



Changes to housing 'size criteria' rules The 'Bedroom Tax'

From April 2013 the government is bringing in major changes to the benefit system.

These include changes to how it provides support to people who need help with their rent through Housing Benefit. One of these changes is called the Housing Benefit Size Criteria Rules, commonly referred to as the 'Bedroom Tax' and we will use this term in this factsheet.

This factsheet aims to explain what these changes are, how they might impact on you as a carer and where to go for advice.

Will this apply to you?

The changes to 'size criteria rules' in Housing Benefit will apply to working age claimants. Working age claimants are claimants 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.

For more information on age and the Bedroom Tax see **Will it apply to pensioners?** on page 4.

This change to Housing Benefit will be applied to people who rent social housing. 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.

Why is this change important?

The change to the 'size criteria' for Housing Benefit for social housing tenants will mean 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 Universal Credit, which is a new benefit that is going to replace a number of existing benefits, including Housing Benefit, from October 2013.



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 '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).
- And one additional room for a carer (or group of carers) providing overnight care.

By how much will Housing Benefit be restricted?

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 of:

- 14% for one extra bedroom.
- 25% for two extra bedrooms.

Examples of under-occupancy:

- A father with two daughters under 16 living in a three bedroom house would be under-occupying by 1 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 a bedroom each in a two-bedroom flat would be under-occupying by one room and so would have a reduction of 14% in their Housing Benefit.
- A couple who have two bedrooms because they need to sleep separately due to health problems would be under-occupying.
- 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.

Who counts as a carer for the 'size criteria rules'?

If a housing benefit claimant or the claimant's partner needs care overnight from a carer or carers who do not usually live with them they will be allowed an extra room.

Because the Bedroom Tax is a new piece of law there are some points that are not yet clear and Carers UK are seeking clarification from the Government as to what the legislation means. The actual legislation says that a claimant will be entitled to:

'... one additional bedroom in any case where the claimant or the claimant's partner is a person who requires overnight care (or in any case where each of them is).'

This is important because what needs to be established is that the claimant or their partner needs overnight care from someone who does not usually live with them. As the law says nothing about who will provide the care, Carers UK believes that it is reasonable to



argue that this can apply to a paid care worker or to a carer.

In addition, the law does not say how often the claimant or their partner would require overnight care. So Carers UK believes it is arguable that the care would not need to be required every night or every week or even every month for the extra room to be allowed. What would matter is that given the persons specific care needs they do require the care. Therefore, someone who needs overnight care every night all of the time would obviously have an extra room allowed. However, arguably so would someone with a health problem who needs overnight care just on bad nights or every night for some of the time but not all of the time.

The law also does not specify that 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 care is sometimes provided by family and friends and sometimes by paid care workers, this should not cause a problem.

If you need an extra room for a carer and this has been refused always appeal the decision. Explain to Housing Benefit:

- Why the claimant or their partner need overnight care - what their health problems are.
- What is the care that they need in relation to their health problems at night.
- How often they need the care.
- Who provides this care.
- What would happen if the care was not provided.

Contact the Carers UK Adviceline on 0808 808 7777 or email adviceline@carersuk.org if you are appealing a decision not to allow you an extra bedroom for a carer and we will advise you on how to argue your case.

Will you be affected if you have a disabled child?

Because of a legal test case - called the Gorry case - children who are unable to share a room because of a disability are able to have an extra room. The Government were going to appeal this decision but they have, thanks to our campaigning, dropped this appeal.

This means that from the date of the Gorry case judgment on 15 May 2012, local councils should allow an extra bedroom for children who are unable to share because of their severe disabilities.

In order to establish that a child is unable to share a bedroom, the family will probably have to provide some additional information to the local council. This is likely to include medical evidence about the child and confirmation that DLA is in payment (although some families not receiving DLA may still be able to show they need the spare room).

In addition local councils must consider the nature and severity of the disability, the nature and frequency of care required during the night, and the extent and regularity of the disturbance to the sleep of the child who would normally be required to share the bedroom.

The local council will need to consider the facts in each case and make a judgement based on these facts.

Some local councils suspended payment or part payment of Housing Benefit while waiting for the appeal. Benefit should now be paid



along with any outstanding arrears.

Will Housing Benefit always be restricted?

The government have announced that families who foster children or have a son or daughter in the armed forces will be able to have an extra room. Unless you are in one of these groups, 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.

Will the Bedroom Tax apply to pensioners?

The Bedroom Tax will apply 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, which is a new benefit that is going to replace a number of existing benefits including Housing Benefit.

From October 2013, when Universal Credit is introduced for new working age claimants, if either member in a couple is under the state pension credit age when a new claim is made, then the couple will be 'treated as working age'. This means they would be expected to claim the Universal Credit rather than Pension Credit, and would 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 options will I have after April?

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.
- Pay the shortfall in Housing Benefit by taking in a lodger.
- Take up work or increase 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 you 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, because you have a specially adapted house for example, you should 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 Discretionary Housing Payment on an on-going 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 Payment 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.’

So – if the Bedroom Tax is applied 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.

Further Help

For further help and information contact the Carers UK Adviceline on 0808 808 7777. The line is available on Wednesdays and Thursdays from 10am to 12 noon and 2 to 4pm. Or send an email to adviceline@carersuk.org. Information is also available on our website www.carersuk.org



About Carers UK

Carers UK is here to improve carers' lives. Most of us will look after an elderly relative, a sick partner or a disabled family member. Caring is part of life but without the right support the personal costs of caring can be high. When caring affects your family, Carers UK is here for you to provide the support and advice you need.

Carers UK

- supports carers and provides information and advice about caring
- influences policy through our research based on carers' real life experiences
- campaigns for the changes that make a real difference for carers.

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