

Section 8: Expenditure not to be included as qualifying expenditure because it does not attract subsidy

Introduction

1100 Some HB expenditure does not qualify for subsidy and, therefore, should not be included as HB qualifying expenditure.

1101-1109

Differential rent schemes (The modular improvement rule)

1110 If an authority tenant is able to choose extra or enhanced services or facilities in return for an increase in rent, that increase is ineligible for subsidy if subject to a rebate. The intention is to prevent the Exchequer facing extra costs from modular improvement schemes targeted solely or mainly at tenants on rebates.

1111 This exclusion applies not only to HB awarded to tenants who have been given a choice but also applies to 'negative choice' situations, ie where the authority offers to make improvements unless the tenant declines.

1112 A modification to the rule was introduced in 1994/95 whereby authorities may apply for exemption if all the following criteria apply

- its improvement scheme is made available solely according to the physical needs of properties in its stock, and the services needed by tenants, and
- tenants are eligible to participate in the scheme and make choices about extra or enhanced services or facilities and increased rent/service charge levels, regardless of whether they are in receipt of a rent rebate, and
- the authority, either in the relevant year or in the two previous years, has, or had, no policy or practice of letting houses or flats targeted for modular improvements solely or largely to tenants who are in receipt of, or are likely to become entitled to, rebates, and
- the additional rents and service charges levied reasonably reflect the services, facilities and rights provided

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1113 It is the responsibility of the authority to convince its external auditors that exemption from the rule should apply. Auditors may qualify any claim if they are not satisfied that these conditions have been met and that, therefore, subsidy has been inappropriately claimed. In these circumstances, the authority will be required to make a subsidy deduction in accordance with the modular improvement rule.

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Rent-free weeks and credits

1120 Where an authority operates a system of 'rent-free' weeks, subsidy may be claimed only for weeks where rent is actually due. Subsidy may not be claimed for any week for which a person is awarded a rent credit, whether or not they are immediately entitled to that credit.

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Awards to tenants

1130 If an authority makes a cash payment to tenants in receipt of HB, or some other payment in kind, subsidy will be reduced by the amount of the payment awarded unless the award is one of those listed in *paragraph 1132*.

1131 If an award is made in advance or retrospectively, it will be treated for subsidy purposes as having immediate effect. Awards, in those contexts, refer only to payments, in cash or kind, or credits given because the beneficiary is a tenant.

1132 The following awards will not reduce the amount of subsidy payable

- a grant to a tenant for a reason unrelated to his tenancy, such as a discretionary educational maintenance award
- an award made by an authority to a tenant which it is required to make by statute
- a discretionary payment to a tenant made in accordance with section 137 of the Local Government Act 1972 or section 83 of the Local Government (Scotland) Act 1973
- reasonable compensation, for repairs or re-decoration carried out by a tenant but which would normally have been undertaken by the landlord
- reasonable one-off payments made as compensation to a tenant for loss, damage or inconvenience of a kind that only occurs exceptionally, suffered by the tenant by virtue of occupation of a particular property

- 1133 *Paragraphs 1130 to 1132* do not affect any adjustment made by an authority to a tenant's rent account to correct an accounting error, ie where the amount paid by the tenant differed from the amount due.

Prior year overpayments

- 1134 Prior year overpayments are those identified in the year relating to benefit paid in an earlier year.
- 1135 Prior year overpayments should **not** be recorded in the total expenditure cells of the relevant year claim.

Recovered overpayments resulting from payments on account

- 1136 Any recovered overpayments occurring as a result of a payment on account in a previous year should be excluded from qualifying benefit.

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Uncashed payments of HB

- 1140 Subsidy is not payable in respect of uncashed instruments of payment. Uncashed benefit instruments are not overpayments of benefit and should not be treated as such.
- 1141 Uncashed payments of benefit include instruments of payment
- that are generated by computer but are not actually issued
 - that are returned uncashed to the authority
 - found not to be cashed by their expiry date
- Note: there is no statutorily defined expiry date. A maximum of six months is suggested.
- 1142 Time delays will occur between the date an instrument of payment is issued and the date an authority becomes aware that it has not been cashed. Authorities are not expected to carry out a reconciliation exercise at the end of the financial year to identify instruments that remain uncashed.
- 1143 For the purposes of claiming benefit subsidy, instruments of payment that are brought to account at the time of issue can be assumed to have been cashed until the authority discovers otherwise.

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- 1144 Instruments of payment that are issued correctly may be returned uncashed to an authority and subsequently be issued or replaced. Authorities must ensure subsidy is only claimed once. When a replacement payment is made in a case where a payment has been issued that is subsequently returned uncashed, the appropriate rate of subsidy is payable on that replacement.
- 1145 When an uncashed payment is discovered, authorities must ensure the necessary adjustments are made if subsidy has previously been claimed on these payments. Where this was at a lower rate than 100% then authorities should ensure that a deduction is also made to the appropriate cell.
- 1146 For instruments of payment that were issued in a previous year, authorities should ensure that the subsidy already claimed in a previous year is deducted from the amount claimed for the relevant year.

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Queries

- 1150 If you have any queries concerning the content of this section, contact

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Modified schemes

- 1160 Authorities' expenditure on increases in benefits awarded to war pensioners or war widows (under sections 134(8) or 139(6) of the Social Security Administration Act 1992) does not qualify for subsidy. The position in such situations is shown below.

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Benefit awards to war pensioners or war widows/widowers

1170 There will be no limit set on authorities' powers to increase benefit for war pensioners and war widows or widowers within the legislation. However, the permitted total for HB expenditure is set at 100.7% of the authority's total HB expenditure when an authority disregards some or all of a

- war widow's pension to which regulation 7 of the Income-related Benefits Schemes Amendment (No2) Regulations 1995 (SI 1995/2792) applies, or
- war widower's pension to which
 - Schedule 5, paragraph 15 of the main HB Regulations applies, or
 - regulation 29(1)(f) and Schedule 5, paragraph 1 of the regulations (people aged 60 or over) apply

This is because these awards reflect modifications to schemes under sections 134(8)(b) and 139(6)(b) of the Administration Act 1992.

Additional subsidies to LAs operating a discretionary local scheme

1171 Most LAs currently operate some form of discretionary local scheme for war pensioners. This allows LAs to disregard some or all of any War Disablement Pension or War Widow's/War Widower's Pensions over and above the statutory limits.

1172 Currently there are two types of disregards for War Pensions

- a statutory disregard is applied to War Pensions in calculating entitlement to HB. In addition, there is a statutory disregard of (rates are uprated annually by the Veterans Agency) for pre-1973 War Widows' Pensions. Statutory disregards are fully subsidised
- a discretionary local scheme under which an LA can apply for a further disregard up to the full amount of any War Pension in payment. Any additional benefit granted, due to a disregard above the statutory levels, is not subsidised, but is funded from the LA's own resources

1173 From April 2004, LAs operating a local scheme will receive 0.2% addition to their annual subsidy, capped at 75% of the total benefit cost to the LA of the local scheme.

1174 The rationale behind this change to the subsidy rules on discretionary local schemes is to provide recognition through the subsidy system of the existence of such schemes in LAs. It does not

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relate to the extent of the disregard that the LA applies, which remains a matter for individual LAs.

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Queries

1180 If you have any queries concerning the

- treatment of War Pensions – Local Schemes (paras 1160-1172), please contact HOUSING.BENEFITENQUIRIES@DWP.GSI.GOV.UK
- addition of subsidy (paras 1171-1174), contact

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