

Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

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HB/CTB S1/2011

SUBSIDY CIRCULAR

WHO SHOULD READ	All HB and CTB managers and staff. Officers preparing subsidy claims and estimates
ACTION	For information only
SUBJECT	Further subsidy changes applicable from 1 April 2011 – HB subsidy for customers living in temporary accommodation

Guidance Manual

The information in this circular does not affect the content of the HB/CTB Guidance Manual.

Queries

If you

- want **extra copies of this circular/copies of previous circulars**, they can be found on the website at <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/user-communications/hbctb-circulars/>
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Subsidy changes applicable from 1 April 2011 – HB subsidy for customers living in temporary accommodation

Status of the guidance

- 1 This guidance is accurate at the time of publication (January 2011). Please check the DWP website for further updates. This guidance is for use by local authority (LA) staff and for anyone responsible for dealing with Housing Benefit (HB) subsidy for customers living in temporary or short-term accommodation. This document is available to view on the Department for Work and Pensions (DWP) website, see <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/>. You should also refer to the following relevant circulars in conjunction with this guidance
 - HB/CTB Circular S7/2009
 - HB/CTB Circular S3/2010
 - HB/CTB Circular S4/2010

Introduction

- 2 New subsidy arrangements based on Local Housing Allowance (LHA) rates, as described in *HB/CTB Circular S7/2009*, came into force on 1 April 2010 and applied to all those cases previously subject to the subsidy 'thresholds and caps' scheme. Two upper cap limits on subsidy were also introduced, applicable from 1 April 2010, as described in *HB/CTB Circular S3/2010*. (The provision to apply exemptions to the upper cap limits in exceptional cases ceases from 1 April 2011.) *HB/CTB Circular S4/2010* deals with the referral of rent allowance cases to a Rent Officer, which is also covered in this guidance.
- 3 This latest set of changes will
 - extend the scope of the new subsidy scheme to include cases in housing association leasing schemes and other similar types of temporary accommodation not currently included, from 1 April 2011, and
 - fix the LHA rates used in the formula to calculate subsidy at the January 2011 rates. The use of January 2011 LHA rates will continue until at least the end of March 2013. (We are currently exploring options for temporary accommodation subsidy from April 2013 onwards and intend to engage with key stakeholders on this issue later this year.)

- 4 These reforms are intended to bring consistency to the level of HB subsidy payable in respect of similar types of temporary accommodation. This will bring about greater fairness in terms of the level of funding available to different providers of temporary accommodation (registered housing associations¹, LAs and others). This approach should help to reduce HB expenditure in this area, by encouraging providers to reduce their leasing and management costs and achieve better value for money for the taxpayer. It should also help to drive down rents in many cases.

Timing

- 5 These changes are applicable from 1 April 2011.

Summary of further changes from 1 April 2011

- 6 The relevant legislation for these changes is, The Income-related Benefits (Subsidy to Authorities) (Temporary Accommodation) Amendment Order 2010 (SI 2010/2509²). It was laid in Parliament on 18 October 2010.
- 7 SI 2010/2509 makes changes to existing Articles 17 and 17A (see SI 2009/2580³) and adds two new Articles, 17B and 17C. These Articles set out the types of cases that these subsidy rules apply to as well as how to calculate the maximum weekly subsidy amount in respect of these cases.

The scope of the revised scheme

- 8 The revised subsidy scheme will apply to all cases, existing and new, covered by the amended Articles 17 and 17A and new Articles 17B and 17C, from 1 April 2011.
- 9 The revised heading for **Article 17** reads
- ‘Subsidy in respect of non self-contained licensed accommodation, and board and lodging accommodation, provided by an authority as temporary or short term accommodation’*

¹ Also referred to as RSLs in this paper for ease, see Appendix A for full definition.

