New benefit rules for children unable to share a bedroom due to disability

New housing benefit and universal credit regulations have been issued that have the effect of allowing an additional bedroom to be allocated under the “size criteria” where a severely disabled child who would normally be expected to share a bedroom is not reasonably able to do so due to their disability.

In force from 4 December 2013, the Housing Benefit and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations 2013 (SI. No.2828/2013) provide for amendments to the application of the size criteria designed to comply with the terms of the Court of Appeal’s May 2012 ruling in Gorry v Wiltshire Council that the local housing allowance size criteria were in breach of Article 14 of the European Convention on Human Rights and unlawfully discriminated against severely disabled children where the nature of their disability made it unreasonable for them to share a room.

The new rules will apply in relation to children who are entitled to the care component of disability living allowance at the higher or middle rate, where the local authority (or universal credit) decision maker is satisfied that the child is not reasonably able to share a room, and apply to claimants in the private and social rented sectors. For housing benefit cases, the claimant’s home must also include the necessary additional bedroom (or bedrooms), on top of the number of bedrooms the government announces ‘more gradual’ start to transfer of DLA claimants to PIP

The government has announced a ‘more gradual, controlled and measured’ start to the transfer of disability living allowance (DLA) claimants to personal independence payment (PIP).

Whilst it had been intended that ‘natural reassessment’ – the collective term for the transfer of DLA claimants to PIP – would begin from 28 October 2013, the Personal Independence Payment (Transitional Provisions) (Amendment) (No. 2) Regulations 2013 (SI. No.2689/2013) instead provide that it will begin only from a ‘relevant date’, which is defined as –

‘... the date, specified by the Secretary of State in relation to any category of DLA entitled person, from which the Secretary of State is satisfied that satisfactory arrangements will be in place to assess the

Implementation of housing element of pension credit put on hold

The DWP has put the implementation of the housing element of pension credit – ‘... to enable the Department to focus resources on successful delivery of the single-tier pension for new pensioners from April 2016.’

As a result, the DWP says that the current arrangements of rental support for pensioners via the housing benefit scheme will need to remain in place until at least the financial year 2017/2018, and that it will consult with the local authority associations and other key stakeholders on revised plans for reform as they are developed.
DWP publishes survey of public perceptions of the bedroom tax

On 8 November 2013, the DWP published the results of a survey carried out by Ipsos MORI of public perceptions of the bedroom tax.

Welcoming the findings of the survey, reported by the DWP as showing ‘strong public support’ for the policy, Minister for Employment Esther McVey said that – ‘This shows that the public agree that action was needed to tackle overcrowding and to make better use of our housing stock.’

However, whilst the survey found that – ‘...the British public overwhelmingly feel that reducing levels of under-occupation and overcrowding in social housing is important...’

– it also highlighted that – • more people oppose the bedroom tax than support it if it means that those affected have less income to cover living costs (31% support, 35% oppose), and opposition grows further if the bedroom tax means that those affected have to move to find more affordable accommodation in a different area (31% support, 40% oppose);

• the majority agree that the bedroom tax is unfair if there is a shortage of properties with fewer bedrooms in the same area (54% agree, 18% disagree);

• more agree than disagree that the bedroom tax is unfair if those affected have to make up for the reduction in housing benefit by spending less on household essentials (48% agree, 21% disagree); and

• many consider the policy unfair because it does not tackle the reasons why people need housing benefit in the first place (43% agree, 27% disagree) and because it is unfair on those living in high-cost housing areas (40% agree, 25% disagree).

In addition, the survey found that on balance – • most do not believe that those affected should be prepared to move to a property in the private rented sector (33% should, 35% should not) having been told that similar rules apply to that sector; and

• most do not think those affected should take in a lodger so they no longer have fewer bedrooms than they need (34% should, 42% should not) or move to a property with fewer bedrooms even if this means moving to a new area (34% should, 43% should not).


Government announces ‘more gradual’ start to transfer of DLA claimants to PIP

(continued from page 1, col 3)

entitlement of persons in that category to personal independence payment...’

In an accompanying explanatory memorandum, the DWP explains that the need for this more gradual approach only came to light at the beginning of October 2013 as a result of its ongoing analysis of the introduction of PIP for new claims which identified that the process is taking longer than expected at a number of points, including assessments by Atos Healthcare and Capita Health and Wellbeing.

NB – in a written statement to parliament on 21 October 2013, Minister for Disabled People Mike Penning said – ‘Introducing natural reassessment gradually enables us to test the claimant reassessment journey, using an approach similar to the one we took with new claims in the controlled start area in April.

