

# Housing Benefit

## General Information Bulletin

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**HB G3/2017**

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

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## The Real Time Information service

1. The Department for Work and Pensions' (DWP's) Wider Use of Real Time Information (WURTI) Project has consulted with both the Local Authority Associations Steering Group and with the Practitioners' Operational Group and it has been agreed that the Real Time Information (RTI) service will start to be rolled out to local authorities (LAs) from April 2017.
2. Rollout of the:
  - RTI service is currently planned to start on 24 April 2017. The service is being made available on a rolling basis to Housing Benefit (HB) administrators who assess entitlement to HB
  - alerts will begin after the rollout of the service in the autumn of 2017 and more details on these alerts will be provided nearer the time.
3. The proposed schedule for rollout was issued to Revenues and Benefits Managers on 14 February 2017.
4. The service will enable you to view earnings and pensions data on your desktop to use as evidence when assessing entitlement to HB.
5. Legal gateways are in place that will allow you to access the data in the following circumstances:
  - to validate earnings and/or private pensions provided by customers to support new claims for HB
  - to validate earnings and/or private pensions provided by customers to support new claims for HB and Local Council Tax Reduction where the claim is made on the same claim form
  - where there is a change of circumstance that is likely to result in a change to the amount of HB in payment the service can be used to provide the evidence of income
  - when carrying out reviews to verify earnings and pension information the service can be used to provide the evidence of income.
6. Users of the RTI service will be assigned access to a WURTI User Group by the LA Sponsor and LA Agent who will follow existing processes with the National Registration Authority to authorise that access. Customer Information System downtime has been reduced to one day whilst users are being given access to the service for rollout.
7. Detailed implementation activities will be undertaken and these will include:
  - writing to LA Revenues and Benefits Managers and LA Implementation Single Point of Contacts (SPoCs) with the detailed schedules for:
    - Employee Authorisation Services authentication
    - user access testing
    - rollout of the service

8. The Project will provide guidance to each LA to support these activities.
9. Contact with the LA SPoCs will begin 4 to 6 weeks before rollout of the service to their authority:
  - **Five weeks prior to rollout:** Project Implementation managers will contact the SPoCs to introduce themselves and discuss what is entailed in rolling out the RTI service
  - **Four weeks prior to rollout:** a letter, containing an Outlook calendar invite, will be issued inviting SPoCs to a teleconference
  - **Three weeks prior to rollout:** Teleconference 1 Start-up when training materials will be issued
  - **Two weeks prior to rollout:** Teleconference 2 Walkthrough of accessing the RTI service. SPoCs may also wish to invite some assessors to attend
  - **One week prior to rollout:** SPoCs will be contacted to ensure everything is in place for rollout the following week
10. Please note that training materials will be placed on Glasscubes in the next 2 to 3 weeks in order that plans for training can be made. The material can be delivered face to face or as a self-instruct reading pack and should take approximately one hour to complete.
11. If you have any questions regarding the content of this article you can email [rtiprojects.portfolioqueries@dwp.gsi.gov.uk](mailto:rtiprojects.portfolioqueries@dwp.gsi.gov.uk)

## Launch of the Right Benefit Initiative

12. The Right Benefit Initiative (RBI) design has now been approved. We expect to launch this scheme during the week of 20 March 2017. However, the Department is still working to finalise budget allocations and the new scheme for 2017/18 cannot formally launch until funding has been approved.
13. RBI replaces the Fraud and Error Reduction Incentive Scheme (FERIS) for 2017/18. The initiative is designed to maximise the return on investment and will target LA activity on specific areas and removes elements of the previous schemes which were unattractive to LAs. The RBI will commence on 1 April 2017.
14. The main differences between FERIS and RBI are:
  - all available funding is made as an up-front payment to LAs. There are no baselines and thresholds which LAs need to meet to qualify for additional incentive payments
  - we are asking LAs to focus purely on combating incorrect earnings and use available funding to process as many Optional RTI referrals as possible each month. Other business as usual fraud and error activity should continue as normal