² <http://www.legislation.gov.uk/ukxi/2010/2509/contents/made>

³ <http://www.legislation.gov.uk/ukxi/2009/2580/contents/made>

- 10 This article applies to cases when
- a rent rebate is payable by an authority (i.e. the LA is the claimant's immediate landlord)
 - the claimant is required to pay rent to the LA for
 - board and lodging (B&B), or
 - accommodation which is not self-contained and which the authority has a right to use under an agreement, other than a lease, with a third party (for example, non self-contained licensed accommodation), and
 - the accommodation has been made available to that person, by the LA, to either discharge a statutory homelessness function or to prevent the person being or becoming homeless
- 11 The revised heading for **Article 17A** reads
- 'Subsidy in respect of self-contained licensed accommodation, and leased accommodation, provided by an authority as temporary or short term accommodation'*
- 12 This article applies to cases when
- a rent rebate is payable by an authority (i.e. the LA is the claimant's immediate landlord)
 - the claimant is required to pay rent to the LA for
 - self-contained accommodation which the authority has a right to use under an agreement, other than a lease, with a third party (for example, self-contained licensed accommodation)
 - accommodation held outside the Housing Revenue Account by LAs in England, on a lease granted for a term not exceeding ten years, or
 - in Wales and Scotland, accommodation which the authority holds on a lease (i.e. all leased accommodation regardless of whether it is held in or outside of the Housing Revenue Account and regardless of duration), **and**
 - the accommodation has been made available to that person, by the LA, to either discharge a homelessness function or to prevent the person being or becoming homeless
- 13 The heading for the new **Article 17B** reads
- 'Subsidy in respect of non self-contained licensed accommodation, and board and lodging accommodation, made available by a registered housing association as temporary or short term accommodation'*

- 14 This article applies to cases when
- a rent allowance is payable by an authority (i.e. a registered housing association is the claimant's immediate landlord)
 - the claimant is required to pay rent to the registered housing association for
 - board and lodging (B&B), or
 - accommodation which is not self-contained and which the registered housing association has a right to use under an agreement, other than a lease, with a third party (for example, non self-contained licensed accommodation), **and**
 - the accommodation has been made available to that person, by arrangement with the LA, to either discharge a homelessness function or to prevent the person being or becoming homeless

- 15 The heading for the new **Article 17C** reads

'Subsidy in respect of self-contained accommodation, or owned or leased accommodation, made available by a registered housing association as temporary or short term accommodation'

- 16 This article applies to cases when
- a rent allowance is payable by an authority (i.e. a registered housing association is the claimant's immediate landlord)
 - the claimant is required to pay rent to the registered housing association for accommodation which is
 - self contained (i.e. self-contained licensed accommodation, as well as self-contained leased and self-contained owned accommodation), or
 - not self-contained and which the registered housing association owns or holds on a lease (i.e. non self-contained owned accommodation and non self-contained leased accommodation), **and**
 - the accommodation has been made available to that person, by arrangement with the LA, to either discharge a homelessness function or to prevent the person being or becoming homeless

Those living in supported housing that is 'exempt accommodation'

- 17 It is not the policy intention of these changes, affecting subsidy for people living in temporary accommodation, to also affect those whose home is 'exempt accommodation'. The housing benefit rules for these two groups are different and there should be no overlap in provision. The treatment of exempt accommodation cases for subsidy purposes is a separate policy area which is currently under review and these subsidy rules do not apply. A definition of exempt accommodation is in **Appendix A**.

Calculating subsidy

- 18 The weekly amount of subsidy payable in cases subject to Articles 17 – 17C is the **lowest** of the
- weekly HB entitlement (the amount paid to the customer for the week or part week, as the case may be)
 - maximum weekly subsidy amount (described below), or
 - upper cap limit £375 or £500 (also detailed below)

The maximum weekly subsidy amount

- 19 Cases subject to Articles 17 through to 17C inclusive fall into **two categories** for the purposes of calculating the maximum weekly amount of subsidy.

