

# **The Housing Benefit & Council Tax Benefit (Miscellaneous Amendments) Regulations 2010**

Equality Impact Assessment

**October 2010**

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# Equality Impact Assessment for The Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 2010

## 1. Introduction

1.1 The Department for Work and Pensions has carried out an equality impact assessment to ensure that the provisions of the Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) Regulations 2010 comply with the requirements of the Equality Act 2010.

This process will help to ensure:

- the Department's strategies, policies and services are free from discrimination
- due regard is given to equality in decision making and subsequent processes
- opportunities for promoting equality are identified

The equality impact assessment considers the impact of the proposed policies in terms of disability, sex/gender, race, age, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief and sexual orientation.

1.2 These regulations principally comprise a set of minor and technical amendments to the series of Housing Benefit and Council Tax Benefit regulations<sup>1</sup> that constitute the legal framework for the administration of these benefits. Minor amendments are also made to several other sets of regulations that make provision for Housing Benefit and Council Tax Benefit<sup>2</sup>.

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<sup>1</sup>These are:

- The Housing Benefit Regulations 2006;
- The Council Tax Benefit Regulations 2006;
- The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006; and
- The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

<sup>2</sup> These are:

- The Social Security (Notification of Change of Circumstances) Regulations 2001;
- The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and
- The Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007.

## 2. Purpose and aim of the Regulations

2.1 Many of the new regulations' provisions are the result of routine work that has identified over time various technical corrections or updates that need to be made.

Thus these provisions do not change the current Housing Benefit and Council Tax Benefit regime, and there is no impact on any section of the population<sup>3</sup>.

2.2 However, there are several provisions that need to be assessed, even though only one of these - item b in the list below - introduces new policy of any significance. The provisions needing assessment are intended to:

- a. clarify how foster children should be taken into account in the Housing Benefit and Council Tax Benefit assessment;
- b. fully disregard Special Guardianship Order and Residence Order payments;
- c. restore the intended operation of the 'time for claiming' provisions that apply in Housing Benefit and Council Tax Benefit for customers of State Pension Credit age, following the Upper Tribunal ruling in CH/0392/2009;
- d. amend the Housing Benefit and Council Tax Benefit regulations covering the duty to notify a change of circumstances to give authorities greater discretion to accept a change reported by phone;
- e. allow local authorities discretion in choosing a method of payment in cases where the first payment of rent allowance is to be made to the landlord;
- f. prescribe a time limit for customers to request a written statement of reasons for a decision; clarify that a customer's request for backdating does not constitute a claim that is separate from the main claim; and
- g. remove the additional Family Premium amount in the applicable amount in line with the abolishment of the baby element in the Child Tax Credit from April 2011.

2.3 Apart from the provision to change the way in which Special Guardianship Order and Residence Order payments will be taken into account (2.2b above) and the removal of the additional Family Premium amount (2.2h), the provisions described above can be characterised as either:

- liberalising the rules to make it easier for the local authority to provide a modern service to Housing Benefit and Council Tax Benefit customers, or
- ensuring that the regulations support the original policy intention, and providing clarification for local authorities by making relevant provisions legally explicit.

### Foster Children

2.4 The Housing Benefit and Council Tax Benefit assessment does not treat a foster child as part of the customer's family or household even though they are generally expected to live as members of the customer's family. As a result, any income paid in respect of them by way of fostering allowance is completely ignored in

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<sup>3</sup> The provisions not included in this assessment are listed in **Annex A**

the Housing Benefit and Council Tax Benefit assessment. This is the same in all of the income related benefits.

2.5 This has always been seen as beneficial treatment as taking fostering allowance into account could result in the family being considerably worse off and could become a deterrent to fostering. This is because the value of fostering allowances can be high and to treat them as income could substantially reduce or even remove entitlement to Housing Benefit. There is also a double funding issue as fostering allowances are intended to meet all of the child's living expenses, including the cost of their housing.

2.6 By the same token, in determining the number of bedrooms that a household needs for the Housing Benefit assessment, DWP guidance, originally for the rent officer referral, has stated that a foster child should not be treated as an occupier of the household. It follows that this should also extend to those subject to the Local Housing Allowance. However, a recent Upper Tribunal ruling has stated that foster children should be treated as occupiers.

2.7 The amendment restores the policy intention by fully excluding foster children from the Housing Benefit assessment. It makes clear that they should not be treated as occupying the property and therefore not be considered when working out the number of bedrooms that the household requires.

