

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF LEGAL GROUP)

Decision Makers Guide

Volume 13

Amendment 36 – February 2016

1. This letter provides details on Amendment 36; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

PDF amendment packages can be found on the **Intranet** at:

<http://intranet/1/lg/acileeds/guidance/decision%20makers%20guide/index.asp>

or on the **Internet** at the 'Amdt Packages' tab on the following link:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

4. The changes: expand the guidance on HB, what constitutes a damp proof measure and the type of services that are connected with the provision of adequate accommodation. There is also new guidance on mooring charges and pitch fees for owners in chapter 78.
5. The last two amendment packages amending Volume 13 were
Amendment 35 [June 2015]
Amendment 34 [February 2015]
6. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

The content of the examples in this document (including use of imagery) is for illustrative purposes only

Abbreviations

RA-YT (2 pages)

Statutes

NHS Act77 – WC Act 25 (1 page)

Statutory Instruments

SS Ben (PA) Regs - SS (IB) (Trans) Regs
(1 page)

Chapter 78

Conts 78358 – Appendix 8 (3 pages)

78270 – 78276 (1 page)

78427 – 78499 (10 pages)

Abbreviations

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(1 Page)

Chapter 78

Conts 78358 – Appendix 8 (3 pages)

78270 – 78276 (1 page)

78427 – 78499 (10 pages)

REA	Reduced Earnings Allowance
Reg(s)	Regulation(s)
Res A	Residential Allowance
RISWR	Redundant Iron and Steel Employees re-adaptation scheme
RMPS	Redundant Mineworkers Payment scheme
RP	Retirement Pension
RQC	Relevant Qualifying Condition
RVU	Relationship Validation Unit
S	Section (of an Act)
S2P	State Second Pension
SAP	Shared Additional Pension
SAYE	Save As You Earn
SB	Sickness Benefit
SC	Savings Credit
Sch	Schedule (as in an Act)
SCT	Savings Credit Threshold
SDA	Severe Disablement Allowance
SDM	Sector Decision Maker
SDP	Severe Disability Premium
S/E	Self-Employed
Sec	Section (of an Act)
SED	Scottish Education Department
SERPS	State Earnings Related Pension Scheme
Sev DP	Severely Disabled Person
SF	Social Fund
SFFP	Social Fund Funeral Payment(s)
SFO	Social Fund Officer
SHA	Special Hardship Allowance
SI	Statutory Instrument
SIR	Standard Interest Rate
SMG	Standard Minimum Guarantee
SMP	Statutory Maternity Pay
SP	State Pension
SPC	State Pension Credit
SpTA	Special Transitional Addition
SPW	Supported Permitted Work
SRPS	Shipbuilding Redundancy Payment Scheme
SS	Social Security
SS benefits	Benefits payable under SS(CB) Act 92
SSMG	Sure Start Maternity Grant
SSP	Statutory Sick Pay

STCP	Skills Training Conditionality Pilot
Supp B	Supplementary Benefit
SVQ	Scottish Vocational Qualification
TA	Transitional Addition
TAW	Temporary Allowance for Widow(ers)
TBI	Total Benefit Income
TD	Trade Dispute
TE	Transitional Element
TEC	Training and Enterprise Council
TFEU	Treaty on the Functioning of the European Union
TS	Tribunals Service
TU	Trade Union
UB	Unemployment Benefit
UC	Universal Credit
UCP	Urgent Case Payment
UEL	Upper Earnings Limit
UK	United Kingdom
US	Unemployability Supplement
UT	Upper Tribunal
VAT	Value Added Tax
VSO	Voluntary Sector Option of New Deal for young people
WA	Widow's Allowance
WB	Widow's Benefit
WBLA	Work Based Learning for Adults
WBLfYP	Work Based Learning for Young People
WBTfA	Work Based Training for Adults
WBTfYP	Work Based Training for Young People
WC	Workmen's Compensation
WC(S)	The Workmen's Compensation (Supplementation) Scheme
WC (Supp)	Workmen's Compensation (supplementation) scheme
WCA	Work capability assessment
WDisP	War Disablement Pension
WFHRA	Work focused health related assessment
Wfi	Work-focused Interview
WFP	Winter Fuel Payment
WFTC	Working Families Tax Credit
WMA	Widowed Mother's Allowance