Category 1 (Articles 17 and 17B) non self-contained licensed and B&B

- 20 For cases subject to Articles 17 and 17B, the maximum weekly amount of subsidy is
- the one bedroom LHA rate (the self-contained rate, not the Shared Room Rate)

Category 2 (Articles 17A and 17C) self-contained licensed, or leased, or RSL-owned

- 21 For cases subject to Articles 17A and 17C, the maximum weekly subsidy amount is
- 1 the appropriate LHA rate (based on the number of bedrooms in the property – see below)
 - 2 less 10 per cent
 - 3 plus either £40 if the placing LA is in London, or £60 if outside of London
- 22 Subsidy from 1 April 2011 is based on the LHA rates and Broad Rental Market Areas (BRMA) for January 2011. These rates are available on the LHA Direct website: <https://lha-direct.voa.gov.uk/Secure/Default.aspx>
- 23 The January 2011 rates should be used for subsidy purposes throughout 2011/12 and 2012/13.

The appropriate LHA rate

- 24 The appropriate LHA rate in the subsidy calculation is based on the size and location of the **property**, i.e. the number of bedrooms. For non self-contained leased and non self-contained owned accommodation, the appropriate LHA rate is the one bedroom (self-contained) rate. The LA housing department should have some evidence of the size of the property and this will be required for auditing purposes. (Further details of this are available in *HB/CTB Circular S7/2009, paragraphs 42-26.*)

- 25 For subsidy purposes only, where the total number of rooms in the property (i.e. living rooms and bedrooms) is between two and five inclusive, at least one of those rooms should be treated as a living room, not a bedroom. Where the total number of rooms suitable for living in is six or more, then at least two of those rooms should be treated as a living room and not a bedroom, for subsidy purposes. The table below shows how this works in practice.

No. of rooms in property (living rooms and bedrooms)	Maximum appropriate LHA rate for subsidy purposes
1	1
2	1
3	2
4	3
5	4
6	4
7+	5

- 26 In determining the appropriate LHA rate for subsidy purposes, the maximum rate is the five bedroom rate. The removal of the five bedroom rate from April 2011 for mainstream LHA cases does not affect this scheme.

The upper cap limit

- 27 A maximum weekly subsidy cap of £500 is applicable in respect of customers placed into temporary accommodation located in the following BRMAs, in London

- Central London
- Inner West
- Inner North
- Inner South West
- Inner East
- Inner South East
- Outer South West

- 28 A maximum weekly subsidy cap of £375 is applicable for customers placed into temporary accommodation located in

- all remaining BRMAs in London (not listed above), and
- all other BRMAs outside of London

Calculating subsidy – examples

- 29 The tables below provide examples of different types of cases and details of how they should be treated for HB subsidy purposes. We have included a table showing the treatment of cases in 2010/11 to help show how the scope of the scheme is expanded for 2011/12 onwards. The list is possibly not exhaustive of all temporary or short-term housing scenarios when an LA or registered housing association is the landlord. It does include some examples where the LHA-based temporary accommodation subsidy scheme does not apply.

Table 1 - temporary accommodation subsidy rules from April 2010

Notes for all cases

- All subsidy calculations are subject to the upper cap limits of £375 / £500 per week as well as the actual HB entitlement.
- By landlord we mean the claimant’s immediate landlord, i.e. who the claimant’s rent is payable to.
- If ‘Homelessness accommodation’ is specified, the claimant and their household must have been placed by the LA to discharge a statutory homelessness function for these subsidy rules to apply. It does not apply to homelessness prevention cases in 2010/11.