## **Full disregard of special guardianship payments in Housing Benefit and Council Tax Benefit**

2.8 This measure will introduce a full disregard in Housing Benefit and Council Tax Benefit of Special Guardianship Order and Residence Order payments from April 2011. The payments affected are discretionary payments made by local authorities under powers in the Children Act 1989 (and equivalent legislation in Scotland) to people, usually family or close friends, who take responsibility for the care of children who are unable to live with their natural parents. These are commonly known as 'kinship care payments'. Currently a partial disregard applies for Housing Benefit and Council Tax Benefit working age claims.

2.9 In the other income-related benefits, the approach to the disregard of income from payments to kinship carers changed when Child Tax Credits were introduced in 2004 and responsibility for financial support for children was transferred to the tax credit system. Since then a full disregard of payments to kinship carers applies in the calculation of entitlement to Income Support, income-based Jobseeker's Allowance, and income-related Employment and Support Allowance. As a result, payments to kinship carers are no longer included in the benefit assessment.<sup>4</sup>

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<sup>4</sup> There are some transitional cases in Income Support where the arrangements continue as before until a full migration to Tax Credits has been completed.

2.10 Kinship care payments are fully disregarded in Pension Credit and Housing Benefit and Council Tax Benefit for people of State Pension Credit age as they are not classed as income to be taken into account in either.

2.11 Currently, in working age Housing Benefit and Council Tax Benefit, payments made by local authorities to kinship carers for children who are a member of their family are partially taken into account up to the level of the applicable amount payable for the child. Only the balance over the applicable amount, if any, is then disregarded. This is an anomaly compared to the other income-related benefits and compared to Housing Benefit and Council Tax Benefit for pensioners.

2.12 This change will simplify the rules and align them with the treatment of these payments in the income-related benefits.

### **The ‘time for claiming’ provision for pensioners**

2.13 The Housing Benefit and Council Tax Benefit regulations for pensioners prescribe a ‘time for claiming’ period which effectively provides an automatic backdating for a pensioner’s Housing Benefit and Council Tax Benefit claim of up to three months. The regulations also prescribe certain other circumstances that enable advancing the date of claim to an earlier date than the claim was actually made.

2.14 The interaction of these provisions with each other was applied according to the policy intention until recently. Commonly this meant that the start of an award of Housing Benefit and Council Tax Benefit was backdated to synchronise with the start of State Pension Guarantee Credit where the two claims were made within a month of each other.

2.15 However, the Upper Tribunal decision in CH/0392/2009 had the effect that, where a Housing Benefit and Council Tax Benefit claim is linked with a claim for State Pension Guarantee Credit, the three months time for claiming provision in Housing Benefit and Council Tax Benefit can apply *in addition to* the three months time for claiming Guarantee Credit, rather than synchronising with it as intended. It also affected other circumstances where the time for claiming provision and those that prescribed that a claim should be treated as made from an earlier date both came into play.

2.16 This provision amends the Housing Benefit and Council Tax Benefit pensioner regulations so that the interaction of the time for claiming rule and the provision that can change the date of claim to an earlier date for State Pension Guarantee Credit cases operate together as intended.

### **Reporting a change of circumstances by phone**

2.17 The Housing Benefit and Council Tax Benefit regulations set out the customer’s duty to report a change of circumstances, and the ways in which this can be done. Subject to local authority discretion “in any particular case”, the customer can report a change by phone where the authority has published a phone number for

taking Housing Benefit and Council Tax Benefit claims. Where this service is not offered, the regulations stipulate that the report is usually to be made in writing.

2.18 When a phone claims service is not offered, the regulations give limited discretion to accept change reports by phone. However, increasingly local authorities are indicating that they want routinely to be able to accept phone notifications, but do not necessarily want to set up a new claims phone service to enable them to so.

2.19 This amendment is formulated so that:

- it is permissive rather than prescriptive - authorities should be under no greater obligation to accept a change notification by phone than is currently the case;
- authorities have the final say as to how a change of circumstances is to be reported “in any particular case”; and
- customers do not have any greater scope than the regulation currently allows for reporting a change other than in writing, unless this is with the permission of the relevant local authority.

This is so that local authorities are not compelled to accept a change notification by phone if they have any doubt about the reliability of the information the caller is giving, or if they require an audit trail for the subsequent benefit decision and do not keep adequate records of phone calls to do so. But it gives local authorities greater flexibility to be able to accept notifications by phone, should they wish to do so.

