

Housing Benefit

General Information Bulletin

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Contact	Queries about the <ul style="list-style-type: none">• technical content of this bulletin, contact details are given at the end of each article• distribution of this bulletin, contact housing.correspondenceandpqs@dwp.gsi.gov.uk
Who should read	All Housing Benefit (HB) staff
Action	For information

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Personal Independence Payment improved waiting times

1. Figures published on 28 January 2015 show the average time a claimant waits for their assessment on a new claim for Personal Independence Payment (PIP) has more than halved since the summer. This has reduced from 30 weeks in June 2014 to 14 weeks.
2. The figures also show that Department for Work and Pensions (DWP) case manager performance has increased fourfold in a year. Clearances have been increasing each month, and between January 2014 and December 2014 the number of claims cleared increased from around 14,000 to 60,000 per month.
3. Over the course of 2014 a number of measures were introduced to improve PIP waiting times:
 - the assessment providers almost quadrupled the number of health professionals they employ since the start of 2014
 - between June and December 2014 assessment providers more than doubled the number of claims they processed compared to the previous 14 months of delivery
 - assessment providers opened new assessment centres to ensure they have the necessary geographical coverage to handle volumes, without requiring claimants to travel further
 - DWP has doubled the number of people working on PIP.
4. As performance on new claims continues to improve we are continuing to roll out the reassessment of existing Disability Living Allowance (DLA) claimants in areas where the assessment providers have sufficient local capacity in place to handle the increased volumes.
5. From 23 February 2015 we are rolling out to a further 18 postcode areas beginning AB (Aberdeen), BB (Blackburn), BD (Bradford), DD (Dundee), DN (Doncaster), EX (Exeter), HX (Halifax), KA (Kilmarnock), KY (Kirkcaldy), LS (Leeds), PH (Perth), PL (Plymouth), PO (Portsmouth), PR (Preston), S (Sheffield), SO (Southampton), TS (Cleveland) and WF (Wakefield).
6. The majority of existing DLA claimants who have a lifetime or indefinite award will not be affected until October 2015 at the earliest, unless DWP receives information about a change in their condition that would affect their rate of payment or if they reach the age of 16.
7. For further information about PIP please visit GOV.UK
8. For any queries on this article please contact margaret.birchall@dwpgsi.gov.uk

Judicial review – R (on the application of A) v the Secretary of State for Work and Pensions [2015] EWHC 159 (Admin)

9. The judgement in the case of “A” was handed down on 29 January 2015. This judgment relates to a judicial review claim brought against the Secretary of State for DWP. The claimant, who lives in a property which has been specially adapted for her by her local authority (LA) under its ‘Sanctuary Scheme’ to secure the safety of herself and her son, challenged the implementation of the Removal of the Spare Room Subsidy (RSRS) policy by Regulation B13 of the Housing Benefit Regulations 2006, in particular the failure to provide an appropriate exception for victims of domestic violence in receipt of Housing Benefit (HB) and who are living in accommodation adapted as a Sanctuary Scheme. The Court found in favour of DWP and in summary held:

- whilst the RSRS policy has a disproportionately prejudicial effect on women, it is plainly not manifestly without reasonable foundation
- it would have been helpful for Parliament to have considered the effect of the policy on those in Sanctuary Schemes but it is not surprising that no reference was made given the relatively small numbers of people involved. This is a policy which raises a great number of issues and it would be a near impossible task to foresee all of them and to engage in a debate about them
- it is not irrational to have adopted a locally administered scheme of Discretionary Housing Payments (DHPs) to deal with issues which arise from those in Sanctuary Schemes affected by the policy and the provision of extra DHP funding and guidance on its use cannot be said to be a disproportionate approach
- the fact that the claimant has been in receipt of DHPs and has not suffered any financial detriment is key to the Court’s decision
- the Secretary of State fulfilled his Public Sector Equality Duty to have “due” regard to the relevant protected characteristic (gender). To go further would be an unrealistic and unwarranted step along the road to the micro management of policy
- there must be truly exceptional circumstances for Article 8 of the European Convention on Human Rights to impose a duty to provide support in the form of housing and welfare benefits. The effect on the claimant falls well short of the high level required and, in any event, any such interference would be justified.

