

Equality Analysis for Housing Benefit (Temporary Absence)(Amendment) Regulations 2015

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Work and Pensions

The Housing Benefit (Temporary Absence from Great Britain) Regulations 2015

Introduction

This document records the analysis undertaken by the Department to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.

The PSED requires the Minister to pay due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

In undertaking the analysis that underpins this document, where applicable, the Department has also taken into account:

- the [United Nations Convention on the Rights of Persons with Disabilities](#) (CRPD);
- Convention on the Elimination of All Forms of Discrimination against Women;
- the United Nations Convention on the Rights of the Child (UNCRC).

Brief outline of policy or service

Housing Benefit (HB) has a general temporary absence rule meaning that HB can continue for a maximum of 13 weeks, where the period of absence does not, or is not expected to exceed 13 weeks, and the person intends returning to the dwelling and has not sub-let the property.

If the period of absence is expected to last more than 13 weeks, HB stops immediately. Within this rule, HB does not distinguish between absences from home within Great Britain (GB) or outside GB.

Universal Credit (UC) does have such a distinction, the general rule being that the allowable period is one month when the person is outside GB. The HB regulation relating to the 13 week absence is being amended to specify that absences from GB are limited to 4 weeks.

Amendments in line with the amendments to HB regulations are also being made to the Pension Credit regulations.

UC has an additional rule which allows an extension to the 4 weeks absence from GB rule following the death of their partner, child or qualifying young person. This rule is being included in the amendments to the HB regulations to align those regulations with UC.

HB allows up to 52 weeks absence in specific circumstances: for example, where the claimant or their partner needs to have treatment outside the UK for an illness or

condition, or to accompany a child or young person who requires treatment for an illness or condition (see full list below).

UC has a similar condition, but absences are limited to up to 6 months. The amending regulations will bring HB into line with UC, so that absences are limited to 26 weeks in specific circumstances. These will be narrower than the current HB circumstances.

UC also has an exemption for members of the armed forces who are away on operations outside GB, as well as mariners and continental shelf workers so that they are treated as being in GB for 26 weeks. HB regulations will be amended to add an exemption so that members of the armed forces who are away on operations outside GB can continue to be treated as occupying their accommodation for 26 weeks. This exemption will also apply to mariners and continental shelf workers.

List of current extensions to general rule for absences in HB Regulation 7

This table shows the period of absence allowed under the current HB regulations and the new period which will apply to absences outside GB when the regulations are amended. Under the new regulations absences to Northern Ireland will be restricted to 4 weeks.

	Current (anywhere)	Proposed (if outside GB)
<ul style="list-style-type: none"> • <u>Regulation 7 (11) & (12)</u> A person enters residential accommodation to determine whether it is suitable for their needs. 	13 weeks	4 weeks
<ul style="list-style-type: none"> • <u>Regulation 7 (13)</u> A person can be temporarily absent, if the absence is unlikely to exceed 13 weeks 	13 weeks	4 weeks
<ul style="list-style-type: none"> • <u>Regulation 7 (16) (i)</u> A person is detained in custody on remand pending trial, pending sentence upon conviction, has bail requirements to live elsewhere, needs to live in bail accommodation or is sentenced following conviction¹ 	52 weeks	4 weeks
<ul style="list-style-type: none"> • <u>Reg 7 (16) (ii)</u> The person is resident in hospital or similar institution as a patient 	52 weeks	26 weeks

¹ There are arrangements where a sentenced UK prisoner can request to be transferred to their home country under Schedule 1 of the Crime (Sentences) Act 1997.

• <u>Regulation 7 (16) (iii)</u> The person, partner or dependent child is undergoing medical treatment (MT) or medically approved convalescence in accommodation other than residential accommodation.	52 weeks	26 weeks ²
• <u>Regulation 7 (16) (iv)</u> The person is undertaking a training course.	52 weeks	4 weeks
• <u>Regulation 7 (16)(v)</u> The person is providing medically approved care (MAC) of a person residing in the UK or elsewhere	52 weeks	4 weeks
• <u>Regulation 7(16)(vi)</u> the person is caring for a child whose parent is temporarily absent for receiving MAC or MT.	52 weeks	4 weeks
• <u>Regulation 7(16)(vii)</u> The person in the UK or elsewhere receiving MAC provided in accommodation other than residential accommodation.	52 weeks	26 weeks
• <u>Regulation 7(16)(viii)</u> A student that paragraph 3 & 6b does not apply.	52 weeks	4 weeks
• <u>Regulation 7(16)(ix)</u> The person receiving temporary care in residential accommodation that is not on a trial basis.	52 weeks	4 weeks
• <u>Regulation 7(16)(x)</u> The person that has left their dwelling through fear of violence in that dwelling.	52 weeks	4 weeks