## **Making a first payment of rent allowance direct to the landlord**

2.20 The Housing Benefit regulations permit the first payment of rent allowance<sup>5</sup> to be paid direct to the landlord where the customer has not yet paid rent for the period concerned and “it would be in the interests of the efficient administration of housing benefit” to do so. This is a precautionary provision to enable local authorities to avoid the risk of the customer absconding with a potentially large amount of money and leaving the landlord out of pocket.

2.21 Because the regulation prescribes that the ‘instrument of payment’, although made payable to the landlord, is still sent to the customer, no method of payment other than paying by cheque is currently available to local authorities. However, this is an increasingly archaic way of making payments.

2.22 This amendment removes the stipulation that this payment is made via the customer in order to permit payment by other method. Most likely, this will be by direct payment into the landlord’s bank account.

## **Prescribing a time limit for customers to request a written statement of reasons**

2.23 Currently, neither the Housing Benefit and Council Tax Benefit regulations nor The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations

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<sup>5</sup> Rent allowance is the form of Housing Benefit paid to customers who are not council tenants.

2001<sup>6</sup> prescribe a time limit for the customer to request a written statement of reasons for the decision. This is out of step with the one month time limit that applies for other benefits.

2.24 The wording of the first entry in the table in Schedule 1 to The Tribunal Procedure (First-Tier Tribunal) (Social Entitlement Chamber) Rules 2008<sup>7</sup> means that if a Housing Benefit and Council Tax Benefit customer requests a written statement of reasons months or even years late they will still be within the time limit for appealing to the decision maker against a decision.

2.25 Before the Tribunal Procedure (First-Tier Tribunal) (Social Entitlement Chamber) Rules 2008 came into force, the relevant legislation provided that a person affected by a decision had one month to appeal, with the possibility of an extension of time for a further 12 months. A request for a statement of reasons only affected that time limit insofar as the days between the request being received by the local authority and the statement being provided were not counted for the purpose of applying the time limit.

2.26 The relevant regulations thus need amendment to reflect the equivalent provision for other benefits contained in regulation 28 of The Social Security and Child Support (Decisions and Appeals) Regulations 1999<sup>8</sup>.

### **Clarifying that two claims are not created when a customer submits a backdating request with a claim for Housing Benefit and Council Tax Benefit**

2.27 The Housing Benefit and Council Tax Benefit regulations do not specify whether a request for backdated benefit is to be treated as a part of the ongoing claim with which it is commonly submitted, or whether it is to be treated as a separate claim.

2.28 Clarification is needed to promote a consistent approach by local authorities and this amendment makes clear that a backdated claim and ongoing claim from a working age customer are to be treated as a single claim where there is no break between them.

### **Removal of the baby element of the Child Tax Credit**

2.29 The abolition of the baby element in Child Tax Credit from 6 April 2011 was announced by the Chancellor in the Budget on 22 June 2010. The baby element increases Child Tax Credit by £10.50 a week for families which include a child aged under one. This amendment would make a corresponding change in Housing Benefit and Council Tax Benefit by removing the additional Family Premium of £10.50 a

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<sup>6</sup> SI 2001/1002

<sup>7</sup> SI 2008/2685

<sup>8</sup> SI 1999/991



week currently awarded in the applicable amount to families with a child aged under one.

2.30 The reduction of the Housing Benefit and Council Tax Benefit Family Premium in line with the Child Tax Credit change means that the impact on individual Housing Benefit and Council Tax Benefit entitlement would remain the same as before; the Family Premium reduction would cancel out any reduction in the Child Tax Credit amount leaving the resulting income to be taken into account against the level of eligible rent or council tax liability unchanged. There will be a very small number of cases who currently qualify for the additional Family Premium in the Housing Benefit and Council Tax Benefit applicable amount but who do not receive Child Tax Credit – normally because they choose not to do so. They will see a small reduction in their Housing Benefit and Council Tax Benefit compared to now.

### **3. Consultation and involvement**

3.1 The local authority associations<sup>9</sup> and devolved administrations<sup>10</sup> were consulted on the proposed amendments during the summer of 2010. Some minor comments were made about the drafting of the regulations, but no substantive objections were raised. The proposals were also presented to the Social Security Advisory Committee. Part of the committee's remit is to consider the effect of new provisions on customers and staff.

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<sup>9</sup> The Local Government Association (LGA), the Convention of Scottish Local Authorities (COSLA), The Welsh Local Government Association (WLGA) and London Councils.