- we have simplified the funding application. There is no requirement to submit an action plan to DWP to apply for funding. LAs will simply have to either opt-in or opt-out to receive RBI funding.
15. A letter was issued on 8 March 2017 providing more detail on the initiative. A further update will be provided during the week of 20 March 2017 to confirm the amount of funding you will receive. An HB Adjudication circular will also be published once RBI is launched.
  16. Ahead of the launch of RBI please start to plan how during 2017/18 you will move your focus from current FERIS funded activities to using RTI to combat incorrect earnings.
  17. Please take the opportunity to review the letter sent 8 March 2017 and reply with your opt-in response within three weeks of the launch to ensure you receive your RBI funding payment by the end of April 2017.
  18. If you have any queries about the initiative you can email [feris.team@dwp.gsi.gov.uk](mailto:feris.team@dwp.gsi.gov.uk)

### **‘Direct Earnings Attachments – A Guide for Employers’**

19. DWPs’ Debt Policy team have been advised by HM Revenue & Customs (HMRC) that we need to alert employers to a potential issue where an employee is being paid the National Minimum Wage (NMW). We have therefore amended the ‘Administrative costs’ section of the ‘Direct Earnings Attachment – A Guide for Employers’ available on [GOV.UK](http://GOV.UK) as follows:
  - where you decide to apply an administration charge of £1.00, this deduction may bring the employees pay below the NMW. Employers should check [GOV.UK](http://GOV.UK) or contact the ACAS helpline for advice
  - it is a criminal offence for employers to not pay someone the NMW or National Living Wage.
20. The issue is that where this causes a worker’s pay rate to be below NMW rates, then the employer is breaking the law and potentially will be ‘named and shamed’, as well as given a 200% penalty of the arrears and have to pay the worker back arrears.
21. It’s not the worker’s pay being taken below NMW as a result of the deduction (of the amount owed) that’s the problem; it’s the employer’s liability that might/does result from the £1 administration charge deduction that they can levy.
22. You should amend, as necessary, any internal products as a result of this information.
23. Any queries should be emailed to the Fraud, Error and Debt Policy team at [debtpolicy.focalpoint@dwp.gsi.gov.uk](mailto:debtpolicy.focalpoint@dwp.gsi.gov.uk)

## Recovery of HB overpayments using the higher rate deduction

24. This is an update to information in previous bulletins with regard to the higher deduction rate of 40% that can be used by DWP (from legacy benefits) and LAs, using the Direct Earnings Attachment (DEA) for HB overpayments.
25. If you ask DWP to recover an HB overpayment they can recover this at 40% from a legacy benefit if the HB debt has been passed to us to recover and there is a prosecution for fraud for that debt or where the debtor has agreed an Administrative Penalty or admitted guilt in an Interview Under Caution.
26. LAs cannot take deductions at 40% from HB, even if there is convicted fraud as the legislation does not allow for this.
27. LAs can ask an employer to deduct at up to 40% using the higher rate tables for a DEA where the debtor has been prosecuted and convicted of fraud for that debt. The employer should be asked to use the higher rate deductions. The employer must not be told the employee has been convicted of fraud.
28. Any queries should be emailed to [hbandctb.overpayments@dwp.gsi.gov.uk](mailto:hbandctb.overpayments@dwp.gsi.gov.uk)

## Scottish rate of Income Tax

29. Under the Scotland Act 2016, passed on 23 March 2016, powers to set Income Tax bands and thresholds in Scotland are devolved to the Scottish Parliament from 6 April 2017. Responsibility for administering Scottish Income Tax remains with HMRC.
30. On 15 December 2016 the Scottish Parliament announced the income bands and thresholds for non-savings and non-dividend income for the 2017/18 tax year. The basic rate of Scottish Income Tax from 6 April 2017 will be 20% for incomes between £11,500 and £43,000.
31. Scottish taxpayers are identified by HMRC as being a Scottish taxpayer based on their main residence each year. Those identified as a Scottish taxpayer have an 'S' prefix added to their tax code. There are no in-year changes to tax codes as the result of a claimant moving either in or out of Scotland. HMRC will make a decision retrospectively regarding the main residency throughout the tax year and what tax code will be applied for the year of the change.
32. If you have any questions about this article please email [housing.benefitenquiries@dwp.gsi.gov.uk](mailto:housing.benefitenquiries@dwp.gsi.gov.uk)