Transitional provision

A transitional provision will be included so that the changes won't apply to people who are temporarily absent from GB on the date the regulations come into force unless they are a member of the armed forces away on operations, a continental shelf worker or mariner.

Evidence and analysis

The revised temporary absence rules will, from April 2016, apply to both new claimants to HB and the stock of HB claimants. Information on those claimants that take a temporary absence, regardless of length of time is not collected. Therefore,

² However, this only applies where the claimant, partner or child already had that illness or impairment before leaving GB.

this assessment assumes that all HB claimants are potentially affected by the changes. The comparator group are those that are not claiming HB.

Gender

The table below shows the gender breakdown of HB claimants, and those that are not claiming HB.

	Affected	Comparator
Male	29%	24%
Female	48%	25%
Couple	23%	52%
All	100%	100%

Source: 2012/13 Family Resources Survey

There is a higher proportion of single females in the affected group than in the comparator group as almost half of HB claimants are single females, compared to a quarter of those not claiming. There are a lower proportion of couples in the affected group.

Gender - Conclusion

The new legislation will apply to all customers equally from April 2016 and so will not affect any customers differently because of their gender. However, because around half of the HB claimants are single females compared to a quarter of those not claiming HB, single females are more likely to be affected.

Couples are less likely to be impacted. Less than a quarter of HB claimants are couples compared to over half of those not claiming HB. However, we don't have data of those that would be directly affected through travelling abroad for more than 4 weeks.

Although we have no substantial analytical evidence, there will be small cases of claimants impacted by the policy (in the main, women) who have left their dwelling through fear of violence in that dwelling – for example fleeing back to a family in Northern Ireland.

Currently those fleeing domestic violence are allowed HB during a period of temporary absence for up to 52 weeks. Under the changes if they decide to flee to a place of safety outside GB, as with the example to Northern Ireland, then their HB will be stopped after 4 weeks. It is the Department's view that due to very small assumed numbers we do not propose to make extensions to this group.

Disability

The table below shows the breakdown of households with at least one adult with a 2010 defined disability for both HB claimants and those not claiming HB.

There are a higher proportion of adults with a disability in the affected group in comparison to the comparator group

	Affected	Comparator
No adults with Equality Act 2010 defined disability	48%	75%
At least one adult with Equality Act 2010 defined disability	52%	25%
All	100%	100%

Source: 2012/13 Family Resources Survey

Disability – Conclusion

The policy change affects all HB claimants equally, regardless of disability, the fact that there is a higher proportion of households with a disability in the affected group is due to the profile of those on HB compared to those not claiming HB.

However, although we don't have data of those that would be directly affected through travelling abroad for more than 26 weeks, of those that choose to do so, it may be that households with a disability would be disproportionately affected. Under the current rules a disabled person who needs to travel abroad for long periods for medical treatment or to convalesce will be awarded HB for up to 52 weeks but the new policy will reduce this to 26 weeks.

Race / Ethnicity

The table below shows the race/ethnicity profile of HB claimants and non HB claimants

	Affected	Comparator
Unknown	12%	11%
White	74%	79%
Mixed	1%	1%
Asian or Asian British	4%	5%
Black or Black British	7%	2%
Other including Chinese	2%	1%
All	100%	100%

Source: 2012/13 Family Resources Survey

The profile between both those claiming HB and those not claiming shows there may be slightly fewer white people affected, and more Black / British Black. Although the difference between 74% and 79% might appear similar, in terms of statistical testing, because the sample size is large there is a statistically significant difference.