10. The claimant has sought permission to appeal the decision to the Court of Appeal.

11. If you require any further information please contact DWP HPD Consultations hpd.consultations@dwp.gsi.gov.uk

Clarification of Bulletin HB U6/2014

12. Guidance on Upper Tribunal decisions CSH/41/14 and CSH/42/14 was issued in Bulletin HB [U6/2014](#) on 12 December 2014. It is not possible in a bulletin to include all aspects of an Upper Tribunal decision but further clarification has been requested on paragraphs 6 and 8 of the bulletin.
13. Paragraph 6 of the bulletin lists the other factors to take into account when determining whether a room is a bedroom. It should be noted that the list of other factors to consider is not exhaustive and each case should be decided based on its own facts.
14. The intention of paragraph 8 of the bulletin was to highlight to LAs that, where they decide that a room is in fact not a bedroom in a claimant's property, it may be appropriate to consider if that property could be re-designated. It was not intended that HB decision makers themselves would re-designate the property or review the rent levels as it is recognised that this is outside their remit, especially where the landlord of the property is not the LA.
15. If you require any further information please contact DWP HPD Consultations hpd.consultations@dwp.gsi.gov.uk

Migrants Access to Benefits changes

16. The Migrant Access to Benefits (MABs) Project has introduced a number of measures which restricted Jobseeker's Allowance (Income Based) (JSA(IB)) for European Economic Area (EEA) nationals.
17. To date the measures have included the following:
 - from 1 January 2014 - Restricting JSA(IB) to EEA claimants classed as Retained Worker to 6 months and EEA Jobseekers to six months and introducing a three month residency requirement before an EEA national can claim JSA
 - from 1 April 2014 - Removing access to HB to EEA JSA(IB) claimants defined as a Jobseeker
 - from 10 November 2014 - Further restricting JSA(IB) to EEA Jobseekers to three months.
18. From the 9 February 2015, any existing claim to JSA(IB) made before January 2014 from an EEA Jobseeker will be informed that they will be subject to a Genuine Prospect of Work (GPoW) assessment in three months time.
19. Implementation will take place over a four week period from the 9 February 2015. DWP will be notifying approximately 8,800 claimants that their JSA(IB) is due to cease in three months time, unless they can show a genuine prospect of work or prove an alternative right to reside.

20. A number of these EEA claimants will also have been in receipt of HB therefore LAs are likely to see the impact of this measure in early May 2015, when the JSA(IB) ceases.
21. LAs will be notified as appropriate via the existing 'Business As Usual' channels and should continue to follow current process.
22. New burdens funding has been agreed for Measure 9 and will be paid in May 2015. A note will be sent out separately to each LA providing details of what each of these payments will be.
23. If you have any further questions about Measure 9 please contact the Local Authority Security and Support Team (LA-SST)
email: la-sst.hdd@dwp.gsi.gov.uk

Universal Support – delivered locally

24. We have recently laid amendment regulations to support data sharing for Universal Support, which came into force on 13 February 2015.
25. The Social Security (Information-sharing in relation to Welfare Services etc.) Regulations 2012 have been amended to permit:
 - DWP to inform social landlords whenever one of their tenants makes a claim for, or receives an award of, Universal Credit with housing costs; and
 - DWP to share specific information relating to a particular individual with LAs and included support providers where they have identified that the individual requires joined-up support services; and these organisations to share specific information amongst themselves and DWP for the purposes of the Universal Support initiative.
26. The first amendment, in respect of social landlords enables DWP to share data with social sector landlords for the purpose of providing welfare support to those tenants that need it and who are claiming for, or already receiving Universal Credit. This mirrors the existing arrangements in place for HB, where data is shared between LAs and social landlords.
27. Under the new regulations landlords will be told whenever one of their tenants claims Universal Credit, or when someone already receiving Universal Credit moves into one of their properties.
28. The data will be limited to identifying the claimant, but will enable the social landlord to decide whether the tenant needs additional support to manage their rent. Changes will be introduced to the Universal Credit process from 16 February 2015 to enable notifications to be issued for claims and changes from that date.

