Housing Benefit and Council Tax Benefit

General Information Bulletin

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http://www.dwp.gov.uk/local-authority-staff/housing-benefit/

HB/CTB G3/2012 16 March 2012

Contact

Queries about the
- 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) and Council Tax Benefit (CTB) staff

Urgent Action

Important information about the Benefit Cap and recovery of HB Overpayments from Universal Credit

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The Benefit Cap

Issue

1. Local authorities (LAs) will be aware that there was agreement through the Parliamentary process to the introduction of a Benefit Cap for working age households from April 2013. The Welfare Reform Bill received Royal Assent on 8 March 2012. The latest Impact Assessment, published 23 January 2012, gives further information on the cap.

2. This note sets out the current position on the cap and defines some of the support that will be made available to help claimants who will be affected by the cap to find, or move closer to, work.

Background

3. From April 2013 a cap will be introduced on the total amount of benefit that working age people can receive, so that workless households will no longer receive more in benefits than average working families, after tax and National Insurance. For benefit purposes, the household includes all dependants and excludes non-dependants.

4. The cap will apply to the combined income from:
   - Out-of-work benefits (Jobseeker’s Allowance, Income Support and Employment & Support Allowance, except where the Support Component is in payment);
   - Housing Benefit (HB);
   - Child Benefit and Child Tax Credit;
   - Universal Credit (from October 2013); and
   - Other benefits such as Carer’s Allowance and Maternity Allowance.

5. One-off payments e.g. Social Fund Loans and non-cash benefits, for example Free School Meals, will not be included in the assessment of benefit income.

6. Council Tax Benefit (CTB) (and its local replacement) and payments for child care costs will also be excluded.

7. Our working assumption is that the cap will be set at around £350 a week for single adults with no children; and at around £500 a week for couples (with or without dependant children) and lone parents with dependant children.

8. The cap will not apply where someone in the household:
   - Obtains work and becomes entitled to Working Tax Credit;
   - Is in receipt of War Widows or Widowers Pension, Disability Living Allowance (Personal Independence Payment from April 2013), Attendance Allowance, Constant Attendance Allowance or the support component of Employment Support Allowance.

9. People could also
   - Move to cheaper accommodation or negotiate a rent reduction to one which is more affordable, which where possible, reduces total benefit entitlement to below the cap.
10. People who have been in employment for 52 weeks or more when they claim benefit, who lost their job through no fault of their own, may be exempt from the cap for up to 9 months.

11. In the first instance the cap will be administered jointly by DWP and LAs and be deducted from HB payments. In the long term it will form part of the new Universal Credit system.

12. A project team has been set up in DWP to support the smooth implementation of the cap. The Project has been liaising with the regular LA forums, namely the Local Authority Association Steering Group, the Practitioners’ Operational Group and the LA IT suppliers' forum to ensure we are aware of the full impacts for LAs. We have also recently had a full time LA secondee from the Revenues and Benefits Department, London Borough of Lambeth, placed into the project.

13. The project team will send every LA a data scan detailing the claimants potentially affected by the cap in that LA’s geographical area. This process will be repeated at regular intervals so that new cases are identified and acted upon. The data will include HB data that will be pulled from the Single Housing Benefit Extract (SHBE). We are currently investigating the best way of getting these data scans to LAs.

**Notifying and supporting claimants**

14. We want to give all existing claimants who could potentially be affected as much notice as possible; and offer them appropriate support to change their circumstances and obtain work wherever this is possible. To ensure this happens, we plan to send a letter (that will shortly be provided as part of the detailed briefing pack), to every adult within each of the 67,000 households that will be affected by the cap. The letters are expected to be sent from the end of April 2012; and again as we run additional scans.

15. DWP colleagues will provide support through a 0845 helpline which claimants can call with enquiries and to obtain information regarding the potential impact of the cap; and through which they can be signposted to support, including assistance in other languages. They will also provide a handover referral to DWP offices for claimants who have requested employment support. DWP will ensure that each adult who will be affected is proactively offered, via an outbound call, an appointment to discuss their circumstances and the support that may be available to them. Early access to the Work Programme will be available, as appropriate.

16. Some claimants will wish to discuss their housing options so DWP will direct these claimants to their LA. We appreciate that LAs are already delivering support to claimants due to other changes to HB rules so we need to work with LAs to identify any specific issues caused by the application of the cap, and to understand how the additional funding being made available through the Discretionary Housing Payments Scheme might best be used.

17. Further, we are seeking to have a single point of contact within each LA and DWP District/site (depending on numbers) to handle Benefit cap enquiries and ‘own’ the data scans for their geographical area. Further guidance will be issued as we develop these roles.
Approach
18. We expect that DWP District Managers will take the lead in building relationships locally and ensure that provision is prioritised to support claimants - some of whom currently have very little engagement with Jobcentre Plus - potentially subject to the cap. A multi-agency approach, including LAs, Work Programme Providers, other key partners and employers is likely to work best when discussing issues about the benefit cap, alongside other agendas.