Race/Ethnicity - Conclusion

The new legislation will apply to all customers equally from April 2016 and so will not affect any customers differently because of their race/ethnicity. However, due to the ethnicity profile of HB claimants, there may be an impact on the proportion of Black / Black British ethnicities and a lower proportion of white people are in the affected group.

However, although we don't have data of those that would be directly affected through travelling abroad for more than 4 weeks, of those that choose to do so, it

may be that as around 20%³ of visits between 28 and 90 days are to an Asian country potentially the Asian ethnicity could be more affected by the rule change. This could also mean that this is reflected in a disproportionate impact on certain religious groups, for example Muslims, Sikhs and Hindus.

It is the Department’s view that the allowance of a 4 week absence is reasonable and should allow sufficient time, for example, for pilgrimages or sharing religious festivals with family members abroad, without claimants having to reclaim Housing Benefit on their return to Great Britain.

Age

The following table shows the age breakdown of HB recipients and those not receiving HB. Where the HB claimant is part of a couple, the age of the younger member of the couple has been used, in line with the UC definition of working age.

	Affected	Comparator
Under 25	18%	16%
25 to 29	10%	10%
30 to 34	8%	8%
35 to 39	7%	8%
40 to 44	10%	8%
45 to 49	8%	9%
50 to 54	7%	8%
55 to 59	6%	7%
60 to 64	5%	7%
65 plus	22%	20%
All	100%	100%

Source: 2012/13 Family Resources Survey

Age – Conclusion

There are no significant differences between the age profile of those that would be affected and those of the comparator group. However, although we don’t have data of those that would be directly affected through travelling abroad for more than 4 weeks, of those that choose to do so, it may be that older age groups would be disproportionately affected as they may travel abroad to try out residential accommodation for example in Northern Ireland or seeking Winter sun.

Remaining groups

DWP has considered equality in respect of the introduction of this change on the remaining “protected characteristic” groups below, but there is no (or limited) data available in order to assess the impact of the policy on these groups:-

- Sexual orientation
- Pregnancy and maternity
- Religion and belief

³ Source – International Passenger Survey Table 5.06 Visits to India, Pakistan and Other Asia.

- Marriage and civil partnerships
- Gender reassignment

The impact on households with children was considered and although there is no data available, it is possible that children who are fleeing domestic violence overseas with one of their parents will be affected more than children who remain in GB who are temporarily absent from their usual home.

Decision making

The Department undertook analysis aimed at determining HB claimants, with reference to Gender, Disability, Race and Age. In order to facilitate comparisons, due to lack of data of those that take a temporary absence, HB claimants in both social and private sector housing were used as a proxy for those that would be affected by changes to the temporary absence rules. The analysis showed that the potentially affected group would be more likely to be a single female or a female with children than the comparator group, more likely to be disabled than the comparator group. The analysis also showed that more Black / British Black ethnicity could be affected.

However, the impacts on these affected groups are due to the profiles of the current HB caseload, rather than changes in the policy. From April 2016 the reduction in the length of time a claimant can be temporarily absent outside GB will apply to all HB claimants regardless of their protected characteristics.

Whilst the primary analysis doesn't show an impact on the Asian ethnicity, analysis of the proportion of 28 – 90 day visits to Asian countries suggests that this ethnicity may be more likely to take temporary absence over the affected period of time and so due to the policy change may be more likely to be impacted more than the comparator group.

Monitoring and evaluation

DWP is committed to monitoring the effects of its policies and we will use evidence from a number of sources on the experiences and outcomes of the protected groups.

We will use administrative datasets to monitor trends in the benefit caseloads for some of the protected groups and in the level and distribution of benefit entitlements. The administrative data will provide robust material for age and gender although not, as a rule, for the other protected groups.

We will use feedback from stakeholder groups to assess whether there are unintended consequences for the protected groups, and whether the policy itself results in adverse consequences for particular groups.

As part of our actions in the context of the data requirements under the Equality Act, we are looking across DWP activities to identify and address further gaps in data provision wherever reasonable.

When will the potential impacts be reviewed?

Local Authority decision makers will be given contact details to ensure they can report problems should they occur. This is normal practice, and is in addition to the more corporate liaison arrangements between the Department and the Local

Authority associations, which also provide Local Authorities with the means of raising issues with the Department.

Sign off

Neil Johnson