care?

If a Housing Benefit claimant (and/or their partner) requires overnight care from a non-resident carer(s), they will be allowed one additional bedroom. Even when both the claimant and partner require overnight care, only one additional bedroom is allowed.

Who counts as 'requiring' overnight care?

To count as 'requiring' overnight care, arrangements need to be in place for you (or your partner) to receive regular overnight care by one or more

people who do not live with you, and for them to be provided with the use of a bedroom additional to those used by other people who live with you.

Also, you must satisfy the local authority that you or (s/he) reasonably requires this care and meet(s) one of the following conditions:

- you (or s/he) is getting Attendance Allowance (AA), the middle rate or highest rate care component of Disability Living Allowance (DLA), either rate of the daily living component of Personal Independence Payment (PIP) or Armed Forces Independent Payment (AFIP); or
- you (s/he) have provided the local authority with sufficient certificates, documents, information or evidence to satisfy it that overnight care is required (see note below)

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Note: You can count as a person who requires overnight care even if you are not actually living in your home, provided you can be treated as occupying it – for example while you are temporarily absent from home.

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Who counts as a carer?

At the time of writing, the law is not clear about whether a ‘non-resident carer’ means a paid care worker or a carer. Carers UK believes that it is reasonable to argue that the term should apply to both.

Also, the law does not specify whether it has to be the same carer or carers that provide the care. So, if different members of a family take turns to stay over with an older relative or if care is sometimes provided by a combination of family, friends or paid care workers, Carers UK believes this should not cause a problem.

How often must they care?

The law states that the claimant or their partner needs to require ‘regular’ overnight care. ‘Regular’ has not been defined in terms a specific amount of care, but it has been said to mean the same as ‘commonly’, ‘habitually’ or ‘customarily’.

The test for whether someone requires ‘regular’ overnight care is if the need for the care arises often and steadily enough to require that a bedroom be kept for this purpose. Therefore, someone who needs overnight care every night all of the time would obviously pass the

test, but the law is also clear that the test can be passed in situations where care is only provided on a minority of nights, so long as an extra bedroom is needed for this purpose (for example, this might apply where someone with a health problem only needs care on bad nights).

If you need an extra room for a carer and this has been refused always challenge the decision – see page 9 for more information.

Will Housing Benefit always be restricted?

Yes – if you have more rooms than the size criteria rules allow your Housing Benefit will be restricted. It does not matter what the spare room is being used for so this will still affect you even if:

- you and your partner need to sleep apart because of a medical condition
- you use a spare bedroom to store equipment used because of a disability
- you have a spare room for when your child stays with you but their main residence is at another address

What counts as a bedroom?

In the legislation the Government has not defined what counts as a bedroom in terms of size, or whether rooms such as dining rooms could be counted as bedrooms. The Government has said it will be up to the landlord to say how many bedrooms the property has. This is normally stated on a tenancy agreement.

What can I do if the ‘bedroom tax’ applies to me?

The Government has provided a list of suggestions for people who have the ‘bedroom tax’ applied to them. Their suggestions include:

- moving to a property with fewer bedrooms
- paying the shortfall in Housing Benefit by taking in a lodger
- taking up work or increasing your working hours

Clearly these suggestions may not be reasonable options for many if not most carers. If you do decide that any of these suggestions might work for you then consider the following:

- Your housing association or local council may help you to move to smaller accommodation by helping you arrange a mutual swap or by paying for moving costs and expenses.
- Whether you can rent out a spare room to a lodger will depend on your tenancy agreement so speak to your housing association or council housing office first. You should also check how any rent you charge might affect your benefits. The rent will be counted as income but some of this can be disregarded.
- If you can take up work or increase your hours (which will not be possible for many carers), make sure you get a benefit check to make sure you are claiming all the in-work benefits you are entitled to.

Discretionary Housing Payments

If you are not able to pay the extra rent or move to a smaller property – for example, because you have a specially adapted house – you can apply for Discretionary Housing Payments from your local council.

Discretionary Housing Payments are funded by a limited sum of money and most councils will not award them on an ongoing basis. Therefore, these payments may only be a temporary help while you look to find another solution to the problem.

However, Government guidance has stated that Discretionary Housing Payments should be specifically aimed at some groups of people including:

‘Disabled people living in accommodation that has been substantially adapted for their needs, including new builds’.