## Salary sacrifice

33. A salary sacrifice arrangement is an agreement between an employer and an employee to change the terms of the employment contract to reduce the employee's entitlement to cash pay. This sacrifice of cash entitlement is usually made in return for some kind of non-cash benefit.
34. Salary sacrifice can be financially beneficial for both the employer and the employee. For example, when part of an employee's remuneration shifts from

cash on which tax and National Insurance contributions are due to non-cash benefits that are wholly or partially exempt. However, a salary sacrifice can't reduce an employee's cash earnings to below the NMW.

35. HMRC has announced that it is making changes to the tax treatment of some salary sacrifice (or what it terms 'benefit in kind') schemes. This will make them less attractive and may reduce usage. Some types of 'benefit in kind' will retain their current preferential tax treatment to support specific government objectives. These are:

- pension savings (including advice)
- childcare
- cycle to work
- cars with emissions of 75g CO<sub>2</sub> / km or less.

36. However, whilst HMRC is making salary sacrifice schemes less appealing, it is not prohibiting them and is not requiring employers to register schemes. Nonetheless, employers are still free to approach HMRC to request a view on their salary sacrifice arrangements. Furthermore, DWPs' workplace pension auto-enrolment is likely to increase the number of salary sacrifice schemes in operation for pensions.

37. The following approach should be taken when considering a salary sacrifice scheme:

- if HMRC has designated it as a salary sacrifice then it should be enough for it to be treated as such. However, just because an employer calls it a 'salary sacrifice scheme' doesn't mean that you shouldn't investigate it further should you wish
- if you consider that it is a legitimate salary sacrifice scheme, then the amount shown should be disregarded as it cannot be classed as earnings under regulation 35(1) of the HB Regulations
- if you don't consider it to be a legitimate salary sacrifice scheme, the amount might still be disregarded under other provisions of regulation 35; for example, because they are 'expenses wholly and necessarily incurred in the performance of the duties of the employment' or 'payments in kind' but the LA will have to satisfy itself that this applies on a case by case basis.

38. If you have any questions about this article please contact [housing.benefitenquiries@dwp.gsi.gov.uk](mailto:housing.benefitenquiries@dwp.gsi.gov.uk)

## **The Social Security (Income-Related Benefits) Amendment Regulations 2017**

39. In April 2014 the Upper Tribunal issued decision number CH/1445/2013. The decision stated that compensation pension payments made by the Dutch government to victims of National Socialist persecution should be treated in the same way as payments made under schemes administered by the

governments of Austria and Germany. Currently a £10 weekly disregard is applied to payments made by the Austrian or German governments.

40. The Social Security (Income-Related Benefits) Amendment Regulations 2017 (SI 2017/174), amend 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) so that any references to specific national governments are removed from the disregard provisions. This means that all payments made to victims of National Socialist persecution, irrespective of which government is paying them, are disregarded in the same way. SI 2017/174 comes into force from 20 March 2017.

41. If you have any questions about this article please contact:

[housing.benefitenquiries@dwp.gsi.gov.uk](mailto:housing.benefitenquiries@dwp.gsi.gov.uk)

## **The Social Security (Scottish Infected Blood Support Scheme) Regulations 2017**

42. In the UK five payment schemes currently provide financial support to people infected with HIV and/or Hepatitis C following NHS treatment with contaminated blood products in the 1970 and 80s. These schemes are run by the following organisations:

- The Eileen Trust
- The Macfarlane Trust
- MFET Ltd
- The Skipton Fund
- The Caxton Foundation

43. All payments made to individuals via the schemes mentioned above are currently fully disregarded for the purposes of calculating eligibility for HB. This is because they are intended to compensate 'infected persons' and their relatives in recognition that the physical, mental and other health impacts for those infected can lead to additional costs which cannot be met through the benefits system.

44. In March 2016 the Scottish Government undertook a financial review of the existing UK wide support schemes and has rationalised them into a single scheme for Scotland; the Scottish Infected Blood Support Scheme (SIBSS), which will be administered by NHS National Services Scotland.