Item no.	Accommodation	Landlord	Treatment under HB	Maximum weekly subsidy amount	Cell no. on subsidy claim form
FROM APRIL 2010					
1	Homelessness accommodation: <ul style="list-style-type: none"> • Board and lodging (B&B). 	LA	Non HRA rent rebate	One bedroom LHA rate	012 & 013
2	Homelessness accommodation: <ul style="list-style-type: none"> • Non self-contained, • Held on licence by LA. 	LA	Non HRA rent rebate	One bedroom LHA rate	012 & 013
3	Any accommodation: <ul style="list-style-type: none"> • Non self-contained, • Leased to the LA, • Period up to 10 years, • (Including hostels on a lease), • Outside HRA in all Great Britain, • Inside HRA, in Wales only. 	LA	Non HRA rent rebate in all GB and HRA in Wales	90% of the one bedroom LHA rate + £40 or £60	014 & 015
4	Homelessness accommodation: <ul style="list-style-type: none"> • Self contained, • Held on licence by LA. 	LA	Non HRA rent rebate	90% of appropriate LHA rate + £40 or £60	014 & 015

5	Any accommodation: <ul style="list-style-type: none"> • Self-contained, • Leased to the LA, • Period up to 10 years, • Outside HRA in all Great Britain, • Inside HRA, in Wales only. 	LA	Non HRA rent rebate in all GB and HRA in Wales	90% of appropriate LHA rate + £40 or £60	014 & 015 (non HRA) or 056 & 057 (HRA Wales)
6	Any accommodation: <ul style="list-style-type: none"> • Leased to or owned by RSL, • Sub-leased to the LA. <p>Treat as 3, 5, 7 or 8 - LA-leased.</p>	LA	As per 3, 5, 7 or 8.	As per 3, 5, 7 or 8.	As per 3, 5, 7 or 8.
7	Scotland Any accommodation: <ul style="list-style-type: none"> • Self or non self-contained, • Leased to the LA, • Any period, • Inside HRA. 	LA	HRA rent rebate	100% subsidy up to level of rent. No subsidy control.	023
8	Wales Any accommodation: <ul style="list-style-type: none"> • Self or non self-contained, • Leased to the LA, • 10 years or more, (Including hostels on a lease), • Inside or outside HRA. 	LA	Non HRA or HRA rent rebate, in Wales	100% subsidy up to level of rent. No subsidy control.	023 (non HRA) or 060 (HRA)
9	England Any accommodation: <ul style="list-style-type: none"> • Leased to the LA, • Inside HRA, any period, • Including 10 years or over. 	In England, accommodation leased to the LA for more than 10 years must be accounted for within the HRA and therefore subject to the HRA subsidy arrangements. When cases are subject to the HRA subsidy arrangements, this temporary accommodation subsidy scheme does not apply.			
10	Hostels, <ul style="list-style-type: none"> • Owned by LA, • Outside HRA in England, • In or outside HRA in Wales and Scotland. 	LA	HRA and/or Non HRA rent rebate	100% subsidy up to level of rent. No subsidy control.	023 (non HRA in England & Wales and HRA in Scotland) or 060 (HRA in Wales)
11	Any accommodation: <ul style="list-style-type: none"> • Self or non self-contained, • Leased to RSL, • Held on licence by RSL. 	RSL	Rent Allowance	100% subsidy up to level of rent. No subsidy control (HB subject to rent officer referral).	102 (if no referral to rent officer) or 099 (if referred)

12	Temporary or short-term accommodation: <ul style="list-style-type: none"> Self or non self-contained, Owned by RSL, (Including Hostels). 	RSL	Rent Allowance	100% subsidy up to level of rent. No subsidy control (HB subject to rent officer referral).	102 (if no referral to rent officer) or 099 (if referred)
13	Exempt supported accommodation. (See Appendix A for full definition.)	RSL, Non metropolitan county council in England etc.	Rent Allowance	TA subsidy rules do not apply. Treated separately for subsidy purposes.	096, 097 & 098

Table 2 - temporary accommodation subsidy rules from April 2011

Notes for all cases

- All subsidy calculations are subject to the upper cap limits of £375 / £500 per week as well as the actual HB entitlement.
- By landlord we mean the claimant’s immediate landlord, i.e. who the claimant’s rent is payable to.
- From April 2011, the subsidy scheme only applies to ‘homelessness accommodation’. This is accommodation made available to discharge any of the LA’s statutory homelessness functions, or to prevent homelessness.
- All cases (including homelessness-related) in supported housing that is ‘exempt accommodation’ will continue to be excluded from this scheme (see definition of exempt accommodation in **Appendix A**).
- The legislation now refers to all ‘licensed’ accommodation cases as, ‘accommodation which the authority has a right to use under an agreement, other than a lease, with a third party’. (See **Appendix A**)