The Guidance also states that there are many reasons:

‘...why it may not be appropriate for someone with a disability to either move house or make up any shortfall in rent themselves. A good example of this may be an individual or family who rely heavily on a local support network. In circumstances such as these it may be appropriate to use the Discretionary Housing Payment fund to make up the shortfall in their rent.’

If the ‘bedroom tax’ applies to you, or the person you are looking after, you should apply to your local council for a Discretionary Housing Payment.

You should also apply for a Discretionary Housing Payment if you are appealing a decision about needing an extra bedroom for a carer or

because you have a disabled child in the family who needs an extra room, as an appeal can take some time and this will help you not to fall into rent arrears.

In Scotland, the Scottish Government are providing additional funding to help people affected by the ‘bedroom tax’, including more money for Discretionary Housing Payments. If you are affected you should speak to your housing provider or local council to discuss how they can best help you.

Challenging the decision

If you are affected by the ‘bedroom tax’ you will have received a letter from your council telling you about the decision. You have one month from the date of the letter to ask your council to review their decision.

You should write a letter to the council containing your full name, address, National Insurance number, reference number (this should be at the top of your decision letter) and the date of their decision. In your letter you should try to explain clearly why you think the decision is wrong and include any relevant evidence.

You can find a sample letter for challenging a ‘bedroom tax’ decision, along with a collection of draft arguments, in our online ‘bedroom tax’ toolkit – visit www.carersuk.org/bedroomtaxtoolkit

If you’re able to, you should hand the letter in to the council’s offices and get a receipt that includes the date on which you handed over the letter. However, if you decide to post the letter, make sure you get a certificate of posting, use recorded delivery or keep a note of the date of posting, along with a photocopy.

If you are not happy with the council’s reviewed decision, then you can appeal this to an independent tribunal. You must ask for an appeal in writing within one month of the council’s decision.

If you are planning to ask for a review or appeal a ‘bedroom tax’ decision, you should contact the Carers UK Adviceline so we can advise you on how to argue your case – see final page for contact details.

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Note: If you fall outside any of the time limits mentioned above, then it may still be possible to challenge the decision. For more information contact the Carers UK Adviceline – see final page for contact details.
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Further help

For information and advice contact the Carers UK Adviceline on **0808 808 7777** (open Monday to Friday, 10am to 4pm) or email **advice@carersuk.org**

Information is also available on our website at **www.carersuk.org**

Other organisations

Shelter

Shelter give advice, information and advocacy to people in housing need.

www.shelter.org.uk

0808 800 4444

Benefit helplines

Attendance Allowance helpline

0345 605 6055 (textphone: 0845 604 5312)

Carer's Allowance Unit

www.gov.uk/carers-allowance

0845 608 4321 (textphone: 0845 604 5312)

Disability Living Allowance

0845 712 3456 (textphone: 0845 722 4433)

Jobcentre Plus

For Jobseekers Allowance, Income Support and Employment and Support Allowance.

New claims: 0800 055 6688 (textphone: 0800 023 4888)

Helpline: 0345 608 8545 (textphone: 0345 608 8551)

Pension Credit claim line

0800 99 1234 (textphone: 0800 169 0133)

Personal Independence Payment

New claims: 0800 917 2222

Helpline: 0845 850 3322 (textphone: 0845 601 6677)

Tax Credit helpline

England, Wales & Scotland

0345 300 3900 (textphone: 0345 300 3909)

This factsheet is designed to provide helpful information and advice. It is not an authoritative statement of the law. We work to ensure that our factsheets are accurate and up to date, but information about benefits and community care is subject to change over time. We would recommend contacting the Carers UK Adviceline or visiting our website for the latest information.

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Carers UK Adviceline

For expert information and advice about caring.



0808 808 7777

(open Monday to Friday,
10am-4pm)



advice@carersuk.org

Carers UK

20 Great Dover Street
London SE1 4LX

020 7378 4999
info@carersuk.org

Carers Wales

029 2081 1370
info@carerswales.org

Carers Scotland

0141 445 3070
info@carerscotland.org

Carers Northern Ireland

028 9043 9843
info@carersni.org

Carers UK makes life better for carers.

Caring will affect us all at some point in our lives.

With your help, we can be there for the 6,000 people who start looking after someone each day.

We're the UK's only national membership charity for carers. We're both a support network and a movement for change.

Visit us at our website to join us, help us or access more resources:

carersuk.org