45. The Social Security (Scottish Infected Blood Support Scheme) Regulations 2017 (SI 2017/329) amend the HB Regulations 2006 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 so that payments made by SIBSS will be disregarded in the same way as the previous schemes. SI 2017/329 comes into force on 1 April 2017.

46. If you have any questions about this article please contact

[housing.benefitenquiries@dwp.gsi.gov.uk](mailto:housing.benefitenquiries@dwp.gsi.gov.uk)

## **Universal Credit: email subject lines**

47. As part of our continuous improvement of Universal Credit live service we have introduced an internal software solution. This will enable us to speed up the management of emails and forms from LAs.
48. Part of the new software solution operates using the key words in the email Subject line.
49. It has come to light that a number of LAs are amending email Subject lines or not completing the Subject line correctly, as set out in the Universal Credit LA Support Pack.
50. When Universal Credit emails the initial form to an LA the Subject line will already be completed, for example, in the case of the Migration Gather Proforma Process where Universal Credit send a UC413 to the LA, the Subject line will be completed as 'OFFICIAL DATA MGP/ UC413'.
51. On receipt of this Bulletin, when receiving the initial email from Universal Credit, please do not change the email Subject lines.
52. When an LA emails the initial form to Universal Credit the Subject line will need to be completed with the narrative as set out in the Universal Credit LA Support Pack, for example, in the case of the Discretionary Housing Payment process the Subject title should be 'OFFICIAL SENSITIVE DATA UC DHP'.
53. On receipt of this Bulletin, when sending an initial email to Universal Credit, please can LA's annotate the email Subject line with the exact wording as set out in the Universal Credit LA Support Pack.

## **Cases with the Upper Tribunal**

### **HB cases awaiting decision by the Upper Tribunal**

54. Decision Making and Appeals Leeds is aware of the following HB cases that are awaiting decision by the Upper Tribunal:
  - CH/2734/16: Claimant was found to have capital in excess of the prescribed limits
  - CH/3297/15: The claimant cannot rely on Zambrano rights as her children were not British.
55. Thank you to those LAs that have let us know about cases they are appealing. Please notify us of cases at the point that the application for leave to appeal is made to the Upper Tribunal office, or the appeal is lodged following grant of leave by a First-tier Tribunal (FtT) Judge. Please let us know if a case reference (CH/.. or CSH/..) has been allocated.



## HB/CTB decisions by the Upper Tribunal

56. Decision Making and Appeals Leeds is aware of the following HB cases that have been decided by the Upper Tribunal:

- CH/2053/16: More findings needed on whether claimant had a liability for the rent
- CH/2093/16: Appeal refused. Claim for Council Tax Benefit cannot be treated as having been made on any date earlier than three months before it was received
- CH/3416/16: Whether a claim to HB was defective. Upper Tribunal Judge substitutes their own decision. FtT erred in law by asking itself the wrong question. FtT proceeded on the basis that the issue was the Appellant's failure to provide certain documentation in time whereas what they should have addressed as the substantive question was whether or not the Appellant qualified for HB given her capital position. The claim was not defective. Case referred back to the Council to make a fresh entitlement decision.

57. Decisions of the Upper Tribunal are published on their website which can be found on [GOV.UK](http://GOV.UK).

58. If you have any queries about cases before the Upper Tribunal Judges or courts, you can contact us by email at [fldmdma.customersupportservices@dwp.gsi.gov.uk](mailto:fldmdma.customersupportservices@dwp.gsi.gov.uk) or fax on 0113 2324841.

