

Housing Benefit

General Information Bulletin

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HB G5/2018

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

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Local Authority Insight Survey

1. The Local Authority Insight Survey (LAIS) wave 34 has now closed, and we expect the full report to be published in the summer on Gov.uk. A huge thanks to everyone who responded and helped to review and inform DWP policy and delivery; your views are incredibly important to us.
2. Wave 35 of the survey is currently in the design stage and will be focused on in-depth interviews with a smaller number of local authorities (LAs) on the topic of Supported Housing. It will be conducted by the National Centre for Social Research, who may be contacting you to discuss taking part in the next few weeks.
3. If you'd like to take part in wave 35, or have any further questions on the LAIS, please contact andrew.luty1@dwp.gsi.gov.uk.

Amendments to Adjudication Circulars

4. HB Circular A10/2017 Uprating

Errors were identified on pages 9 and 12 in [HB Circular A10/2017](#) in relation to the rates for non-dependant deductions. A reference to the rate for a non-dependant aged less than 25 who is entitled to an award of Universal Credit calculated on the basis that the non-dependant has no earned income had been omitted. Please note the rate for any non-dependants in this group is nil.

5. HB Circular A3/2018

There was an error in the coming into force date for the Social Security (Miscellaneous Amendments No. 4) Regulations 2017 (SI 2017/1015) given in paragraph 1 of [HB Circular A3/2018](#). The amendments described in paragraphs 3 – 9 came into force on 17 November 2017. The other amendments contained in SI 2017/1015 which don't affect the Housing Benefit regulations will come into force on 6 December 2018.

These circulars have now been amended and replaced on our pages on [Gov.uk](#)

HB decisions by the Upper Tribunal

6. Decision Making and Appeals (DMA) Leeds is aware of the following HB cases that have been decided by the Upper Tribunal (UT):
 - CH 3212 17 - Remitted – FtT breached rules of natural justice – hearing conducted without an interpreter.
 - CH/1412/15: Spare room subsidy. LA decision upheld. Carmichael and Nelson followed.
 - CH/2734/16: Capital. Remit. Insufficient consideration of Quistclose trust principles.
 - CH/4672/14: Spare room subsidy. Remit. Carmichael and Nelson followed.
 - CH/95/15: Spare room subsidy. LA decision restored. Carmichael and Nelson followed.
7. Decisions of the UT are published on their website which can be found here: <http://www.administrativeappeals.tribunals.gov.uk/Decisions/decisions.htm>

If you have any queries about cases before the UT Judges or courts, please contact us by Email at:

FLDMDMA.CUSTOMERSUPPORTSERVICES@DWP.GSI.GOV.UK or

Fax – on: 0113 2324841

New Legislation

8. The following Statutory Instruments (SIs) have been laid:
 - 2018 No. 532 The Welfare Reform Act 2012 (Commencement No. 17, 19, 22, 23 and 24 and Transitional and Transitory Provisions (Modification)) Order 2018, made on 9 May 2018
9. The following Statutory Rules (SRs) of Northern Ireland have been laid:
 - 2018 No. 92 The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 11 and Transitional and Transitory Provisions) Order 2018, made on 26 April 2018

Copies of SIs can now be downloaded from legislation.gov.uk

What's new on our HB pages on www.gov.uk

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

Document Type	Subject	Link
HB G4/2018	Information on Housing Benefit Matching Service rules. Discretionary Housing Payments – end of year returns 2017-18. HB decisions with the Upper Tribunal. New Legislation. What's new on our HB pages on www.gov.uk	G4-2018.pdf
Circular HB A6/2018	Housing Benefit operational information, performance support and engagement 2018/19.	A6-2018.pdf
Circular HB S9/2018	Transition to UC Housing Payments and Removal of Temporary Accommodation from Universal Credit New Burdens payments.	S9-2018.pdf
Circular HB S10/2018	Payment for the Verify Earnings and Pension Alerts service 2018.	S10-2018.pdf
UC 1/2018	Universal Credit Local Authority Bulletin.	UC1-2018.pdf

Annex A

Transition to Universal Credit Housing Payment – Frequently Asked Questions

Overlapping Benefit

Q1. Where an overpayment has occurred can the local authority (LA) legally recover the overpayment from the award paid covering a transition period?

A1. The effect of the Universal Credit (UC) (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018 is that Housing Benefit (HB) entitlement is now cancelled, for those migrating to UC, two weeks later than before 11 April 2018. The extended entitlement remains an entitlement of HB and subject to the limitations in recovery that are contained in the HB Regulations 2006, Part 13.