Item no.	Accommodation	Landlord	Treatment under HB	Maximum weekly subsidy amount	Cell no. on subsidy claim form
FROM APRIL 2011					
1	Homelessness accommodation (excluding prevention cases): <ul style="list-style-type: none"> Board and lodging (B&B). 	LA or RSL	Non HRA rent rebate or Rent Allowance	One bedroom LHA rate	012 & 013 – LA landlord or 104 & 105 – RSL
2	Homelessness accommodation: <ul style="list-style-type: none"> Non self-contained, Held on licence. 	LA or RSL	Non HRA rent rebate or Rent Allowance	One bedroom LHA rate	012 & 013 – LA landlord or 104 & 105 – RSL

3	Homelessness accommodation: <ul style="list-style-type: none"> • Non self-contained, • Leased to the LA, (Including hostels on a lease), • Period up to 10 years, • Outside HRA in England, • In or outside HRA in Wales and Scotland. 	LA	Non HRA rent rebate in England, Non HRA or HRA rent rebate in Wales / Scotland	90% one bedroom LHA rate + £40 or £60	012 & 013 (non HRA in Wales and HRA in Scotland). 056 & 057 (HRA Wales)
4	Wales or Scotland only Homelessness accommodation: <ul style="list-style-type: none"> • Non self-contained • Leased to the LA (Including hostels on a lease) • Period 10 years or over, • In or outside HRA 	LA	Non HRA or HRA rent rebate in Wales / Scotland	90% one bedroom LHA rate + £40 or £60	012 & 013 (non HRA in Wales and Scotland and HRA in Scotland). 056 & 057 (HRA Wales)
5	Homelessness accommodation: <ul style="list-style-type: none"> • Non self-contained, • Leased to or owned by RSL, (Including hostels) • Any period. 	RSL	Rent Allowance	90% one bedroom LHA rate + £40 or £60	106 & 107
6	Homelessness accommodation: <ul style="list-style-type: none"> • Self contained, • Held on licence by LA or RSL. 	LA or RSL	Non HRA rent rebate or Rent Allowance	90% of appropriate LHA rate + £40 or £60	014 & 015 – LA or 106 & 107 - RSL
7	England Homelessness accommodation: <ul style="list-style-type: none"> • Self-contained, • Leased to the LA • Period up to 10 years, • Outside HRA. 	LA	Non HRA rent rebate in England	90% of appropriate LHA rate + £40 or £60	014 & 015
8	Wales and Scotland Homelessness accommodation: <ul style="list-style-type: none"> • Self-contained, • Leased to the LA, • Any period, • In or outside HRA. 	LA	Non HRA or HRA rent rebate in Wales / Scotland	90% of appropriate LHA rate + £40 or £60	014 & 015 (non HRA in Wales and Scotland and HRA in Scotland). 056 & 057 in Wales
9	Homelessness accommodation: <ul style="list-style-type: none"> • Self contained, • Leased to RSL, • Owned by RSL*, • Any period. <p>*Applies only to accommodation acquired by an RSL, the purpose of which is to be used as homelessness accommodation.</p>	RSL	Rent Allowance	90% of appropriate LHA rate + £40 or £60	106 & 107