Further information
19. Now that Royal Assent has been attained, additional information will be provided including, for example, communications products for use with staff in DWP and in LAs; numbers of claimants affected - by district/LA; additional funding that may be made available, including for additional work involved with administering the cap.

20. The Benefit cap project will shortly issue further information and guidance that confirms the dates of when we will issue the letter to claimants and when and how we will be sending out the data scans to LAs. We will also provide more information around the delivery timetable with the detail of how the cap will be applied from April 2013 in due course.

 Queries
For further information on the content of this item please contact:
alan.sullivan@dwp.gsi.gov.uk

Recovery of Housing Benefit Overpayments from Universal Credit

21. We have received some enquiries asking whether the Housing Benefit (HB) Regulations will be amended to allow for overpayments of HB to be recovered from Universal Credit (UC).

22. We can confirm that we are amending the HB Regulations (HB Regulation 105), so that UC is added to the list of benefits that HB overpayments can be recovered from. It will form part of the consequential amendments that need to be made to all regulations that have a link to UC. We cannot however make the amendments until UC exists, so the regulations will not come into force until April 2013

 Queries
For further information on the content of this item please contact:
ady.garrett@dwp.gsi.gov.uk

Impact of the Universal Credit Programme visits to local authorities

23. A paper outlining the impact of the UC Programme visits to LAs was posted on the Universal Credit Local Authority (UCLA) website on the 2 March 2012 (www.dwp.gov.uk/ucla).

24. The paper highlights some of the LA Liaison Teams findings to date and offers some insight from the LA visiting programme so far and lets LAs know a bit more about what we’re doing with the information garnered from visits. The visiting
programme is continuing and more issues and best practices will no doubt come to light, but we felt that now the programme has been running for nearly nine months it was the right time to share some of the feedback from LAs and say how we’re taking the issues forward.

25. The team would like to take this opportunity to thank all the authorities visited so far for their help and co-operation, and we look forward to continuing to work with LAs throughout the whole of the UK going forward.


Queries

For further information on the content of this item please contact:
ron.alligan1@dwp.gsi.gov.uk

The Social Security (Recovery) (Amendment) Regulations 2012 (SI 2012 No. 645)

27. Circular HB/CTB A1/2012 (Uprating) contained details of the increases to the overpayment recovery rates that will come into effect from April 2012. The regulations to achieve this are in SI 2012 No 645, which comes into force on 1 April 2012.

28. This set of regulations also contains two amendments to the HB and Council Tax Benefit (CTB) Overpayment regulations. Those amendments do not affect current practice, but ensure that the wording of the regulations more accurately reflects the policy intention.

29. The first of these further amendments affects HB Regulation 104(1), (and the HB Pension Age Regulation 85(1)) by inserting the words ‘to the person from whom the overpayment is recoverable or their partner’ after the words ‘determined to be payable’.

30. CTB Regulation 89(1) (and the CTB Pension Age Regulation 74(1)) has a similar amendment. The words ‘to the person from whom the excess benefit is recoverable or their partner’ are to be inserted after the words ‘determined to be payable’.

31. These changes clarify that where a person, who is a member of a couple, has been overpaid HB the overpayment should be reduced by any underlying entitlement their partner (who remains on HB) would have been entitled to for the same period. The effect in CTB is the same.

32. This applies to any situation where a member of the couple who remains entitled to benefit would have been entitled to a higher rate of benefit during the overpayment period had the circumstances or change been reported correctly and on time. An example of how this could occur is shown below.
**Example**

Mr A and Miss B each made a claim for HB in the same dwelling and were each awarded benefit at the Shared Accommodation Rate. A year later it is found that they are and always have been a couple.

It is decided that the claimant should be Mr A, and as a member of a couple he is entitled to the one bedroom rate of Local Housing Allowance (LHA). This is an advantageous change so benefit would not normally be payable for the past period.

Miss B is not entitled to any HB and has been overpaid for the last year.

The overpayment should be reduced by underlying entitlement based on the difference between the shared room rate of LHA and the one bedroom rate that Miss B’s partner (Mr A) would have otherwise been entitled to for the overpayment period had the correct information been known at the time.

33. There is also a minor consequential amendment to correct an erroneous cross-reference in the recovery provisions in the CTB Regulations: in CTB Regulation 86(3) (b) “90(1A)” is substituted with “90(1B)” and CTB (Pension Age) Regulation 71(3) (b) “75(1A)” is substituted with “75(1B)”.

**Queries**

For further information on the content of this item please contact:

HBandCTB.Overpayments@dwp.gsi.gov.uk

**Tax Credits: One off Payments**

34. A number of enquiries regarding the treatment of one-off payments to people awarded a tax credit have been received. The following advice should be read in conjunction with the guidance at sections W2.622 to W2.644 in the HB/CTB Guidance Manual.

35. HM Revenues and Customs (HMRC) have advised that one-off payments typically occur during an award, where there has been a change of circumstances and entitlement is subsequently revised, they can also arise at the start of a claim. After this adjusting payment the regular instalment payments will commence or resume. In most cases the one-off payment will fit in with the instalment pattern but will represent an odd amount for the week in which it is paid.