WMA(C)	WMA payable where late husband entitled to Cat C retirement pension
WP	Widow's Pension
WPA	Widowed Parent's Allowance
WP(C)	Widow's Pension payable where late husband entitled to Cat C retirement Pension
WPT	Widow's Payment
WRAC	Work-related activity component
WRAG	Work-related activity group
WTB	Work and training beneficiary(ies)
WTC	Working Tax Credit
WtWB	Welfare to Work Beneficiary
WWP	War Widow's Pension/War Widower's Pension
YT	Youth Training

Statutes

National Insurance Act 1965	NI Act 65
National Insurance (Industrial Injuries) Act 1965	NI (II) Act 65
National Insurance contributions Act 2008	NIC Act 08
National Minimum Wage Act 1998	NMW Act 98
Pensions Act 2007	Pensions Act 07
Pensions Act 2008	Pensions Act 08
Pensions Act 2014	Pensions Act 14
Pension Schemes Act 1993	PS Act 93
Registered Homes (Amendment) Act 1991	RH (Amdt) Act 91
Registered Homes Act 1984	RH Act 84
Rehabilitation of Offenders Act 1974	ROO Act 74
Social Security Act 1975	SS Act 75
Social Security Act 1985	SS Act 85
Social Security Act 1986	SS Act 86
Social Security Act 1988	SS Act 88
Social Security Act 1989	SS Act 89
Social Security Act 1990	SS Act 90
Social Security Act 1998	SS Act 98
Social Security Administration Act 1992	SS A Act 92
Social Security Contributions and Benefits Act 1992	SS CB Act 92

Statutes

Social Security Contributions (Transfer of Functions, etc) Act 1999	SSC (ToF) Act 99
Social Security Fraud Act 2001	SS Fraud Act 01
Social Security (Incapacity for Work) Act 1994	SS (IfW) Act 94
Social Work (Scotland) Act 1968	SW (Scot) Act 68
State Pension Credit Act 2002	SPC Act 02
Tax Credit Act 2002	TC Act 02
Tribunals, Courts and Enforcement Act 2007	TCE Act 07
Teaching and Higher Education Act 1998	T & HE Act 98
Trade Union and Labour Relations (Consolidation) Act 1992	TULR (C) Act 92
Trade Union Reform and Employment Rights Act 1993	TURER Act 93
Welfare Reform Act 2007	WR Act 07
Welfare Reform Act 2009	WR Act 09
Welfare Reform and Pensions Act 1999	WRP Act 99
Workmen's Compensation Act 1925	WC Act 25

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Social Security Act 1986	SS Act 86
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Welfare Reform Act 2009	WR Act 09
Welfare Reform and Pensions Act 1999	WRP Act 99
Workmen's Compensation Act 1925	WC Act 25

Statutory Instruments

The Social Security Benefit (Persons Abroad) Regulations 1975 No. 563	SS Ben (PA) Regs
The Social Security (Civil Penalties) Regulations 2012	SS (CPen) Regs
The Social Security (Computation of Earnings) Regulations 1978 No. 1698	SS (C of E) Regs
The Social Security (Claims and Information) Regulations 2007 No. 2911	SS (C&I) Regs
The Social Security Class 3A Contributions (Units of Additional Pension) Regulations 2014 SI 2014 No. 3240	SS Class 3A Conts (UAP) Regs
The Social Security (Child Maintenance Bonus) Regulations 1996 No. 3195	SS (CMB) Regs
The Social Security (Claims and Payments) Regulations 1979 No. 628	SS (C&P) Regs 79
The Social Security (Claims and Payments) Regulations 1987 No. 1968	SS (C&P) Regs
The Social Security Commissioners (Procedure) Regulations 1999 No. 1495	SS Commissioners Procedure Regs
The Social Security (Contributions) Regulations 1979 No. 591	SS (Conts) Regs
The Social Security (Contributions) Regulations 2001 No. 1004	SS (Conts) Regs 01
Social Security (Contribution Credits for Parents and Carers) Regulations 2010 No. 19	SS (CC P & C) Regs
The Social Security (Credits) Regulations 1975 No. 556	SS (Credits) Regs
The Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 No. 769	SS (Crediting etc) Regs
The Social Security and Child Support (Decisions and Appeals) Regulations 1999 No. 991	SS CS (D&A) Regs
The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendment) Regulations 1996 No. 2538	SS & CS (JSA) (Misc Amdt) Regs