Any overpayment for the same period as the additional two week award of HB may be offset, but any other overpayment may only be recovered from ongoing entitlement using the appropriate claw-back rate in accordance with Part 13 of the HB Regulations 2006.

Q2. The LA support pack states that if an overpayment of HB is created from the cancellation of HB due to UC being claimed, then this overpayment should be offset against the 2 week Transition to UC Housing Payment. Can you confirm that this is correct?

A2. As any overlap will only occur from the day after the Transition to UC Housing Payment ends, normal overpayment offsetting rules apply so any claimant who has already received a HB payment for those two weeks and then subsequently have an overpayment raised prior to the Transition to UC Housing Payment being paid, should have the HB entitlement for the two week Transition to UC Housing Payment offset against that overpayment with any residual underpayment then being paid to the appropriate payee.

Example 1

HB stop received and UC effective date 13 April, HB has been paid until 17 April. The Transitional payment of HB should be until 26 April, therefore a payment will need to be made 18 - 27 April. The MGP1 will be returned to the UC service centre with HB closed – no overlapping benefit.

Example 2

HB stop received and UC effective date 13 April, HB has paid until 29 April. No transitional payment will be made to the claimant as they have already received the money. The MGP1 will be returned to the UC service centre with HB closed and the HB overlap details completed for 28 - 29 April. This will need to be classified as a Department for Work and Pensions (DWP) error.

Q3. When an overpayment of HB has been created and classified as a DWP error following the migration to UC. Should the two week Transition to UC Housing Payment be offset against the DWP overpayment period or should an additional two week payment be paid and not offset against the DWP overpayment period (if it's for the same period)?

A3. Any overpayment that is created for the same period as the two week Transition to UC Housing Payment should be offset from that payment as it is HB entitlement. Any overpayment that occurs after the end date of the Transition to UC Housing Payment is classified as a DWP error overlap.

Q4. Does the Transition to UC Housing Payment remain HB entitlement?

A4. Yes the transition of UC housing payment remains part of the HB award.

Q5. Where the Transition to UC Housing Payment has been paid to a landlord what actions should the LA take where an overpayment has occurred?

A5. In cases where a former Landlord was paid this HB, recovery should be sought from the Landlord who received the incorrect payment, rather than entitlement which is due to be paid to the claimant.

Single Housing Benefit Extract

Q6. Are there any plans to change the way entitlement to the Transition to UC Housing Payment is recorded on Single Housing Benefit Extract (SHBE)?

A6. We have no planned changes for the SHBE return as the Transition to UC Housing Payment is ordinary entitlement to the HB claim that is being closed down due to the claimant migrating across to UC. When closing down the claim, the LA should use the migrating to UC in the reason field which has been on-going so no additional changes to be made.

Passporting Benefit

Q7. UC is not a passported benefit so maximum benefit isn't guaranteed?

A7. UC is a passported benefit. [Circular HB A19/2013](#) states that UC would be included as a passported benefit along with Jobseekers Allowance (JSA) (Income Based), Employment and Support Allowance (Income Related), Income Support (IS), and Pension Credit. You are not required to wait for the UC award amount as the UC would passport the HB to the maximum amount, less any deductions for non-dependants, benefit cap etc.

Q8. [Circular HB A2/2018](#) Paragraph 23 states "As UC is treated as a passported benefit for HB purposes, the Transition to UC Housing Payment will be an extension of the current HB claim by adding two weeks of HB entitlement based on the claimant's new circumstances of receiving UC, which will passport full HB entitlement less any reduction for benefit cap for the two week payment"

Does this mean we have to wait to see if the claimant is entitled to UC before we award the transitional amount or is this paid based on full HB regardless of whether the customer is entitled to UC or not?

A8. The purpose of the Transition to UC Housing Payment is to help ease the claimant's migration from Legacy Benefits to UC by providing additional funds to the claimant while waiting for the first UC payment.

The Transition to UC Housing Payment is paid based on the claimant having made a claim for UC using UC as a passporting income – there is no need for LA's to wait for a UC claim to be awarded.

In the event that the claimant is not entitled to UC or the UC claim is subsequently withdrawn or cancelled, this does not affect the award of the Transition to UC Housing Payment or that the claimant was treated as receiving UC for that two week period.

Implementation Date

Q9. Can you clarify if the Transitional to UC housing payment applies to all HB stop notices received from 11 April onwards where a live HB claim is held, or only where the UC claim date is 11 April onwards?

A9. HB Stop notices received from and including 11 April 2018 which have a UC start date from 11 April 2018 attract the Transition to UC Housing Payment unless one of the exceptions apply.

These are:

- The claimant is living in Temporary Accommodation or Specified Accommodation, or
- a HB claimant is joining a UC claim as a new claimant partner as described in [Circular HB A12/2014](#) para 28.