36. Local authorities (LAs) must look at each case individually to determine the most appropriate way of taking these payments into account. This may not be straightforward as the HB/CTB regulations envisage tax credits being paid either as regular instalments or as arrears. The following advice supplements the Guidance Manual and LAs may use this to help inform their decisions.

**Arrears of tax credits**

37. Where it is clear that the payment represents arrears it should be treated as capital and disregarded for up to 52 weeks (see paragraph W2.627 in the
Guidance Manual for an example of this). Termination payments can also be classed as arrears where they are paid after the end of the tax credit entitlement, and are not just the final instalment.

**Non-arrears payments**

38. An adjusting payment which is not classed as arrears should be taken into account as income. HB Regulation 32 (and corresponding CTB and SPC Regulations) deals with tax credit income and may apply. For example a one-off payment that bridges the gap between two instalments could be applied using the provisions in Regulations 32 to the period ending on the day the one-off payment is paid.

39. Difficulties in using Regulation 32 include for example where the claimant receives a payment equivalent to 10 days tax credit, and the LA must decide whether to attribute this to one week, or attribute 7/10 of the payment to week one and 3/10 to week two, using the provisions covering daily amounts in HB Regulation 33.

40. Where this makes it difficult to estimate a claimant's weekly income accurately it is the Department’s view that LAs can instead opt to use HB regulation 31 (or corresponding provisions in the CTB and SPC regulations). Regulation 31 allows the payment to be estimated over such a period as is considered appropriate in order that the average weekly income can be accurately estimated.

**Queries**

For further information on the content of this item please contact:
HBandCTB.Overpayments@dwp.gsi.gov.uk

**Care Homes - Protected Housing Benefit Cases**

41. We are asking for your help to establish whether there are any remaining HB cases in which some people who lived in residential care homes and who have remained entitled to HB as a transitional arrangement. It would be very helpful to receive replies, including nil returns, by 30 March 2012.

42. The HB regulations contain a transitional provision that treats certain people who live in care homes as eligible for HB. The provision is in Regulation 6 and paragraph 9 of Schedule 3 to the HB and CTB (Consequential Provisions) Regulations 2006.

43. There are only two categories of people who are covered by the regulations. Entitlement to HB has been transitionally protected for those who have been continuously entitled to and in receipt of HB since either 29 October 1990 or 31 March 1993 for the address. After these dates those in care homes or small care homes, respectively, are no longer entitled to claim HB. Where a claim was not in payment at that time it cannot now be put into payment.

44. It is not possible to identify how many of these individuals may still be in receipt of HB from the Single HB Extracts (SHBE) extracts so we are asking for LA assistance to establish whether there are any such cases and, if so, how many.
45. We should be grateful if LAs could email HBandCTB.Overpayments@dwp.gsi.gov.uk with the number of cases you still have in payment. Please provide one figure (or nil) for working age claimants and one for state pension credit age claimants. Returns by 30 March 2012 would be very helpful.

Queries
For further information on the content of this item please contact: HBandCTB.Overpayments@dwp.gsi.gov.uk

Update on transitional funding
46. Last year we used £4 million to fund 10 successful bids from innovative projects to help ease the transition of our reforms to HB.

47. One of the successful bidders is now making its service available to other LAs.

48. www.letshelpyou.co.uk is an affordable property website focused on widening choice to tenants who are, and will be, affected by the changes in the HB system. It has been led by Kirklees council and aims to reduce tenants’ reliance on the LA, decrease intervention and avoidable contact, encourage self-service, and bring tenants and landlords together directly.

49. Currently being trialled across Leeds, Bradford, Calderdale, Wakefield and Kirklees, 715 landlords registered before the site went live mid-February and there are already considerable levels of traffic on the site. In light of the additional allocation through DWP’s transitional funding, the ‘Let’sHelpYou’ service will be available for other LAs to deploy from the beginning of April 2012. If you want to find out more contact info@letshelpyou.co.uk to receive a full information pack.

Queries
For further information on the content of this item please contact: Samuel.Spencer@dwp.gsi.gov.uk or Marie.Savage@dwp.gsi.gov.uk

Statutory Instruments
50. The following Statutory Instruments (SIs) have been laid

- 2012 No.528, The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling and Compensation Cap) Order 2012, coming into force from 21 March 2012
- 2012 No.539, The Occupational and Personal Pension Schemes (Levies Amendment) Regulations 2012, coming into force 1 April 2012
- 2012 No.542, The Occupational Pension Schemes (Contracting-out and Modification of Schemes) (Amendment) Regulations 2012, coming into force 6 April 2012
• 2012 No.646, The Rent Officers (Housing Benefit Functions) (Amendment) Order 2012
• 2012 No.692, The Pensions (Institute and Faculty of Actuaries and Consultation by Employers – Amendment) Regulations 2012, coming into force 6 April 2012
• 2012 No.766, The Social Security (Credits) (Amendment) Regulations 2012, coming into force 5 April 2012


What’s new on the web

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

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**HB/CTB Circulars issued recently**

53. The following circulars have been issued recently

- HB/CTB S1/2012
- HB/CTB S2/2012