10	Homelessness accommodation: <ul style="list-style-type: none"> Leased to or owned by RSL, Sub-leased to the LA. <p>Treat as 3, 4, 7 or 8 - LA-leased.</p>	LA	Non HRA rent rebate in England, Non HRA or HRA rent rebate in Wales / Scotland	90% of appropriate LHA rate + £40 or £60 (use one bed rate if non self-contained)	014 & 015 (non HRA in England, Wales and Scotland, HRA in Scotland). 056 & 057 (HRA in Wales)
11	Hostels, <ul style="list-style-type: none"> Owned by LA, Outside HRA in England, In or outside HRA in Wales and Scotland. 	LA	HRA and/or Non HRA rent rebate	100% subsidy up to level of rent.	023 (non HRA in England & Wales and HRA in Scotland) or 060 (HRA in Wales)
12	Exempt supported accommodation. (See Appendix A for full definition.)	RSL, Non metropolitan county council in England etc.	Rent Allowance	TA subsidy rules do not apply. Treated separately for subsidy purposes.	096, 097 & 098

Referring rents to a Rent Officer

30 As this scheme relates only to HB subsidy, there remains some flexibility in these cases as to the level of rent that will be met by HB, i.e. the eligible rent. It is also a reason for having cells in the Subsidy Claim Form that record 'expenditure above the cap'. The existing HB regulations when the landlord is a registered housing association remain unchanged. These cases continue to be treated as 'excluded' rent allowance cases for HB purposes (see below). However, the Department did provide guidance in May 2010, *HB/CTB Circular S4/2010*, advising LAs to use the maximum subsidy amounts in this scheme as a benchmark for considering whether or not the rent is unreasonably high. That guidance is essentially repeated here, for ease of reference.

- 31 Under Schedule 2 paragraph 3 of the HB Regulations 2006, the relevant LA is not required to apply to a Rent Officer for a determination in relation to a registered housing association tenancy except in a situation where the LA considers that the
- claimant occupies a dwelling larger than is reasonably required by the claimant and any others who occupy that dwelling (including any non-dependants of the claimant and any person paying rent to the claimant), or
 - rent payable for that dwelling is unreasonably high

See: <http://www.legislation.gov.uk/ukSI/2006/213/schedule/2/made>

The Housing Benefit Regulations 2006 (SI 2006/213)

- 32 This means that a tenancy with a registered housing association as the landlord is 'excluded' from mainstream LHA rules or, as was the case pre-LHA, mandatory Rent Officer referral. It also means that the rent does not have to be referred simply because it is high, or higher than for similar properties. It must be **unreasonably** high before a referral needs to be made.
- 33 A referral is also required if the authority considers that the accommodation is larger than is reasonably required by the claimant and any others who may occupy the dwelling. In such circumstances the authority should have regard to the circumstances and housing options available to the individual household.
- 34 In relation to a profit-making registered provider of social housing, the above provision exempting tenancies from Rent Officer referral only applies to the provider's social housing.

What is reasonable?

- 35 As every authority is given discretion under the regulations, you should not have a blanket policy of either referral or non-referral of registered housing association cases. However, uniform procedures for assessment of each case should be put in place for staff to follow, backed up by training and written guidance in order to achieve consistency and fairness.
- 36 The DWP believes that the formulae for calculating maximum subsidy in cases subject to this scheme, along with the upper cap limits, provides sufficient resources to meet the reasonable costs of the leasing obligations to the landlord and any reasonable management costs. Therefore the LA should have regard to these figures when deciding whether or not a referral is required.

- 37 The LA should make an informed decision about whether the rent is appropriate given the circumstances of a particular case. It may be reasonable to agree a rent that is higher than will be recouped through subsidy. Conversely, when the actual costs of leasing and managing property are lower than the maximum subsidy amount, it would be reasonable to expect the rent level to reflect this lower amount.

Treatment of HB following referral to a Rent Officer

- 38 If a tenancy of a registered housing association is referred to the Rent Officer because the accommodation is too large or the rent unreasonably high, then the maximum rent rules apply to the determination of the eligible rent. HB is then payable up to the eligible rent.
- 39 For HB subsidy purposes, the amount payable in these cases continues to be the **lowest** of the
- weekly HB entitlement (the amount paid to the customer for the week or part week, as the case may be)
 - maximum weekly subsidy amount, or
 - upper cap limit of £375 or £500

The following examples use specific locations for illustrative purposes only

Subsidy Treatment - Example 1 - Rent Officer referral for HAL tenancy (Central London)

6 room property (4 bedrooms). Central London BRMA.