## Statutory Instruments

59. The following Statutory Instruments (SIs) have been laid:

- 2017 No.159, The Social Security (Reciprocal Agreements) Order 2017, coming into force 6 April 2017
- 2017 No.204, The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017, coming into force 3 April 2017
- 2017 No.205, The Employment and Support Allowance (Exempt Work & Hardship Amounts) (Amendment) Regulations 2017, coming into force 3 April 2017
- 2017 No.220, The Guaranteed Minimum Pensions Increase Order 2017, coming into force 6 April 2017
- 2017 No.247, The Employers' Duties (Implementation) (Amendment) Regulations 2017, coming into force 1 April 2017
- 2017 No.260, The Social Security Benefits Up-rating Order 2017, coming into force 1 April 2017

- 2017 No.271, The Social Fund (Amendment) Regulations 2017, coming into force 6 April 2017
- 2017 No.287, The Social Security Revaluation of Earnings Factors Order 2017, coming into force 6 April 2017
- 2017 No.291, The Social Security (Social Care Wales) (Amendment) Regulations 2017, coming into force 1 April 2017
- 2017 No.324, The Pension Protection Fund (Modification) (Amendment) Regulations 2017, coming into force 6 April 2017
- 2017 No.325, The Freight Containers (Safety Convention) Regulations 2017, coming into force 6 April 2017
- 2017 No.329, The Social Security (Scottish Infected Blood Support Scheme) Regulations 2017, coming into force 3 April 2017

60. The following Statutory Rule (SR) of Northern Ireland has been laid:

- 2017 No.46 (C.6), The Welfare Reform and Work (Northern Ireland) Order 2016 (Commencement No. 2) Order 2017, came into force from 11 March 2017

61. 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>

## What's new on the web

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

Document Type	Subject	Link
Guidance	HB Subsidy Guidance Manual 2016/17	<a href="https://www.gov.uk/government/publications/housing-benefit-subsidy-guidance-manual-2016-to-2017">https://www.gov.uk/government/publications/housing-benefit-subsidy-guidance-manual-2016-to-2017</a>
HB G2/2017	Update: Optional Real Time Information  New policy to limit benefit payable to two children  Update: Personal Details Verification Report	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592560/g2-2017.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592560/g2-2017.pdf</a>

	<p>Cases with the Upper Tribunal Statutory Instruments</p> <p>What's new on the web</p>	
<p><b>HB Direct issue 175 March 2017</b></p>	<p>Editorial</p> <p>Update: Wider Use of Real Time Information service rollout</p> <p>Reminder: Subsidy/Discretionary Housing Payments final claims deadlines 30 April 2017</p> <p>New online Money Manager Tool</p> <p>LA Practitioner's Operational Group</p> <p>Housing Benefit communications products</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/596683/hb-direct-march-2017-issue-175.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/596683/hb-direct-march-2017-issue-175.pdf</a></p>
<p><b>Circular HB A1/2017</b></p>	<p>War Pensions: Uprating 2017/18</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589348/a1-2017.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589348/a1-2017.pdf</a></p>
<p><b>Circular HB A2/2017</b></p>	<p>Housing Benefit operational information, performance support and engagement 2017/18</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/595725/a2-2017.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/595725/a2-2017.pdf</a></p>
<p><b>Circular HB A3/2017</b></p>	<p>The Housing Benefit and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations 2017 in relation to the Supreme Court decision of 9 November 2016</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/595727/a3-2017.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/595727/a3-2017.pdf</a></p>

<p><b>Circular HB A4/2017</b></p>	<p>The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017.</p> <p>The Employment and Support Allowance and Universal Credit (Exempt Work &amp; Hardship Amounts)(Amendment) Regulations 2017.</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/596074/a4-2017.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/596074/a4-2017.pdf</a></p>
<p><b>Circular HB S1/2017</b></p>	<p>Assurance of Housing Benefit subsidy claims 2018/19 (England only)</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/585740/s1-2017.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/585740/s1-2017.pdf</a></p>
<p><b>Circular HB S2/2017</b></p>	<p>Final New Burdens payment 2016/17 for the Real Time Information Bulk Data Matching Initiative</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/594931/s2-2017.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/594931/s2-2017.pdf</a></p>
<p><b>Circular HB S3/2017</b></p>	<p>2017/18 Discretionary Housing Payments Government Contribution for English and Welsh local authorities</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/595729/s3-2017.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/595729/s3-2017.pdf</a></p>
<p><b>Circular HB S4/2017 (REVISED)</b></p>	<p>New Burdens funding: Changes to Work-Related Activity Group payments in Employment and Support Allowance</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/598572/s4-2017.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/598572/s4-2017.pdf</a></p>