This is in line with the way we have been introducing all our other programmes of change and we have made it clear that we would take a controlled approach to introducing PIP, learning lessons from live running.’

SI.No.2689/2013 is available from legislation.gov.uk.

David Cameron sets out further restrictions on benefits for EU migrants

The Prime Minister has announced a series of measures designed to ensure that ‘no-one can come to this country and expect to get out-of-work benefits immediately’.

In an article written for the Financial Times on 26 November 2013, Mr Cameron said that the government intends to introduce new rules to ensure that –

• no newly-arrived EU jobseekers will be able to claim housing benefit;

• no EU migrant will be entitled to out-of-work benefits for the first three months;

• from January 2014, no EU migrant will be able to claim jobseeker’s allowance for more than six months unless they can prove that they have a genuine prospect of employment;

• a new minimum earnings threshold will be introduced before benefits such as income support can be claimed; and

• any EU national sleeping rough or begging will be deported and barred from re-entry for 12 months ‘unless they can prove they have a proper reason to be here, such as a job’.

In response, EU Employment Commissioner Laszlo Andor said that Mr Cameron’s proposals were ‘an unfortunate over-reaction’ and that EU rules, which apply equally to all 28 member states, had been agreed to by the UK.

Mr Andor also said that the British public had not been told the truth about existing safeguards to prevent benefit tourism and that the proposals risk ‘presenting the UK as a kind of nasty country in the European Union’.

2 review 162 • December 2013
DWP to retain 20 metres as qualifying distance for PIP enhanced mobility

In its response to its June 2013 consultation on the personal independence payment (PIP) mobility criteria, the DWP says it intends to retain 20 metres as the distance for determining entitlement to the enhanced rate of the mobility component.

Whilst the consultation followed ‘significant feedback’ from disabled people and their organisations after the threshold had been set at 20 metres rather than 50 metres, the DWP says that –

‘There is no consensus across the health and social care community of the perfect measure of mobility, but distance is often used as it is clear and easy to understand and apply....

We recognise that people who are unable to reliably walk more than 50 metres have restricted mobility and independence, to a level that makes it reasonable to offer some support from the government. This is achieved through the assessment criteria as set out in Regulations which award the standard rate to those who cannot reliably walk between 20 and 50 metres....

Suggestions for a social model approach to looking at the specific barriers faced by individuals follow the considerable support for the approach in earlier PIP consultations. We remain of the view that such an approach is not practical or desirable for an assessment to determine benefit entitlement for PIP....

... the government believes that the use of 20 metres is the best way of identifying those whose physical mobility is most limited. We think it is justified to focus support in this way given the policy intent to target support on those with the greatest need and create a more financially sustainable benefit.’

The DWP goes on to say that the reliability criteria (which are used to measure a person’s ability to complete an activity safely, to an acceptable standard, repeatedly and within a reasonable time period) are a key protection for claimants, and it will look to introduce a requirement for health professionals involved in the assessment to confirm that they have referred to the criteria when formulating their advice.


Universal credit support ‘likely to cost hundreds of millions of pounds’

Supporting claimants to use the universal credit system is ‘likely to cost hundreds of millions of pounds’, according to the results of unpublished DWP-commissioned research.

According to the Guardian, the research, that involved three London boroughs – Lambeth, Lewisham and Southwark – found that high numbers of claimants do not have the internet at home, and that many do not have bank accounts and are used to a weekly income, so have no experience of managing monthly household budgets.

In an article on 21 November 2013, each of the three boroughs estimated the cost of supporting claimants to use universal credit as £6m over a two year period, with support for claimants across the UK ‘likely to cost hundreds of millions of pounds’.

It was also reported that the ‘people behind universal credit’ have been ‘taken aback’ by the size of the potential support bill and have asked DWP analysts to see if it can be reduced.

However, in response, a DWP spokesperson said that whilst he accepted the figures provided by the three London local authorities, it would be wrong to extrapolate the figures more widely, and that the development and costing of universal credit support services is a ‘work in progress’ which will learn from 13 pilot schemes around the country.

Definition of domestic violence widened for JSA purposes

New regulations have been issued in relation to the definition of domestic violence for victims who are claiming jobseeker’s allowance (JSA).

In force from 29 October 2013, the Jobseeker’s Allowance (Domestic Violence) (Amendment) Regulations 2013 (SI.No.2722/2013) amend the definition of domestic violence in paragraph 10 of regulation 14A of the Jobseeker’s Allowance Regulations 1996 which makes provision for a JSA claimant to be treated as meeting the requirement to be available for work for a period of four weeks on notifying the Secretary of State that they have had domestic violence inflicted on or threatened against them in the previous 26 weeks.