<sup>10</sup> Northern Ireland was not formally involved in the consultation because Housing Benefit and Council Tax Benefit operates under a separate legal framework there. However, this framework essentially mirrors the benefits regime that operates in Great Britain, and DWP regularly communicated with the Office of the First Minister and Deputy First Minister (Northern Ireland) as work on the Regulations progressed.

## 4. Impact

### Section 4A – the impact of the amendments

4.1 This section considers the amendments separately. Where an impact to customers is known, this has been considered. **If there is no impact on specific groups (disability, sex/gender, race, age, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief and sexual orientation), then this is stated for each provision.**

4.2 Given that data is very limited for many of these amendments, Section 4B provides additional data for the wider population in receipt of Housing Benefit and Council Tax Benefit for context. This data gives some indication of which groups may be more affected by the changes.

### Foster Children

#### Customers

4.3 The amendment prescribing how foster children should be taken into account in a Housing Benefit and Council Tax Benefit assessment is to make explicit in regulations what is already present in DWP guidance for local authorities. There is no evidence that the regulations have been applied in an alternative manner. Thus we do not expect that it will change the way that relevant claims are assessed. However, there has been a recent Upper Tribunal decision which overturned two separate local authority decisions that foster children are not occupiers. Therefore, for a short period, until these regulations come into force, claims to Housing Benefit may be assessed treating foster children as occupiers.

#### Local authorities

4.4 Local authorities will benefit from clear provision in regulations.

#### Impact on population groups

4.5 As there is no real expected change in the way that relevant claims are assessed, no impact was identified on any group - that is, in relation to race, disability, sex/gender, age, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief and sexual orientation.

### Full disregard of special guardianship payments in Housing Benefit and Council Tax Benefit

#### Customers

4.6 Customers who care for a family member will benefit financially from the introduction of a full disregard in the Housing Benefit and Council Tax Benefit assessment of Special Guardianship Order and Residency Order payments.

4.7 Customers should also benefit in terms of the reduced claims processing time and a simplification of the rules. The complete disregard for working age customers will align treatment of working age customers with those who have reached the qualifying age for State Pension Credit.

### **Local authorities**

4.8 A report prepared by the Family Rights Group on behalf of the Kinship Care Alliance, “A Policy Briefing on Family and Friends Care: raising children within the wider family as an alternative to care”<sup>11</sup>, highlighted complexities and inequities in the benefits system which meant that Residence Order and Special Guardianship Order allowances are generally disregarded for tax credits and some benefits but not for Housing Benefit and Council Tax Benefit. This can lead to confusion about the benefit rules, and result in under-claiming. This amendment will help clarify the rules, providing greater transparency and simplicity for kinship carers who claim benefit and for benefit advisers and administrators.

### **Disability**

4.9 There is no official data available, but based on the Kinship Care Alliance report it is suggested that 3 out of 10 kinship carers have a chronic illness or disability. If these figures are accurate, the kinship care disregard should have a positive impact on people with a disability.

### **Family composition/gender**

4.10 There is no official data available, but based on the Kinship Care Alliance report it is suggested that a third of kinship carers are lone parents. The majority of lone parents are women. If these figures are accurate, the kinship care disregard should have a positive impact on this family composition.

### **Other groups**

4.11 No further impact was identified on any group - that is, in relation to race, age, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief and sexual orientation. However, because DWP does not hold official data on kinship carers, no detailed analysis was possible.

## **The ‘time for claiming’ provision for pensioners**

### **Customers**

4.12 It will no longer be possible for State Pension Credit age customers to benefit from the Upper Tribunal decision in CH/0392/2009 that determined that relevant customers should be awarded a greater retrospective award of Housing Benefit and Council Tax Benefit than was intended. DWP cannot quantify the number of customers that may be affected by this. This is because the principal source of Housing Benefit and Council Tax Benefit data, the Single Housing Benefit Extract, cannot identify the extent to which customers benefit from the ‘time for claiming’ provision, nor those where the date of claim has been advanced to an earlier date than the date when the claim was actually submitted.

### **Local authorities**

4.13 Local authorities will benefit from clear provision in regulations.

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<sup>11</sup> Source: [http://www.frg.org.uk/pdfs/KCA\\_briefing\\_policy\\_100113\\_final.pdf](http://www.frg.org.uk/pdfs/KCA_briefing_policy_100113_final.pdf)

## **Age**

4.14 The Upper Tribunal judgement in CH/0392/2009 benefited pensioner Housing Benefit and Council Tax Benefit customers by prescribing longer backdated benefit awards than was intended, and thus the amendment to reverse the judgement's effect inevitably has a negative impact on older people, and those with an age related disability. However, the amendment does not implement a new measure - the purpose of the amendment is only to restore the regulations so that they once again work as they did before the judgement<sup>12</sup>. Customers will continue to be entitled to a backdated period of up to three months. No steps will therefore be taken to mitigate this change.