Statutory Instruments

The Social Security (Deferral of Retirement Pensions) Regulations 2005 No. 453	SS (Def RP) Regs
The Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 No. 2677	SS (Def RP, SAP & GRB) (Misc Provs) Regs
The Social Security (Disability Living Allowance) Regulations 1991 No. 2890	SS (DLA) Regs
The Social Security (Introduction of Disability Living Allowance) Regulations 1991 No. 2891	SS (Introduction of DLA) Regs
The Social Security and Family Allowances (Polygamous Marriages) Regulations 1975 No. 561	SS & FA (Poly Marr) Regs
The Social Security (General Benefit) Regulations 1982 No. 1408	SS (Gen Ben) Regs
The Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 No. 393	SS (GRB) (No. 2) Regs
The Social Security (Graduated Retirement Benefit) Regulations 2005 No. 454	SS (GRB) Regs
The Social Security (Habitual Residence) Amendment Regulations 2004 No. 1232	SS Hab Res Regs
The Social Security (Hospital In-Patients) Regulations 1975 No. 555	SS (HIP) Regs
The Social Security (Hospital In-Patients) Regulations 2005 No. 3360	SS (HIP) Regs 05
The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 No. 636	SS (I&A) Cql Amdts Regs
The Social Security (Incapacity Benefit) Regulations 1994 No. 2946	SS (IB) Regs
The Social Security (Incapacity Benefit - Increases for Dependents) Regulations 1994 No. 2945	SS (IB for D) Regs
The Social Security (Incapacity Benefit) (Transitional) Regulations 1995 No. 310	SS (IB) (Trans) Regs

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Housing costs not met

78270 An additional amount for housing costs should not be allowed for

1. HB expenditure¹ **or**
2. claimants in a care home, unless their absence from the dwelling normally occupied as their home is temporary² (see DMG 78240 et seq) **or**
3. loans taken out in a relevant period, unless one of the exceptions in DMG 78280 et seq applies³.

1 SPC Regs, Sch II, para 5(1)(a); 2 Sch II, para 5(1)(b); 3 Sch II, para 5(2)

78271 HB expenditure means¹ any element for which HB may be payable².

Note: HB may be payable for such periodical payments as rent, service charges, mooring charges and for the site on which a caravan or mobile home stands, but see DMG 78463 where the claimant is an owner .

1 SPC Regs, Sch II, para 5(1)(a); 2 HB Regs, reg 12(1)

Loans taken out in a relevant period

78272 Apart from certain allowable housing costs (see DMG 78280 et seq) and certain loans for repairs and improvements (see DMG 78415 et seq), interest on a loan

1. taken out in a relevant period **and**
2. used to acquire an interest in the home

will not be eligible during that relevant period if the conditions in DMG 78273 apply¹. This means that borrowing for house purchase cannot normally be increased in a relevant period.

1 SPC Regs, Sch II, para 5 & 12

78273 The conditions are that the loan was taken out

1. after 1.10.95¹ **or**
2. after 2.5.94 and the loan interest was not eligible in an IS award in the 26 week period between 3.4.95 and 1.10.95² **or**
3. between 3.4.95 and 1.10.95 by a person³
 - 3.1 who was not at that time entitled to IS **and**
 - 3.2 who becomes, or whose partner becomes, entitled to IS or JSA(IB) after 1.10.95 **and**
 - 3.3 whose entitlement, or whose partner's entitlement, is within 26 weeks of an earlier entitlement to IS or JSA(IB) for the claimant or partner **and**
 - 3.4 whose housing costs were ineligible for an IS award before 2.10.95.

1 SPC Regs, Sch II, para 5(2)(a); 2 Sch II, para 5(2)(b); 3 Sch II, para 5(2)(c) & (3)

Meaning of relevant period

78274 A relevant period is any period during which the person to whom the loan was made

1. is entitled, or treated as entitled, to IS, JSA(IB), ESA(IR) or SPC¹ **or**
2. has a partner who is entitled, or treated as entitled, to IS, JSA(IB), ESA(IR) or SPC²

together with any linked period not exceeding 26 weeks between two periods as in head 1. and 2.³.

1 SPC Regs, Sch II, para 5(4)(a); 2 Sch II, para 5(4)(b); 3 Sch II, para 5(4)

78275 A person shall be treated as entitled to IS, JSA(IB), ESA(IR) or SPC, during any period when they or their partner were not so entitled because

1. that person or their partner was on¹
 - 1.1 the S/E employment option of the New Deal for young people **or**
 - 1.2 a waged option of the voluntary sector or environmental task force options of NDYP **or**
 - 1.3 the intensive activity period of ND25+ **and**
2. as a result of such participation²
 - 2.1 that person or their partner was engaged in remunerative work **or**
 - 2.2 in the case of IS, the claimant's income exceeded their applicable amount **or**
 - 2.3 in the case of SPC, the claimant's income exceeded the amount of their SPC entitlement.