Under the amended definition –

• regardless of the gender or sexuality of the victim, ‘domestic violence’ means any incident or pattern of incidents of controlling behaviour, coercive behaviour, violence or abuse including but not limited to psychological, physical, sexual, financial, and emotional abuse;

• ‘coercive behaviour’ means an act of assault, humiliation or intimidation or other abuse that is used to harm, punish or frighten the victim; and

• ‘controlling behaviour’ means an act designed to make the victim subordinate or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance or escape or regulating their everyday behaviour.

SI.No.2722/2013 is available from legislation.gov.uk.
**DWP launches independent review of JSA sanctions**

An independent review of jobseeker’s allowance (JSA) sanctions was launched by the DWP on 11 November 2013.

With the review to be carried out by Matthew Oakley, a member of the Social Security Advisory Committee, Mr Oakley said –

‘In general, the provision of clear and easily understandable information to benefit claimants is vital to ensuring both that the benefit system supports people when they need it and that benefit claimants know what is expected of them in return. When considered in the context of benefit sanctions, it is clear that failing to do this risks putting families into financial hardship simply because they did not understand the system or what was expected of them.’

Setting out that his review will provide an objective and independent reflection of the operation of sanctions that are imposed as a result of, or have been validated by, the Jobseekers (Back to Work Schemes) Act 2013, and also look at whether the Act is performing as it should, Mr Oakley has requested that responses be focused on the following questions –

- to what extent do claimants understand that when they are referred to a ‘back-to-work’ scheme (such as the Work Programme) their benefit may be sanctioned if they don’t take part?
- to what extent does a claimant’s failure to meet their conditions arise from them not having a sufficient understanding of what is expected, and are there ways in which this could be made clearer to them?
- do sanctioned claimants understand why they have been sanctioned?
- do sanctioned claimants feel informed throughout the sanctions process?
- to what extent are sanctioned claimants aware of the help available to them from Jobcentre Plus, of how to appeal a decision or how to seek help through hardship payments?

With views invited from JSA claimants who have been sanctioned, people working on behalf of claimants who have been sanctioned, Jobcentre Plus advisers and decision makers, and employment programme providers, the deadline for responding to the review is 10 January 2014. Mr Oakley will then present his report to the DWP ‘as soon as reasonably practical’ after 26 March 2014.

For more information, see www.gov.uk/government/consultations/jobseekers-allowance-sanctions-independent-review.

---

**New benefit rules for children unable to share a bedroom due to disability**

(continued from page 1, col 1)

claimant would normally be entitled to.

NB – in addition, the new regulations provide for changes in relation to where a joint social-sector tenant who occupies the same property as the claimant, but is not their partner or a member of their household, has an overnight carer or is a foster carer; and also changes to prevent the shared accommodation rate from being applied when a claimant is a single person under 35 who is also an approved foster carer.

SI.No.2828/2013 is available from legislation.gov.uk. See also HB Circular A21/2013, the DWP guidance for local authorities in relation to the new regulations, which is available from gov.uk.

---

**Threefold increase in number of people using foodbanks**

The Trussell Trust has reported a threefold increase in the number of people using foodbanks.

Figures released by the Trussell Trust on 16 October 2013 show that 355,985 people received a minimum of three days’ emergency food from Trust foodbanks between April and September 2013, compared to 113,264 between April and September 2012.

The Trust said that many people on low-incomes are being impacted by the implementation of April’s welfare reforms, with 65,177 people being referred to Trussell Trust foodbanks due to benefit changes – including the bedroom tax, sanctioning and localisation of the social fund – between April and September 2013, compared to almost 15,000 in the same period last year, and 117,442 people being referred due to benefit delay, compared to 35,597 last year.

Calling for an official inquiry into food poverty and the rise in foodbank usage, Executive Chairman of the Trussell Trust Chris Mould said –

‘It’s not right that so many more people are now being referred to foodbanks due to problems with welfare, especially as much of this is preventable. This is not about pointing fingers, it’s about finding solutions.’

NB – in response the DWP said that there is ‘no robust evidence’ that welfare reforms are linked to the increase in use of foodbanks, and that given the Trussell Trust itself says it is opening three new food banks every week ‘it’s not surprising more people are using them’.

---

Lasa review is written and edited by Ros White and Tony Benjamin

To subscribe to review, please visit www.lasa.org.uk/publications/review-magazine or call us on 020 7377 2748