## **Other groups**

4.15 No impact was identified on other groups - that is, in relation to race, sex/gender, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief and sexual orientation.

## **Reporting a change of circumstances by phone**

### **Customers**

4.16 This provision liberalises the rules governing how a change of circumstances should be reported, thus allowing customers to benefit from a more accessible and responsive service.

### **Local authorities**

4.17 Local authorities will benefit from clear provision in regulations as regards the extent of their discretion to take change notifications from customers by phone.

### **Disability**

4.18 Some disabled customers may benefit from an increased accessibility of service resulting from local authorities making use of the new scope for accepting change notifications by phone. For example, this could include: people with learning disabilities; people with restricted mobility; and people with mental health conditions that may result in their leading chaotic lives.

4.19 The Department does not hold relevant data, but no disabled customer will be disadvantaged by these changes. This is because it will still be possible to report changes by other means if preferred, at no detriment to the customer's claim.

### **Race**

4.20 We do not expect that any ethnic minority group will be adversely affected by this change. The changes made by these amendment regulations to the rules on reporting a change of circumstances should result in a more accessible and efficient service. Some customers who might have difficulty with written communication because English is not their first language may benefit from being able to report a change of circumstances by phone. However, the continued availability of reporting a

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<sup>12</sup> The Equality Impact Assessment carried out when the current 'time for claiming' limit was proposed for pensioner customers is published in the DWP website and can be viewed via the following link:

<http://dwp.gov.uk/docs/pc-hb-ctb-eia-apr08.pdf>

change in writing means those customers who have difficulty with spoken English will not be disadvantaged.

### **Other groups**

4.21 No impact was identified on other groups - that is, in relation to sex/gender, age, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief and sexual orientation.

## **Making a first payment of rent allowance direct to the landlord**

### **Customers**

4.22 The amendment to enable local authorities to make an initial payment of rent allowance by other method than a cheque payable to the landlord but addressed to the customer will have minimal impact on customers. The provision only concerns the first payment of benefit, and other rules apply when future payments are made. The amendment will enable a faster service for customers, potentially reducing the risk of their getting into arrears or facing eviction.

### **Local authorities**

4.23 This amendment will give local authorities increased scope for deciding how best to deliver its Housing Benefit and Council Tax Benefit service.

### **Impact on population groups**

4.24 No impact was identified on any group - that is, in relation to race, disability, sex/gender, age, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief and sexual orientation.

## **Prescribing a time limit for customers to request a written statement of reasons**

4.25 Because of an omission in regulations, to date there has been no deadline to request a written statement of reasons for a Housing Benefit and Council Tax Benefit decision. The amendment sets the same one month time limit as applies to other benefits.

### **Customers**

4.26 DWP does not have data on the number of customers requesting a written statement of reasons, whether within a month of notification of the decision or not. However, there is no evidence to suggest that a significant number of customers made use of this unintended omission in the regulations, and the effect on customers is expected to be negligible. Furthermore, customers will still be able to ask Housing Benefit and Council Tax Benefit decision makers to reconsider decisions beyond this time limit, and to appeal, subject to being asked to justify the delay.

### **Local authorities**

4.27 Local authorities will benefit from clear provision in regulations, which is the same as other benefits.

### **Disability**

4.28 It is possible that customers with a learning difficulty or mental health condition are less likely to respond promptly to a decision notice by asking for an explanation. The new one month time limit for requesting a statement of reasons for a decision on a Housing Benefit and Council Tax Benefit award may therefore affect some disabled customers. However, this time limit already exists and operates effectively for other benefits such as Income Support, Jobseeker's Allowance and Employment and Support Allowance, and in any case customers will be advised of the time limit in their decision notice. Even if customers miss the deadline for requesting a statement of reasons, the appeals process makes it possible for customers to request a revision and/or to submit an appeal up to 13 months after the decision.

### **Race**

4.29 Customers for whom English is not a first language may be less likely to request a written statement of reasons within the new time limit. However, as mentioned, this one month time limit already operates effectively in other benefits, and the revision/appeal process can work as an effective backstop to prevent disadvantage.

### **Other groups**

4.30 No impact was identified on other groups - that is, in relation to sex/gender, age, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief and sexual orientation.