Note: This means that an additional amount for housing costs will not normally be allowed for loans taken out while a person is on a New Deal option.

1 SPC Regs, Sch II, para 5(5)(a); JSA Regs, reg 75(1)(a)(ii) & (iv); 2 SPC Regs, Sch II, para 5(5)(b); IS (Gen) Regs, Part IV

78276 DMs should note that when considering the question of relevant periods

1. any period that the claimant was entitled to IS between 3.4.95 and 1.10.95 should be taken into account in deciding when the relevant period starts¹ **and**
2. two or more periods of entitlement and any breaks that do not exceed 26 weeks count as one relevant period².

1 SPC Regs, Sch II, para 5(6)(a); 2 Sch II, para 5(6)(b)

3. where the prescribed time for claiming SPC has been extended for up to three months it may bring the claimants housing costs within a relevant period.

3. is an important part of the structure of a building
4. prevents water entering a building
5. prevents damp occurring.

78427 A repair or improvement made to a roof is a damp proof measure as in DMG 78420 3., if that is the sole or predominant purpose of the repair. (for example a few tiles are replaced) It is not a damp proof measure if the repair is so significant that its purpose must encompass more than damp proofing. Therefore the renewal of a roof will not be a damp proof measure but may be the repair of an unsafe structural defect (see DMG 78420 10.).

Home improvements for domestic items

78428 Home improvements for domestic items can only be allowed where the items are fixed and cannot be removed. For example

1. the interest on a loan for a cooker that forms part of a fitted or built in kitchen should be allowed if it cannot be removed
2. if cookers are slotted in between fitted units and can be removed, the interest on the loan cannot be allowed
3. carpets can be removed and are not an improvement under DMG 78420 7..

Special needs of a disabled person

78429 Housing costs can be allowed for interest on loans that are taken out to adapt a dwelling for the special needs of a disabled person¹. Those special needs must stem from the person's disability and must be in connection with

1. a specific disease **or**
2. a specific bodily disablement **or**
3. a specific mental disablement **or**
4. the effects of ageing for the over 75s.

1 SPC Regs, Sch II, para 12(2)(k)

Adapt a dwelling

78430 The DM should no longer apply the rigid requirement that works must be to the fabric of the dwelling when considering what constitutes adapting a dwelling for the special needs of a disabled person or any member of his family. Instead there needs to be a clear connection between the work undertaken and the claimant's disability needs, the process which the dwelling had undergone was a change that made it more suitable.

Example

Karen suffers from obsessive compulsive disorder and has anxiety problems. Her property is being repainted throughout and she is having all her carpets replaced with tiling so that it is easier for Karen to keep clean. Karen requests help with the further loan she has taken out to pay for these improvements. The DM allows the home improvement loan as there is a direct connection between the work being carried out and her disability and it is reasonably necessary for the works to be carried out in order to prevent Karen from suffering distress.

Separate sleeping accommodation for children of different sexes

78431 Housing costs can be allowed for interest on loans used to provide sufficient sleeping accommodation so that two or more persons who

1. live with the claimant **and**
2. the claimant or partner is responsible for **and**
3. are each aged ten or over but under 20 when the loan is taken out, or who will be that age within a year **and**
4. are of different sexes

do not have to share sleeping accommodation¹.

1 SPC Regs, Sch II, para 12(2)(1)

Example

Hans is in receipt of SPC and lives with his wife Greta his grandson Bruno aged ten and granddaughter Hilda aged 14 in his own two bedroomed house. Hans decides that the children should have separate bedrooms. He takes out a home improvement loan to finance the building of an extension to provide a third bedroom. The loan was taken out and is used to provide separate bedrooms for Bruno and Hilda. They were both aged ten or over but under 20 when the loan was taken out. An additional amount for housing costs for the loan interest can be allowed.

78432 - 78436

Change of address

78437 Interest payable on a loan taken out for repairs and improvements¹ to the dwelling is no longer payable if the claimant ceases to occupy² that dwelling as his home.