29. The second amendment, in respect of Universal Support allows the sharing of data between DWP and local support providers only for the prescribed welfare purposes of assessing whether any Universal Credit claimants need appropriate types of advice, support or assistance in relation to accessing benefits, managing their financial affairs, or are experiencing any other barriers which impact their access to benefits and management of their financial affairs. The regulations also allow providers to share this information amongst themselves.
30. On advice, and in line with our test and learn strategy, we are adopting a phased approach to data sharing with local support providers, the second element of change. The legislation will enable testing of the process for sharing and this is under consideration so **for now it is still business as usual**.
31. Following testing we will roll out the ability to share data in tranches following the tried and tested method for Universal Credit.
32. The legislation enables the sharing of information between the following specific delivery partners, as prescribed by the Secretary of State, and in the following categories:
- DWP (Jobcentre Plus)
 - LAs
 - Citizens Advice Bureaux
 - Credit Unions
 - Social landlords, and
 - Relevant registered charities.
33. We consider relevant registered charities as those in the children and youth, community, disabled, family, health, housing, hearing impairment, learning disabilities and special educational needs, mental health, social welfare and visual impairment charity sectors.
34. The type of information being shared will vary from partnership to partnership, depending upon the approach they decide to take to support claimants who need help. Only relevant and proportionate information will be shared, which is defined as information relating to any relevant social security benefit or welfare services. Data sharing will happen following a conversation with a claimant during which they will have the opportunity to decline to share some or all of the information. If someone prefers not to share information, there is categorically no impact on their claim for Universal Credit. Giving consent will enable Universal Support partnerships to offer tailored and more holistic support more quickly this will help to ensure that people get the level of support they need.

35. The legislation can be found on the [legislation](#) website. If you have any queries on this please contact izzie.pragnell@dwp.gsi.gov.uk or Fiona Maher Fiona.maher@dwp.gsi.gov.uk

The Social Security (Miscellaneous Amendments) Regulations 2015 (SI 2015/67)

36. These regulations were laid on 2 February 2015 and come into force on 25 February. The regulations make minor amendments to the definition of service users in the Housing Benefit Regulations 2006 (SI 2006/213) and the Housing Benefit (persons who have attained the qualifying age for state pension credit) Regulations 2006 (SI 2006/214). Equivalent amendments are being made to the Jobseeker's Allowance Regulations, the Employment and Support Allowance Regulations, the Income Support Regulations, the Universal Credit Regulations and the State Pension Credit Regulations.
37. The amendments extend the service user definitions to include claimants or their carers who participate in research conducted by or on behalf of the DWP.
38. SI 2015/67 also makes an amendment to regulation 59(4) in the Housing Benefit Regulations 2006 to clarify that Parents' Learning Allowance (PLA) paid to National Health Service Bursary students should be disregarded.

The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (SI 2014/3255)

39. This Order was made on 9 December 2014 and makes amendments to the Housing Benefit Regulations 2006 (SI 2006/213) and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (SI 2006/214).
40. The government is introducing a new system of shared parental leave and pay for qualifying working parents. These changes will give mothers the option to convert a proportion of their maternity leave/pay or Maternity Allowance into Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) and share it with the father/partner. Mothers who do not wish to exercise their right to share leave and pay will not be affected by the change.
41. SPL and ShPP will replace additional paternity leave and additional statutory paternity pay. The changes come into effect for babies due on or after 5 April 2015, or adoptions where the child is placed on or after 5 April 2015.

