

UNIVERSAL CREDIT - REMOVAL OF THE SPARE ROOM SUBSIDY

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INTRODUCTION

- 1 This memo provides guidance on amendments to legislation, in particular those regulations which provide for the spare room reduction of the housing cost element.
- 2 These amendments are made by the Housing Benefit and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations 2017 (SI 2017/213) and come into force on 1.4.17.

BACKGROUND

- 3 A deduction for under occupancy is made where the number of bedrooms the home has exceeds the number of bedrooms the renter is entitled to. Under these size criteria rules an extra bedroom can be allowed in a narrow range of circumstances. A Supreme Court Judgement in *MA & Others*¹ found that the application of these size criteria rules was discriminatory and an extra bedroom can be allowed in other

circumstances. To comply with the adverse Supreme Court Judgement regulations are amended.

1 MA & Others. A & Rutherford [2016] UKSC 58

TIMING

- 4 Where the amendment covered by this memo applies to an award of UC which exists on 1.4.17, the amendment has effect for the purposes of that award
1. on 1.4.17 if there is an assessment period for that award that begins on that day
or
 2. from the first day of the next assessment period if **1.** does not apply¹.

1 The HB and UC (Size Criteria) (Miscellaneous Amendments) Regulations 2017, reg 1(2)

CHANGES

- 5 The regulations are amended so that an additional bedroom will be allowed where a severely disabled child or non-dependant disabled adult has overnight care from a non-resident carer (see paragraph 6). The amendments also allow for an extra bedroom where a couple is unable to share because of disability (see paragraph 7).

Overnight care condition

- 6 The renter is listed, at [ADM F3131](#), as the only person who can satisfy the overnight care condition enabling the claimant to qualify for an additional bedroom. From 1.4.17 the list of people who can satisfy the overnight care condition is expanded to include
1. the renter **or**
 2. any person in the renter's extended benefit unit (see paragraph 10) **or**
 3. any person in respect of whom the renter satisfies the foster parent condition¹ (described at [ADM F3133](#)).

1 UC Regs, Sch 4, para 12(A1)

Disabled person condition

- ⁷ A disabled person condition is added to the list at [ADM F3131](#). A renter will also be entitled to an additional bedroom if they satisfy this new disabled person condition¹

(this captures those couples who are unable to share because of disability).

1 UC Regs, Sch 4, para 12(1)(d)

- 8 The disabled person condition mentioned in paragraph 7 is satisfied where the renter would be expected to share a bedroom with a joint renter **and**
1. the renter is in receipt of
 - 1.1 the care component of DLA at the middle or highest rate
 - 1.2 AA (at the higher rate)
 - 1.3 the daily living component of PIP **and**
 2. because of their disability the renter is not reasonably able to share a bedroom with the joint renter¹.

Note: the definition of AA² captures claimants who are in receipt of •an increase of disablement pension • payments under personal injuries schemes • addition to a war disablement pension • AFiP.

1 UC Regs, Sch 4, para 12(6A); 2 reg 2

Satisfying more conditions

- 9 The legislation which provides for certain circumstances where the renter is entitled to additional bedrooms because they satisfy more than one condition is removed, consequently the guidance at [ADM F3136](#) should no longer be followed.
- 10 Where a renter, or one or both joint renters, satisfy the disabled child condition for one or more children they are entitled to as many bedrooms as are necessary to ensure each child has their own bedroom¹.

1 UC regs, Sch 4, para 12(8)

- 11 From 1.4.17 the list of qualifying criteria (described at [ADM F3138](#)) is expanded to include the disabled person condition as a fourth alternative. So where a renter, or one or both joint renters, satisfy any of the following conditions
1. the overnight care condition **or**
 2. the foster parent condition **or**
 3. the disabled child condition **or**

4. the disabled person condition

they will be entitled to one additional bedroom for each one of the conditions that apply¹.

1 UC regs, Sch 4, para 12(9)

Example 1

Tony and his civil partner Mike are both entitled to the highest rate of the care component of DLA. Due to the severity of their disabilities they both require overnight carers to stay on a regular basis. They are entitled to one additional bedroom between them.

Example 2

Rosie and Jim are foster parents to two children, Rosie also requires overnight care. They are entitled to two additional bedrooms. One for satisfying the overnight care condition and one for satisfying the foster parent condition.

DEFINITIONS

Extended benefit unit

12 Extended benefit unit means¹

1. the renter or joint renters
2. any child or qualifying young person for whom the renter or either joint renter is responsible
3. anyone who is a non-dependant.

1 UC Regs Sch 4, para 2 & 9(1)

ANNOTATIONS

Please annotate the number of this memo (5/17) against the following ADM paragraphs: F3111, F3131, F3133

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 1S25, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 03/13](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: March 2017

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