## **Clarifying that two claims are not created when a customer submits a backdating request with a claim for Housing Benefit and Council Tax Benefit**

### **Customers**

4.31 There is no evidence or data to indicate how many local authorities have been treating a backdated claim as separate from the main claim. However, the amendment to make explicit that they are to be treated as a single claim is expected to have little impact on customers, and many local authorities are likely to be treating claims in this way in any case. However, a local authority that hitherto has been treating a backdated claim as separate from the main claim may have used a later Broad Market Rental Area rate when determining Local Housing Allowance awards for the main claim than will be possible once this amendment is in force. In general, the main claim is likely to be higher than the backdated claim in these situations, because LHA rates have tended generally to rise rather than fall over time. Merging the backdated claim with the main claim will therefore tend to reduce awards in these situations.

### **Local authorities**

4.32 Local authorities will benefit from clear provision in regulations.

### **Impact on population groups**

4.33 No impact was identified on any group - that is, in relation to race, disability, sex/gender, age, gender reassignment, marriage and civil partnership, pregnancy

and maternity, religion or belief and sexual orientation. However, as stated above, no data is available to inform detailed analysis.

## **Removal of the baby element of the Child Tax Credit**

### **Customers**

4.34 Customers directly affected by the change in the Child Tax Credit should see no overall difference as the reduction in the applicable amount of Housing Benefit and Council Tax Benefit will match the reduction in Child Tax Credit. The impact on individual HB/CTB entitlement will remain the same as before. This change therefore should not have any adverse impact on any particular group. However it may be considered that there are 'notional' losers in that an alternative policy would have been to retain the baby element in the Housing Benefit and Council Tax Benefit applicable amount when the reduction in Child Tax Credit was made. Also there are a small number of customers who are currently treated as responsible for a child aged under one in Housing Benefit and Council Tax Benefit who have not elected to claim Child Tax Credit. Those cases would see a small reduction in their Housing Benefit and Council Tax Benefit for a limited time. Thus, the characteristics of those in receipt of Child Tax Credit and have a child under one have been reviewed.

4.35 There should be no direct/apparent impact on child poverty targets of removing the baby element from the Housing Benefit and Council Tax Benefit Family Premium. In addition, there is a minimal impact on child poverty by reducing the Family Premium in the applicable amount, independent of the reduction made in Child Tax Credit.

### **Local authorities**

4.36 Making the change will have minimal impact on local authorities and computer software particularly as it will occur at the annual up-rating.

4.37 Currently the Family Premium calculation has to be adjusted for each case when the youngest child reaches its first birthday. This step would be removed in future years. There is an overall simplification compared to a system where the baby element was retained in Housing Benefit and Council Tax Benefit but not in Child Tax Credit. Removing the baby element will mean that there will be one less component to be considered in the Housing Benefit and Council Tax Benefit assessment.

### **Race**

4.38 Table 1 shows the proportion of households who are in receipt of Housing Benefit and Council Tax Benefit and who currently receive the baby element of Child Tax Credit (that is, have a child under one and receive Child Tax Credit), by ethnicity. Around 82 per cent of the households are in the White ethnic group. Due to small sample sizes in the Family Resources Survey we have chosen to present information on the ethnic minority group as a whole, averaging the data over three years. There are more ethnic minority households in receipt of the baby element of Child Tax Credit compared to the general Housing Benefit and Council Tax Benefit population which suggests that ethnic minority households may be proportionately more affected by this measure.



**Table 1: Households on Housing Benefit and Council Tax Benefit in receipt of the ‘baby element’ of Child Tax Credit by ethnicity**

| <b>Ethnicity</b>       | <b>Households on Housing Benefit and Council Tax Benefit in receipt of the ‘baby element’ of Child Tax Credit</b> | <b>Housing Benefit and Council Tax Benefit recipients</b> |
|------------------------|---|---|
| <b>White</b>           | <b>82%</b>  | <b>92%</b>  |
| <b>Ethnic minority</b> | <b>18%</b>  | <b>8%</b>   |
| <b>All</b>             | <b>100%</b>   | <b>100%</b>   |

Source: Family Resources Survey 06/07, 07/08, 08/09

### Gender

4.39 Table 2 shows the proportion of Housing Benefit and Council Tax Benefit households in receipt of the ‘baby element’ of Child Tax Credit, by gender. Around two per cent of the households are males, 71 per cent are females and 27 per cent are couples. For Housing Benefit and Council Tax Benefit recipients as a whole, 27 per cent of the households are male, 50 per cent are females and 23 per cent are couples. The higher proportion of females who are in receipt of the baby element of Child Tax Credit compared to general Housing Benefit and Council Tax Benefit recipients suggests that females may be proportionately more affected by this policy change. Note, the data on all Housing Benefit and Council Tax benefit recipients is using a different data source and is therefore not directly comparable with the data on those in receipt of Child Tax Credit.