1 SPC Regs, Sch II, para 12; 2 R(IS) 5/96

Other housing costs

Definitions

78438 The following paragraphs explain the meaning of terms used throughout this guidance on other eligible housing costs.

Shared ownership schemes

78439 Property can be owned jointly by more than one person or organization (see DMG Chapter 84). This is known as shared ownership and can include many different types of arrangement. But DMs should note that for housing costs purposes, shared ownership does not simply mean co-ownership.

78440 A co-ownership scheme in this context is¹ a specific type of scheme under which the

1. home is let by a housing association **and**
2. money payable to someone ceasing to be a member of the scheme is based directly, or indirectly, on the value of the property.

Note: Such a scheme does not involve the purchase of a share of the property so no house purchase loan is involved.

1 SPC Regs, Sch II, para 13(6)(a)

78441 A shared ownership scheme is more likely to involve the claimant

1. buying a share in the property **and**
2. paying rent for the remaining share.

Example

Angela buys a 75% interest in her home with a mortgage of £37,000. The other 25% is owned by a housing association who let the property to Angela. If she leaves the scheme, Angela will receive 75% of the value of the property. She has to make mortgage payments and also has to make rent and service charge payments under the shared ownership scheme. Angela's mortgage payments are awarded in the normal way. The payments of rent and service charges are not eligible housing costs and are not allowed.

Note: In shared ownership schemes (other than co-ownership) all service charges are eligible to be met by HB and therefore not allowed as other housing costs.

78442

Crown tenant

78443 Crown tenants¹ are tenants or licensees of homes which

1. belong to **or**
2. are held on trust for

the Crown or a government department. They do not include tenants in homes managed by the Crown Estates Commission or tenants of the Duchies of Cornwall or Lancaster. But DMs should note that Greenwich Hospital Estate tenants are Crown tenants.

1 SPC Regs, Sch II, para 13(6)(b)

Housing association

78444 A housing association is a non-profit making voluntary body formed with the aim of providing good quality low cost housing¹.

1 SPC Regs, Sch II, para 13(6)(c); Housing Associations Act 1985, s 1(1)

Long tenancy

78445 A long tenancy¹ is one where the lease is made by deed, registered with the Land Registry and

1. granted for a specific number of years, exceeding 21 **or**
2. for a term fixed by law with a covenant or obligation for perpetual renewal² (unless DMG 78446 applies).

1 SPC Regs, Sch II, para 13(6)(d); 2 CH 883/2006

78446 An original lease that is not a long tenancy may have been sub-let for a fixed term. The sub-let should not be treated as a long tenancy even if there is a covenant or obligation for perpetual renewal.

78447 In some cases a lease may be granted for life rather than for a set number of years. The law provides¹ for life tenancies to be converted to 90 year leases. Such a tenancy for life should be treated as a long tenancy.

1 Law of Property Act 1969, s 149(6)

Rent charge

78448 Rent charges, including chief rents, are rents charged to people under the conditions by which they own the freehold of a property¹.

1 Rent Charges Act 1977, s 1

78449 - 78454

Other eligible housing costs

78455 Subject to the deductions in DMG 78465 and the reduction in DMG 78461, an amount for housing costs can be allowed on payments for¹

1. rents or ground rents on long tenancies
2. service charges (see DMG 78457)
3. rent charges (see DMG 78458)
4. co-ownership schemes (see DMG 78459)
5. tenancies or licences of Crown tenants (see DMG 78460)

6. tents and their sites (see DMG 78462).

1 SPC Regs, Sch II, para 13(1)

Long tenancies

- 78456 Rents, and ground rents should be allowed where payments are connected to long tenancies¹.

1 SPC Regs, Sch II, para 13(1)(a)

Service charges

- 78457 **[See Memo DMG SPC 53]** Service charges should be allowed where they are¹

1. not eligible to be met by HB² **and**
2. payable as a condition of occupancy **and**
3. for
 - 3.1 the home **or**
 - 3.2 the building in which the home is situated **or**
 - 3.3 common areas for a group of homes³ **and**
4. for services provided by a landlord or the agents of a landlord.

1 SPC Regs, Sch II, para 13(1)(b); 2 para 5: R(IS) 4/92; 3 R(IS) 4/91

Note 1: Guidance on the amount of benefit allowed as a housing cost service charge for leasehold residents where their accommodation is modernised under the Decent Homes initiative is at appendix 8.

Rent charges

- 78458 Rent charges, including chief rents, should be allowed as other eligible housing costs¹.