Leased by registered housing association as part of HAL scheme.

Rent is set at £1000 per week.

It is April 2011 and LA decides to refer rent to the Rent Officer.

Rent Officer determination for the property is £700.

Maximum rent is therefore £700.

- Weekly HB entitlement (claimant on full HB) = £700
- Maximum weekly subsidy amount is 4 bed LHA (£1,150) – 10% (£115) + £40 = £1,075
- Upper cap limit = £500

Subsidy payable is the lowest of the three = £500 (Expenditure above the cap = £200)

Subsidy Treatment - Example 2 - Rent Officer referral for HAL tenancy (Aberdeen City).

4 room property (3 bedrooms). Aberdeen and Shire BRMA

Leased by registered housing association as part of HAL scheme.

Rent is set at £200 per week.

It is April 2011 and LA decides to refer rent to the Rent Officer.

Rent Officer determination for the property is £160.

Maximum rent is therefore £160.

- Weekly HB entitlement (claimant on full HB) = £160
- Maximum weekly subsidy amount is 3 bed LHA (£173.08) – 10% (£17.31) + £60 = £215.77
- Upper cap limit = £375

Subsidy payable is lowest of the three = £160. (Expenditure is below the cap.)

Underpayments – examples

Subsidy for underpayments on cases not subject to the LHA-based subsidy scheme in 2010/11 but relating to that period or earlier and discovered after April 2011

- 40 The following arrangement applies only to claims when
- an underpayment is discovered in 2011/12
 - part or all of the underpayment relates to 2010/11 or earlier, and
 - the claim was not subject to the LHA-based subsidy scheme before April 2011, but is subject to the scheme from April 2011
- 41 The part of the underpayment relating to previous years (2010/11 or before, only) will simply attract full subsidy.

Underpayment - Example 1

In 2011/12 an underpayment is discovered in a temporary accommodation claim where a housing association is the landlord, which is subject to the new LHA-based subsidy rules from April 2011. The total underpayment is £90, £60 of which relates to the 2010/11 year and £30 to 2011/12.

The £60 attracts full subsidy and is recorded in the appropriate cell for expenditure up to the cap (depending on the type of accommodation) on the 2011/12 subsidy claim.

The £30 is treated as part of the normal payment in 2011/12 and is subject to the new temporary accommodation rules.

Subsidy for underpayments identified in 2012/13 onwards, for temporary accommodation claims in 2011/12, when the LHA-based subsidy scheme applied from 1 April 2011

- 42 The following looks at underpayments of HB in temporary accommodation cases, when the
- new scheme applied from April 2011
 - underpayment was discovered in, or after, 2012/13, and
 - underpayment relates to entitlement in the previous year, 2011/12
- 43 To calculate HB subsidy in relation to any of these underpayments you need to
- 1 look at the revised weekly HB entitlement
 - 2 work out what level of subsidy the revised weekly HB entitlement would attract under the current year's caps (2012/13)
 - 3 offset this against the amount of subsidy already claimed for the period of the underpayment (during 2011/12)
- 44 If extra subsidy is due, the difference should be claimed.

Underpayment - Example 2

2011/12

HB entitlement	=	£150
Appropriate LHA-based cap	=	£150
Subsidy	=	£150

2012/13

HB entitlement	=	£155
Appropriate LHA-based cap	=	£175
Subsidy	=	£155

An underpayment of £6/week for 5 weeks of the 2011/12 year is discovered and paid in 2012/13.

The underpayment shows the correct entitlement for the 5 weeks of 2011/12 should have been £156/week.

This is lower than the current, 2012/13, LHA-based cap, therefore all of the £30 underpayment will attract subsidy.