**Table 2: Households on Housing Benefit and Council Tax Benefit in receipt of the ‘baby element’ of Child Tax Credit by gender**

| <b>Gender</b> | <b>Households on Housing Benefit and Council Tax Benefit in receipt of the ‘baby element’ of Child Tax Credit</b> | <b>Housing Benefit and Council Tax Benefit recipients</b> |
|---------------|---|---|
| <b>Male</b>   | <b>2%</b>   | <b>27%</b>  |
| <b>Female</b> | <b>71%</b>  | <b>50%</b>  |
| <b>Couple</b> | <b>27%</b>  | <b>23%</b>  |
| <b>All</b>    | <b>100%</b>   | <b>100%</b>   |

Source: Family Resources Survey 08/09 and Single Housing Benefit Extract, May 2010<sup>13</sup>

### Age

4.40 Table 3 shows the proportion of Housing Benefit and Council Tax Benefit households in receipt of the ‘baby element’ of Child Tax Credit, by age. Nearly 100 per cent of the households who are in receipt of the baby element are of working age<sup>14</sup>. However this is the expected result as customers with young children are

<sup>13</sup> [http://research.dwp.gov.uk/asd/asd1/hb\\_ctb/hbctb\\_release\\_aug10.xls](http://research.dwp.gov.uk/asd/asd1/hb_ctb/hbctb_release_aug10.xls).

<sup>14</sup> Working Age is defined as those customers aged under 60.

generally of working age. We therefore do not consider this to be an equality issue on the grounds of age.

**Table 3: Households on Housing Benefit and Council Tax Benefit in receipt of the ‘baby element’ of Child Tax Credit by age**

| Age         | Households on Housing Benefit and Council Tax Benefit in receipt of the ‘baby element’ of Child Tax Credit | Housing Benefit and Council Tax Benefit recipients |
|-------------|--|--|
| Working Age | 100%   | 59%  |
| Pension Age | 0%   | 41%  |
| All         | 100%   | 100%   |

Source: Family Resources Survey 08/09 and Single Housing Benefit Extract, May 2010

### Disability

4.41 Table 4 shows the proportion of Housing Benefit and Council Tax Benefit households in receipt of the ‘baby element’ of Child Tax Credit by whether the head of the household is disabled, defined as those in receipt of Disability Living Allowance and/or Attendance Allowance. Around 1 per cent of the households are severely disabled. The policy will not have a disproportionate effect on those customers with a disability.

**Table 4: Households on Housing Benefit and Council Tax Benefit in receipt of the ‘baby element’ of Child Tax Credit by disability<sup>15</sup>**

| Disability   | Households on Housing Benefit and Council Tax Benefit in receipt of the ‘baby element’ of Child Tax Credit | Housing Benefit recipients |
|--------------|--|----------------------------|
| Disabled     | 1%   | 26%                        |
| Not Disabled | 99%  | 74%                        |
| All          | 100%   | 100%                       |

Source: Family Resources Survey 08/09 and Single Housing Benefit Extract, November 2009

### Other groups

4.42 No impact was identified on other groups - that is, in relation to gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief and sexual orientation.

<sup>15</sup> Disability flag only available for November 2009 Single Housing Benefit Extract, and only for Housing Benefit customers at time of analysis

## Section 4B – Housing Benefit and Council Tax Benefit facts and figures

4.43 The tables below present information on claimants' age, family type, gender and ethnicity, for which we have reliable data. This data on existing Housing Benefit and Council Tax Benefit customers relates to the latest monthly data. To no extent is this data a substitute for information on the amendments in this assessment. However, given that data is very limited for many of these amendments, the information below is included to give an idea of the make up of the Housing and Council Tax Benefit customer caseload. It is hoped that these figures are suggestive of the groups likely to be affected under the proposals.