1 SPC Regs, Sch II, para 13(1)(c)

Co-ownership schemes

- 78459 Payments under co-ownership schemes should be allowed as eligible housing costs¹. Payments made under any other type of shared ownership scheme should be considered in the normal way but only in respect of the portion of the property owned.

1 SPC Regs, Sch II, para 13(1)(d)

Example

Helen rents her home through a housing association who let the property to Helen under a co-ownership scheme. If she leaves the scheme, Helen will receive a percentage of the value of the property. Helen has to make payments under the co-ownership scheme for rent, ground rent and service charges.

The payments under the co-ownership scheme are allowed as other eligible housing costs.

Crown tenants

78460 Payments under or relating to the tenancy or licence of the Crown tenants should be allowed as eligible housing costs¹.

1 SPC Regs, Sch II, para 13(1)(e)

Reduction for water charges

78461 In England and Wales, payments made by Crown tenants may include an amount for water charges. In such a case, the amount to be allowed as eligible housing costs should be reduced¹

1. where the amount payable for water charges is known, by that amount
2. in any other case, by the amount which would be the likely weekly water charge had the property not been occupied by a Crown tenant.

1 SPC Regs, Sch II, para 13(5)

Tents

78462 Where the dwelling occupied as the home is a tent, housing costs should be allowed for payments in respect of the

1. tent **and**
2. site on which the tent stands¹.

1 SPC Regs, Sch II, para 13(1)(f)

Mooring charges and pitch fees for owners

78463 Where the claimant is an owner any mooring charges for a houseboat or pitch fees for a caravan or mobile home will not be met by HB¹. Neither will they be eligible to be met as a housing cost under SPC because they do not fall under any of the other housing costs described at 78455.

1 HB Regs, reg 12(2)(c)

78464

Deductions from other eligible housing costs

78465 Deductions should be made from other eligible housing costs¹ where they include an amount for

1. fuel charges **or**
2. ineligible service charges **or**
3. repairs and improvements.

1 SPC Regs, Sch II, para 13(2)

Deductions for fuel charges

78466 Where any of the charges for other eligible housing costs in DMG 78455 include an amount for fuel charges, the following deductions should be made¹

1. a standard fuel deduction for
 - 1.1 heating (other than hot water) £25.50
 - 1.2 hot water £2.95
 - 1.3 lighting £2.05
 - 1.4 cooking £2.95 **or**
2. if the claimant provides evidence that the
 - 2.1 actual amount **or**
 - 2.2 estimated amount

for fuel is different to the standard deductions in **1.**, the deduction should be varied to the amounts in **2.**

1 SPC Regs, Sch II, para 13(2)(a); HB (Gen) Regs, Sch 1, para 5(2)

78467 When considering deductions for fuel charges, DMs should note that

1. if the claimant's home is one room, the standard fuel deduction in DMG 78466 **1.** will be
 - 1.1 half the amount in DMG 78466 **1.1 to 1.3 but**
 - 1.2 the full amount in DMG 78466 **1.4 and**
2. a deduction for heating (other than hot water) under DMG 78466 **1.1** should only be made on the amount for heating the claimant's home. Service charges for heating any communal areas are not excluded.

78468 - 78469

Deductions for ineligible service charges

78470 Where any of the charges for other eligible housing costs in DMG 78455 include an amount for ineligible service charges, the following deductions should be made¹

1. an amount equal to the amount of the ineligible service charges (see DMG 78471) **or**
2. where the charges in **1.** cannot be identified separately from other housing costs, a deduction should be made
 - 2.1 that is fairly attributable to the services in question **and**
 - 2.2 having regard to the cost of comparable services, if the exact charge in **1.** cannot be identified.