Q10. While the effective date is 11 April 2018 does this apply only to a UC claim made on or after 11 April 2018 or does it apply to UC Stop notice received on or after 11 April 2018 irrespective of the UC claim date?

A10. As above

Q11. If a claimant claims UC in a full service area on 20 April 2018, and their HB has been paid to the landlord until to 23 April 2018, what action should the LA take?

A11. The LA should cancel the HB paid to the landlord from 20 April 2018 and make a Transition to UC Housing Payment to the claimant from 20 April 2018 for 2 weeks. An overpayment of HB for the period 20-23 April should be raised and be recovered from the landlord for the period that the claimant has vacated the property.

The Universal Credit (Transitional Provisions) Regulations 2014 are the provisions which determine when a legacy benefit claim is terminated when a

claimant migrates to UC and take precedent over the provisions contained within the Housing Benefit Regulations 2006.

Non-dependants

Q12. [Circular HB A2/2018](#) Paragraph 32 states the only reduction for a transition payment is in respect of a benefit cap. There is no explicit mention of reducing for non-dependant deductions. Can you clarify whether the transition payment is intended to be maximum eligible rent less any non-dependant deductions or maximum eligible in its entirety?

In addition, are the ineligible service charges still excluded?

A12. The Transition to UC Housing Payment awards an additional two weeks HB based on the circumstances that the HB team already held for the claim which was in payment prior to UC being claimed, with the exception of applying UC as a passported income for that two week period.

This remains a payment of HB and is subject to all other factors when determining assessment, such as eligible rent, local housing allowance(LHA) rate, removal of the spare room subsidy, non-dependant deductions, benefit cap etc except that the income applied for the two week period is UC which will passport maximum HB.

The award for the two week period would be the same as if the claimant received IS prior to migration to UC.

Q13. When LAs are notified of a claim to UC, the Transition to UC Housing Payment is paid by awarding an additional 2 weeks HB. Some claims to UC may have a Nil award due to income/capital and do not receive a UC payment. Is Transition to UC Housing Payment paid for all UC claims regardless of outcome?

A13. The Transition to UC Housing Payment is paid regardless of the outcome of the UC claim.

Q14. Would we still award the Transition to UC Housing Payment if a partnership is formed with someone already receiving UC including housing costs?

A14. No, in these instances no Transition to UC Housing Payment is payable because the rules regarding these cases are dealt with separately and the claim ends from the Sunday following the change as stated in [Circular HB A13/2013](#)

Payment

Q15. Should Transition to UC Housing Payment be paid to whoever it is currently receiving the HB, except where there is a change of address? For example for council tenants the Transition to UC Housing Payment is paid to the LA rent account, is this correct?

A15. [Circular HB A2/2018](#) Paragraph 25 confirms that where the migration to UC is prompted by a change of address, which LAs can identify because the

claimants address on the HB Stop notice differs to the HB claim address, the two week Transition to UC Housing Payment must be paid direct to the claimant. This is because it would not be appropriate to make the payment to a former landlord.

[Circular HB A2/2018](#) Paragraph 28 confirms that in all other cases (the ones which are NOT as a result of a change of address), the Transition to UC Housing Payment should be paid to the same payee who received the HB payments.

Q16. If a HB stop notice was received stating a claimant claims UC from 13 April 2018 due to a change in income. A Transition to UC Housing Payment would be awarded. However, if it was established the claimant moved on 9 April 2018 and HB stops from 9 April 2018 would Transition to UC Housing Payment still be awarded? If HB was paid to 15 April 2018 (because moving out of area means HB is paid to end of the week) would Transition to UC Housing Payment be awarded?

A16. If HB ends because of a change in circumstances which is *not* the migration to UC, the Transition to UC Housing Payment is not payable. The purpose of the Transition to UC Housing Payment is to provide assistance to HB claimants who have their claim ended because of claiming UC. If the HB claim has not ended because of the new UC claim, the Transition to UC Housing Payment does not apply to those cases.

Q17. If a Transition to UC Housing Payment is issued, but later found to be awarded in error, is the overpayment recoverable? Some guidance had been issued which referred to the Transition to UC Payment being “unrecoverable”, but I suspect the intention of that wording was to mean that the payment won’t later be recovered from Universal Credit.

A17. A Transition to UC Housing Payment is awarded in cases where a HB Stop notice is received and the Stop date is from and including 11 April 2018. If a revised HB Stop notice is received because UC is backdated and the revised Stop date is prior to 11 April 2018, the claimant would cease to be entitled to a Transition to UC Housing Payment. The MGP1 should be completed to include any overlapping benefit that has been paid to the claimant which will then be recovered through UC.