**Table 5: Housing Benefit and Council Tax Benefit caseload by age**

|                 | Housing Benefit Caseload |                 | Council Tax Benefit Caseload |                 |
|-----------------|--------------------------|-----------------|------------------------------|-----------------|
|                 | Aged under 65            | Aged 65 or over | Aged under 65                | Aged 65 or over |
| <b>Caseload</b> | 3,474,310                | 1,277,060       | 3,553,830                    | 2,226,070       |

Source: Housing Benefit and Council Tax Benefit National Statistics, May 2010

**Table 6: Housing Benefit and Council Tax Benefit caseload by family type**

|                                       | Housing Benefit Caseload | Council Tax Benefit Caseload |
|---------------------------------------|--------------------------|------------------------------|
| <b>Single, no child dependent</b>     | 2,691,890                | 3,269,190                    |
| <b>Single with child dependent(s)</b> | 1,091,710                | 1,066,820                    |
| <b>Couple, no child dependent</b>     | 490,250                  | 919,280                      |
| <b>Couple with child dependent(s)</b> | 477,680                  | 524,790                      |

Source: Housing Benefit and Council Tax Benefit National Statistics, May 2010

**Table 7: Housing Benefit and Council Tax Benefit caseload by gender**

|                 | Housing Benefit |           |         | Council Tax Benefit |           |           |
|-----------------|-----------------|-----------|---------|---------------------|-----------|-----------|
|                 | Male            | Female    | Couple  | Male                | Female    | Couple    |
| <b>Caseload</b> | 1,374,180       | 2,398,810 | 967,930 | 1,427,200           | 2,895,580 | 1,444,070 |

Source: Housing Benefit and Council Tax Benefit National Statistics, May 2010

**Table 8: Housing Benefit and Council Tax Benefit caseload by ethnicity**

The 2008-09 Family Resources Survey publication estimates the proportion of all benefit units in the sample in receipt of Housing Benefit **within** each ethnic grouping (based on the ethnicity of the head of the household):

|                                      | <b>Housing Benefit</b> | <b>Council Tax Benefit</b> |
|--------------------------------------|------------------------|----------------------------|
| <b>White</b>                         | 11%                    | 15%                        |
| <b>Mixed race</b>                    | 17%                    | 19%                        |
| <b>Asian or Asian British</b>        | 8%                     | 15%                        |
| <b>Black or Black British</b>        | 21%                    | 25%                        |
| <b>Chinese or other ethnic group</b> | 11%                    | 14%                        |

Source: FRS 2008-09 Table 2.9, based on Family Resources Survey 06/07, 07/08, 08/09<sup>16</sup>

<sup>16</sup> [http://research.dwp.gov.uk/asd/frs/2008\\_09/chapter2.pdf](http://research.dwp.gov.uk/asd/frs/2008_09/chapter2.pdf)

## **5. Monitoring, evaluation and next steps**

5.1 DWP maintains formal contact with local authorities through regular meetings, both at a strategic and operational level, with the local authority associations and local authority benefits staff. DWP also meets with stakeholder organisations such as Citizens Advice and Shelter so that emerging issues can be discussed. This assessment has not identified a potentially adverse disproportionate impact on any disadvantaged group. However, these forums enable local authorities and stakeholders to highlight any issues to DWP.

5.2 While DWP has no plans to undertake a formal evaluation of these provisions it will continue to monitor feedback from stakeholders and others and consider the need for action should any unforeseen consequences arise.

## **6. Contact details**

6.1 Any questions about this assessment should be addressed in the first instance to:

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## **Annex A**

### **Technical amendments not included in this assessment**

These provisions:

- make explicit that customers cannot benefit both from the additional earnings disregard and the permitted work disregard in the Housing Benefit and Council Tax Benefit assessment at the same time;
- amend definitions relating to war pensions in the Housing Benefit and Council Tax Benefit regulations to mirror changes made to MOD legislation in April 2010 that separated service attributable benefits from other pensions payable under their occupational pensions scheme;
- remove regulation 56 from the Council Tax Benefit pensioner regulations. This provides for a ‘time for claiming’ period of three months to make a claim, but this is functionally identical to 53(1ZA) and is thus redundant;
- correct a reference in the Housing Benefit regulations to section 136(1) of The Social Security Administration Act 1992. This section has now been repealed, and should now refer to section 122 of The Housing Act 1996;
- change a reference in the Council Tax Benefit pensioner regulations to The Adoption Agencies Regulations 1983, as this should refer to The Adoption and Children Act 2002;
- correct an incorrect reference in the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 to the pre-consolidation Housing Benefit (General) Regulations 1987, so that it refers to the right provisions of the consolidated versions; and
- correct an incorrect paragraph number introduced when a new provision was substituted in the Council Tax Benefit regulations.