1 SPC Regs, Sch II, para 13(2)(b); HB (Gen) Regs, Sch 1, para 1

78471 The ineligible service charges that should be deducted from other eligible housing costs¹ are charges for

1. living expenses for
 - 1.1 meals², including the

- 1.1.a preparation of meals **or**
 - 1.1.b provision of unprepared food **or**
- 1.2 laundry³, other than the provision of
 - 1.2.a premises **or**
 - 1.2.b equipment
 to enable people to do their own laundry **or**
- 1.3 leisure items⁴ such as
 - 1.3.a sports facilities (but not a children's play area) **or**
 - 1.3.b television rental subscription and licence fees (except radio relay charges) **or** charges made for the cost of adaptation or conversion of equipment for the conveyance of a television broadcasting service **or**
- 1.4 cleaning of rooms and windows⁵, except cleaning of
 - 1.4.a communal areas **or**
 - 1.4.b the outside of any windows where the claimant or any member of their household is unable to clean them
 where a payment (see DMG 78472) is not made in respect of such cleaning **or**
- 1.5 transport⁶ **or**
- 2. the acquisition of furniture or household equipment and the use of such items where the items will become the property of the claimant under an agreement with the landlord⁷ **or**
- 3. the provision of an emergency alarm system⁸ **or**
- 4. medical expenses⁹, including the cost of treatment or counselling related to
 - 4.1 mental disorder
 - 4.2 mental handicap
 - 4.3 physical disablement **or**
 - 4.4 past or present alcohol or drug dependence **or**
- 5. nursing or personal care¹⁰, including assistance
 - 5.1 at meal times **or**
 - 5.2 with personal appearance or hygiene **or**
- 6. general counselling or any other support services, whoever provides those services¹¹ **or**
- 7. any services not specified in 1. to 6., which are not connected with the provision of adequate accommodation¹².

Note: For the purpose of **1.4** cleaning of communal areas and the outside of windows where no member of the household is able to clean them can still be allowed where a payment is **not** made.

1 SPC Regs, Sch II, para 13(2)(b); HB (Gen) Regs, Sch 1, para 1; 2 Sch 1, para 1(a)(i); 3 Sch 1, para 1(a)(ii); 4 Sch 1, para 1(a)(iii); 5 Sch 1, para 1(a)(iv); 6 Sch 1, para 1(a)(v); 7 Sch 1, para 1(b); 8 Sch 1, para 1(c); 9 Sch 1, para 1(d); 10 Sch 1, para 1(e); 11 Sch 1, para 1(f); 12 Sch 1, para 1(g)

78472 A payment (as in DMG 78471 **1.4**) is¹ any payment made by a LA to the claimant, the claimant's partner, or to another person on their behalf, relating to

1. welfare services in respect of which the Secretary of State has paid a grant to the LA² **or**
2. welfare services in respect of which the National Assembly for Wales has paid a grant to the LA³ **or**
3. housing support services in respect of which Scottish Ministers have paid a grant to the LA⁴.

Note: For these purposes a LA includes, in relation to England, a county council.

1 HB (Gen) Regs, Sch 1, para 7; 2 Local Government Act 2000, s 93(1); 3 s 93(2); 4 Housing (Scotland) Act 2001, s 91(1)

Connected to the adequacy of the accommodation

78473 **[See Memo DMG SPC 53]** Charges for certain services not connected with the provision of adequate accommodation are not eligible. When considering if services are connected to the adequacy of the accommodation (see DMG 78457 **3.**) the DM should take a common sense view of charges for communal lounges, paths, walkways, gardens etc and not just the individual needs of the claimant.

Example

Josh lives in one of a group of 20 flats set in enclosed gardens. The flats are all linked to a communal area by paths. Service charges are payable for maintenance of the communal areas, gardens and warden, heating and lighting of, and replacement furniture for, the communal areas and administration costs for providing all the services.

The DM determines that the service charges are connected to the adequacy of the accommodation for Josh and that they are eligible.

Note 1: In arriving at the eligible amount the DM included only those aspects of the warden costs that related to the adequacy of the accommodation.

Note 2: Commissioners have addressed some of the issues encountered when determining the eligible and ineligible aspects of the service charge. The Commissioners have decided that:

the upkeep/maintenance of communal pathways, gardens¹,
repair of a lift
repointing of brickwork

the costs of a car park barrier
a car park attendant²
the installation of a pergola
the repair of a clock tower

are all connected with the provision of adequate accommodation.

1 CIS/1496/95; 2 CIS/2205/00;

78474 Where service charges include an amount for repairs and improvements listed in DMG 78420, and are undertaken to maintain the fitness for human habitation, they should not be allowed. If the claimant raises a loan for these repairs or improvements, housing costs should be considered under DMG 78320.

Example 1

Tina is charged by her landlord for the cost of repairs to the roof of her home. A gable-end had cracked causing the roof to start to collapse. The DM determines that

1. repairs have been undertaken to maintain the fitness of the home for human habitation (see DMG 78420) **and**
2. the damaged roof is an unsafe structural defect (see DMG 78420 **10**).

The repairs cannot be allowed as a service charge. But housing costs can be considered under DMG 78415 et seq if Tina takes out a loan to pay for them.