42. The amendments which insert references to SPL came into force on 31 December 2014 to ensure that parents with babies due on or after 5 April 2015 but who are born early are covered. The amendments which delete references to 'additional statutory paternity pay' and insert references to 'statutory shared parental pay' will come into force on 5 April 2015.
43. More information about shared parental leave and statutory shared parental pay can be found at the GOV.UK website.
44. Any queries should be sent to housing.benefitenquiries@dwp.gsi.gov.uk

Fraud and Error Reduction Incentive Scheme, guidance and good practice

45. The Fraud and Error Reduction Incentive Scheme (FERIS) was launched on 24 November 2014 and will run through 2015/16. FERIS will offer financial reward to LAs who further tackle Fraud and Error (F&E) in their HB caseload.
46. In addition we have also launched the Performance Improvement Fund to provide funding to LAs that can demonstrate solutions to reducing F&E.
47. As part of our package of support for these schemes, we have launched a [FERIS web page](#) which alongside other guidance includes two good practice products:
- The Fraud and Error Reduction Incentive Scheme: [Good Practice Guide](#)
 - Pursuing HB overpayment recovery effectively: [Good Practice Guide](#)

Statutory Instruments

48. The following Statutory Instruments (SIs) have been laid:
- 2015 No.21, The Classification, Labelling and Packaging of Chemicals (Amendments to Secondary Legislation) Regulations 2015, coming into force from 31 May 2015
 - 2015 No.30, The Welfare Benefits Up-rating Order 2015, coming into force from 1 April 2015
 - 2015 No.32, The Welfare Reform Act 2012 (Commencement No. 9, 11, 13, 14, 16, 17 and 19 and Transitional and Transitory Provisions (Amendment)) Order 2015, coming into force from 26 January 2015
 - 2015 No.33, The Welfare Reform Act 2012 (Commencement No. 21 and Transitional and Transitory Provisions) Order 2015, coming into force 28 January 2015

- 2015 No.46, The Social Security (Information-sharing in relation to Welfare Services etc.) (Amendment) Regulations 2015. Came into force 13 February 2015
- 2015 No.66, The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling) Order 2015, coming into force from 14 March 2015
- 2015 No.67, The Social Security (Miscellaneous Amendments) Regulations 2015, coming into force 23 February 2015
- 2015 No.84, The Occupational Pension Schemes (Levies) (Amendment) Regulations 2015, coming into force from 1 April 2015
- 2015 No.87, The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015, coming into force 16 March 2015
- 2015 No.89, The Universal Credit (Work-Related Requirements) In Work Pilot Scheme and Amendment Regulations 2015, made on 29 January 2015
- 2015 No.101, The Welfare Reform Act 2012 (Commencement No. 22 and Transitional and Transitory Provisions) Order 2015, made on 10 February 2015
- 2015 No.124, The Social Security (Information-sharing) (NHS Payments and Remission of Charges etc.) (England) Regulations 2015, coming into force 1 April 2015
- 2015 No.162, The Social Security (Invalid Care Allowance) (Amendment) Regulations 2015, coming into force 6 April 2015
- 2015 No.173, The State Pension Regulations 2015, coming into force 6 April 2015
- 2015 No.176 (c.10), The Child Maintenance and Other Payments Act 2008 (Commencement No. 15) Order 2015, coming into force from 10 February 2015
- 2015 No.178, The National Employment Savings Trust (Amendment) Order 2015, coming into force 1 April 2017
- 2015 No.183, The Social Fund Cold Weather Payments (General) Amendment Regulations 2015, coming into force 23 March 2015

Copies of SIs can now be downloaded from DWP's own website <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/> and the website of the Office of Publication Sector Information <http://www.opsi.gov.uk/stat.htm>

HB decisions by the Upper Tribunal

49. Decision Making and Appeals Leeds is aware of the following HB and Council Tax Benefit (CTB) cases that have been decided by the Upper Tribunal:

- CH/2555/2013: LA appeal. HB/CTB Overpayment (failure to disclose). Dismissed. (see also HBINFO – 12/01/2015 from which the following précis is taken.) "... although it seems clear that the Council may have had a valid case here for at least part of the period, it was more important that they did not turn up as directed. The Upper Tribunal Judge mentions this "failure" numerous times in his decision.....the message is clear (particularly in "official error" type cases), if the LA does not send a presenting officer then there is no point in complaining later about the claimants oral evidence even if the documentary evidence in the papers points to a likely different set of events. The Council must be at the First – tier tribunal to challenge the claimant's version and if they are not, it's all too late to try to do so at the Upper Tribunal ...".
- CH/1894/2014: LA appeal. HB/CTB Overpayment (income / capital following Employment and Support Allowance (Income Related) disallowance). Remitted. (see also HBINFO – 12/01/2015.) Tribunal noted confusing and contradictory details but failed to make sufficient relevant findings of fact on which to base its decision, or failed to explain the relevant findings of fact it did make. Also, landlord who was a party and represented apparently had not been served with papers.
- CH/2562/2014 Claimant appeal. HB/CTB Overpayment (living together as a married couple). Remitted (together with Income Support supersession and overpayment decisions). Tribunal failed to address and analyse relevant evidence leading to inadequacy of reasoning – detailed in Upper Tribunal Judge's decision.
- CH/2548/2013 and 1141/2014: Appellant's appeal. HB overpayment. Allowed in part. Non-commercial / close relative / to take advantage of HB scheme. Appellant is landlord and now appointee for claimant's estate. Tribunal failed to make sufficient findings of fact in relation to the official error part of the overpayment period, but a large recoverable overpayment remains.
- CH/1833/2014: Claimant appeal. CTB overpayment. Remitted. Tribunal failed to identify decision under appeal, misunderstood case, failed to deal with arguments, and failed to give adequate reasons for proceeding without claimant.

- CSH/250/14. Exempt accommodation. “Support” is not limited to support given by a landlord in their capacity as landlord.
- CH/4411/13: Liability to claimant’s son. Tribunal correct to conclude that they resided in the same dwelling.
- CH/3805/14: Temporary absence. Tribunal’s decision notice was incorrect and basis for decision not clear. Case remitted for re-hearing.

Queries

50. Decisions of the Upper Tribunal are published on their website which can be found here:

<http://www.administrativeappeals.tribunals.gov.uk/Decisions/decisions.htm>

51. If you have any queries about cases before the Upper Tribunal Judges or courts, please contact us by Email – at:

fldmdma.customersupportservices@dwp.gsi.gov.uk or

Fax – on: 0113 2324841

What’s new on the web

52. The following items can be found on the website link shown

Document Type	Subject	Link
HB A3/2015	FERIS Q&A / Excel template / template guidance and FERIS good practice guide	https://www.gov.uk/government/publications/hb-circular-a32015-fraud-and-error-reduction-incentive-scheme
HB S1/2015	Discretionary Housing Payments government contribution for 2015/16	https://www.gov.uk/government/publications/hb-subsidy-circular-s12015-discretionary-housing-payments-government-contribution-for-tax-year-2015-to-2016

<p>HB G1/2015</p>	<p>Fraud and Error Reduction Incentive Scheme – reminder and update</p> <p>Personal Independence Payment rollout</p> <p>Income from earnings</p> <p>Centralised address for registration of appeals in England and Wales</p> <p>Cases with the Upper Tribunal</p> <p>Statutory Instruments</p> <p>What’s new on the web</p>	<p>https://www.gov.uk/government/publications/hb-bulletin-g12015</p>
<p>HB Direct issue 156 February 2015</p>	<p>Newsletter</p>	<p>https://www.gov.uk/government/publications/hb-direct-february-2015-issue-156</p>
<p>Pursuing HB overpayment recovery effectively</p>	<p>Good Practice Guide</p>	<p>https://www.gov.uk/government/publications/housing-benefit-overpayment-recovery-good-practice</p>