Q18. IT supplier advises that when the LA receive a HB Stop notification they:

- cancel the HB claim from the UC start date;
- create an overpayment of HB (where appropriate);
- re-open the HB case and pay the Transition to UC Housing Payment regardless of if this money has already been paid to the correct person.

Can you confirm if this is the correct action?

A18. No. The Transition to UC Housing Payment remains HB entitlement. Where the payment has been made to the correct person then this should be offset against any monies already paid. However, if the Transition to UC Housing Payment has been paid to a landlord and the claimant has changed address, the overpayment would need to be recovered from the landlord and Transition to UC Housing Payment made direct to the claimant.

Q19. If the HB stop notice is received for mid-week, HB regulations allow entitlement to be cancelled from the following Sunday. But payment will be an extension of the current HB claim based on the claimant's new UC circumstances. Therefore, for HB purposes, should the 2 week Transition to UC Housing Payment be from the end of HB entitlement or from the actual UC start date?

A19. The Universal Credit (Transitional Provisions) Regulations 2014 take precedent over the Housing Benefit Regulations 2006. Universal Credit (Transitional Provisions) Regulations 2014 Regulation 2A) says "Subject to paragraph (3), where this regulation applies, an award of HB to which the claimant is entitled on the day mentioned in paragraph (2)(a) or (b) terminates on the last day of the period of two weeks beginning with the day after that day (whether or not the person is also entitled to an award of income support or a tax credit).";

Therefore, if a HB Stop Notice is dated 26 April 2018, previous HB entitlement ends on 25 April 2018 and the Transition to UC Housing Payment HB entitlement is awarded from Thursday 26 April 2018 to Wednesday 9 May 2018 based on UC as a passporting income.

Q20. In the case of Housing Rent Account (HRA) HB award being paid directly into a rent account. If the claimant moves out of the borough or to a Rent Allowance property and a Transition to UC Housing Payment is appropriate, the transition period will be paid to the claimant's Housing Rent Account. In terms of subsidy which cell will contain this expenditure i.e. an HRA award paid by BACS directly to the claimant? As a general rule, LAs make HRA payment directly to rent accounts.

A20. The Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018 state that any Transition to UC Housing Payment that is awarded for a claimant that has had a change of address must be paid to the claimant and not the landlord. Making payment to the HRA is not in accordance with the regulations and I would advise that you speak to your software supplier to receive confirmation on how these payments may be paid directly to the claimant.

Subsidy

Q21. Have any subsidy implications been identified with the proposal of offsetting the overpayment against the manually created underpayment?

A21. The correct process would be to offset any overpayment for which 100% subsidy is payable. As the Transition to UC Housing Payment is a payment of HB entitlement, the usual subsidy rules apply when it is paid correctly.

Benefit Cap

Q22. The guidance issued in [Circular HB A2/2018](#) specifically mentions that the Benefit Cap will still apply to the Transition to UC Housing Payment. How will this work in practice?

For example, the customer is treated as having income from UC during those two weeks, and as the UC amount is not known until processed several weeks later. The only DWP income included in the benefit cap which is likely to remain in payment is Child Benefit.

A22. The Benefit Cap can only be disallowed when UC is in payment. As the claimant is treated as receiving UC, the existing Benefit Cap amount must still apply until such time that a 'Remove Cap' notification is received, at which point the HB award should be revised to remove the Benefit Cap.

Q23 Should their previous Benefit Cap details be used in the assessment of the Transition to UC Housing Payment when most of the constituent DWP income (JSA/IS/Tax Credits) will cease as soon as UC is claimed?

A23 A claimant remains subject to the benefit cap even if circumstances change until such time that a 'Remove Cap' notification is received.

HB Stop Notifications

Q24. How will DWP be reporting the start date of UC on HB Stop notices after 11 April 2018?

A24. As [Circular HB A2/2018](#) confirms in paragraph 29, the dates on the notice will not alter to reflect the period the Transition to UC Housing Payment would apply and will continue to reflect the UC claim date.

As confirmed in [Circular HB A2/2018](#) paragraph 31, HB Teams should add a 14 day period from the date of the HB Stop notice and award the Transition to UC Housing Payment for this period.

MGP1

Q25. Will the DWP accept MGP1s that report an overlapping HB overpayment where the dates include the Transition to UC Housing Payment? So if a customer claims UC on 11 April 2018, will the DWP accept any overlapping HB dates that are before 25 April 2018?

A25. The Department would not expect to receive details of any overlapping HB which related to the dates for the Transition to UC Housing Payment.