Example 2

Razak's landlord charges him for the cost of improvements to his driveway. The previous shingle drive has been re-laid using cobbles to enhance the appearance of the property and to avoid loose chippings hitting pedestrians when cars use the driveway. The DM determines that the improvements to the driveway

1. have not been undertaken to maintain the fitness of the home for human habitation **and**
2. are not covered by the list of eligible repairs and improvements.

Example 3

Byron, the occupier, employs a painter to paint the outside of his property. The provision of the service, though placing contractual obligations on Byron and the painter, is something he is free to arrange for himself. It is not connected with the conditions by which the property is occupied. The charge associated with the provision of the service in this case will not satisfy the definition of a service charge.

Example 4

The landlord arranges the painting of the property under the conditions by which the property is occupied. Theresa, the occupier, is obliged to accept the arrangement. In this situation the charges incurred satisfy the definition of a service charge.

Example 5

Luigi, a leaseholder, reimburses the landlord for the payment of insurance premiums, as a condition under which he occupies his home. In the case of damage to the property the premiums ensure the payment of repairs to the property and therefore satisfy the condition of being connected with the adequacy of the accommodation. In this case the insurance premiums can be met as a housing cost.

Example 6

Charles, a tenant, is required to pay a monthly service charge in respect of cleaning the exterior windows of his property. The service charge is eligible to be met by HB, but as Charles has capital in excess of £16,000, it is not met. The charges associated with the provision of the service in this case will not satisfy the definition of a service charge.

Deductions for repairs and improvements

78475 The charges for other eligible housing costs in DMG 78455 may include an amount for repairs and improvements (see DMG 78420). In such a case the amount for repairs and improvements cannot be allowed and should be deducted¹. If the claimant raises a loan to pay for the repairs and improvements, housing costs should be considered under DMG 78415 2..

1 SPC Regs, Sch II, para 13(2)(c)

78476 - 78479

Contingency funds

78480 **[See Memo DMG SPC 53]** Service charges may contain an element that is paid into some kind of fund or reserve. These are most commonly referred to as

1. contingency funds **or**
2. reserve funds **or**
3. sinking funds.

78481 Payments made into such a fund are “for” the general purposes of the fund, whether or not there has been any expenditure in the year in question. If those purposes include both allowable and non-allowable elements, make a corresponding apportionment of the relevant annual payment to determine how much can be allowed.

78482 – 78484

Costs payable over 53 weeks or irregularly

78485 Where other housing costs are normally payable for 52 weeks but

1. paid for 53 weeks **or**

2. paid irregularly **or**
3. no such costs are payable or collected in certain periods **or**
4. the costs for different periods are different amounts

the weekly amount is the amount payable for the year divided by 52¹.

1 SPC Regs, Sch II, para 13(3)

Payment of costs waived

78486 Other housing costs should continue to be allowed for up to eight weeks if¹

1. the claimant or the claimant's partner pays for reasonable repairs or redecoration to the home **and**
2. that work was not the responsibility of the claimant or their partner **and**
3. payment for other housing costs is waived because the work has been done.

1 SPC Regs, Sch II, para 13(4)

Attribution of service charges

78487 Those housing costs attributed to a fixed 52 week period under DMG 78485 are payable from the date the liability arose.

Note: At any one time, a claimant's award of housing costs for service charges may therefore be made up of housing costs arising from different liabilities notified at different times.

Example

The claimant's award of SPC includes a weekly amount of £8.31 for housing costs arising from estimated service charges of £431.84 for the period 1.4.04 - 31.3.05. The amount for housing costs is due to end on 31.3.05. In February 2005 the claimant sends in an estimate of service charges for the 2005-06 financial year. The awarding decision is superseded on the grounds of an anticipated relevant change of circumstances to include housing costs of £10.87 weekly arising from estimated service charges of £564.94 for the period 1.4.05 - 31.3.06. On 9.9.05 the claimant receives an invoice for £243.85, being the balance of finalised service charges for the 2004-05 year, and sends it to the DWP. The DM supersedes the decision of February 2005 to award housing costs of £10.87 and £4.69 for the period 9.9.05 - 31.3.06, and £4.69 for the period 1.4.06 - 6.9.06, the balance for the 2004-05 year charges being paid over a 52 week period. If a further estimate for charges for the 2005-06 year is received, the September 2005 decision may be superseded accordingly.

78488 - 78499