Underpayment - Example 3

2011/12

HB entitlement	=	£150
Appropriate LHA-based cap	=	£152
Subsidy	=	£150

2012/13

HB entitlement	=	£154
Appropriate LHA-based cap	=	£155
Subsidy	=	£154

An underpayment of £6/week for 5 weeks in the 2011/12 year is discovered and is paid in 2012/13.

The underpayment shows the correct entitlement for the 5 weeks of 2011/12 should have been £156/week.

This is higher than the current, 2012/13, LHA-based cap, therefore not all of the underpayment will attract subsidy.

Of the £156/week only £155 (the current LHA-based cap) attracts subsidy.

Amount of weekly underpayment that attracts subsidy =

(current year LHA-based cap – subsidy already claimed in 2011/12) =

(£155 - £150) = £5

Therefore £5/week of the £6/week underpayment attracts subsidy.

Of the total £30 underpayment, £25 will attract 100% and £5 will be unsubsidised.

Key definitions

Registered Housing Association

- 1 The definition of a registered housing association has been updated. The term 'registered housing association' has the same meaning as in regulation 2(1) of the Housing Benefit Regulations 2006. 'Registered housing association' means a
 - private registered provider of social housing, as defined by the Housing and Regeneration Act 2008. These bodies (formerly known as Registered Social Landlords (RSLs)) are registered with the Tenant Services Authority, the regulator of social housing in England
 - housing association which is registered in a register maintained by Welsh Ministers under Chapter 1 of Part 1 of the Housing Act 1996, or
 - housing association which is registered by Scottish Ministers by virtue of section 57(3)(b) of the Housing (Scotland) Act 2001
- 2 In England, instead of having Registered Social Landlords (RSLs) there are now two types of Private Registered Providers (PRPs) of social housing: those that are non profit-making (effectively the same as previous RSLs); and those that are profit-making (this could be, for example, a private rented sector landlord that has some social housing stock and is registered with the regulator).
- 3 For ease, registered housing associations have also been referred to as RSLs in some sections of this guidance.

Exempt accommodation

- 4 Exempt supported accommodation cases dealt with under the pre-1996 rules (including those placed under homelessness legislation) are described as those where the accommodation is provided by a:
 - housing association
 - registered charity
 - voluntary organisation, or
 - non-metropolitan county council in England,that is also
 - the landlord, **and**
 - responsible for providing the care, support and supervision or for having it provided on their behalf, to meet their tenant's needs
- 5 These homes are exempt from both the maximum rent and LHA methods of working out the eligible rent. These rent allowance cases rely on the pre-1996 system of rent restriction and its allied subsidy rules.

Board and lodging accommodation

- 6 'Board and lodging accommodation' means
- (a) accommodation provided for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which are both cooked or prepared and consumed in that accommodation or associated premises, or
 - (b) accommodation provided in a hotel, guest house, lodging house or some similar establishment,

but it does not include accommodation in a residential care home or nursing home within the meaning of regulation 19(3) of the Income Support (General) Regulations 1987 nor in a hostel within the meaning of Regulation 14 of the Housing Benefit Regulations or, as the case may be, Regulation 14 of the Housing Benefit (State Pension Credit) Regulations.

Self-contained accommodation

- 7 Accommodation is self-contained if the claimant's household is **not** required to share one or more of the following with another household
- kitchen
 - bathroom, or
 - toilet

Licensed accommodation

- 8 Generally, accommodation will be held on licence (rather than a lease) in circumstances where the local housing authority has occupation rights in respect of homeless persons but does not have the right to exclusive occupation for a defined term on payment of rent. This is likely to be accommodation which the authority has agreement to use on a nightly, weekly or monthly basis to accommodate potentially homeless people.
- 9 From April 2011, for Housing Benefit subsidy purposes, 'licensed' accommodation is referred to in the legislation as: 'accommodation which the authority has a right to use under an agreement, other than a lease, with a third party'.