

Briefing

Housing Benefit – Impact for supported housing of Coalition Government 2010 budget, spending review and reform proposals

Updated March 2011

This briefing outlines the changes announced by the Coalition Government that affect Housing Benefit.

1. Pre-Budget issues

Definitions:

Social housing landlords generally distinguish between rent and service charges. Rent is defined as the charge made for the provision of the accommodation, i.e. the purchase, maintenance and management of the property. A service charge will be made for property related services such as cleaning and gardening of communal areas, lifts, door-entry systems, and their management. Residents may also be charged for personal services such as heating and lighting for their own rooms, meals, support etc.

The distinction between rent and service charges is important to those social housing landlords regulated by (currently) the Tenants Services Authority (TSA) (formerly by the Housing Corporation and, next year, by the Homes & Communities Agency) because the rent-setting system imposed on registered providers sets limits for annual increases on rents. The limit for 2011-12 has recently been announced as 5.1% (Retail price index at September of 4.6% plus 0.5%).

This limit does not include or apply to service charges. Service charges are covered by different regulations, do not have set limits, but are supposed to reflect reasonable, actual costs. They must be accounted for to, and can be challenged by, tenants and leaseholders.

In general needs housing, service charges are often non-existent or very small. In supported and sheltered housing, where more communal services are provided and their management costs can be higher than in general needs housing, service charges can make up a very significant element of the total accommodation charge.

Housing Benefit (HB) is calculated on a claimant's combined rent and eligible service charge liability. HB staff have to determine whether a service charge is eligible for HB, i.e. is a property-related charge which is a condition of occupation. After that test, HB makes no distinction between rent and property-related service charges and refers to the combined figure as rent.

For registered providers whose rents are held to target rent levels (i.e. rents excluding service charges), service charge increases have often been seen as the only avenue for raising income to meet ever-rising costs. Before the new Government's June Emergency Budget and Spending Review 2011-15 introduced new caps on HB, there were already concerns in supported housing that in some quarters too much reliance was being placed on the capacity for HB payments to make up for problems created by cuts in Supporting People (SP) funding. In some areas, for example, SP teams' decisions that no night cover should be funded by SP grant resulted in night staff being reclassified as concierges and paid for through service charges.

Unreasonably high rent limits: Exclusions and exemptions

Most tenants of private landlords who are claiming HB get the Local Housing Allowance (LHA) which limits the amount they receive, regardless of what they have to pay. The LHA is calculated on the median¹ market rental in a defined "Broad Market Rental Area" for the size of property the claimant is judged to need.

Pre-LHA, there was a broadly similar local reference rent set by rent officers. Private tenants who have been claiming HB continuously at the same address since before 7 April 2008 aren't affected by LHA.

Currently the HB claims of tenants of registered social housing providers are excluded from the requirement to refer to the rent officer, who could otherwise cap the amount payable. Note that exclusion is at the discretion of the HB authority and that it applies to registered providers (formerly known as Registered Social Landlords) only, not to any non-registered provider e.g. a charity or industrial and provident society that owns properties. The exclusion is normally applied for general needs housing but the HB authority can refer, and have the amount capped at the local reference rent, if it decides the charge is unreasonably high. As charges have risen, the discretion to challenge has been used more.

The other frequently used category is exemption from the normal HB restrictions where the accommodation is provided by registered providers, charities or voluntary organisations who also provide the claimant with care, supervision or support. Exempt accommodation is not capped to local reference rent levels. There are further complex definitions and regulations relating to this and it has recently been subject to a number of tribunal appeals.

The Department of Work & Pensions (DWP) has been looking at the exempt accommodation rule and the high cost of many supported housing claims, and has stated it will be consulting on changes before the end of 2010, outside of any other review of the system. A significant issue for HB authorities currently is that they do not receive full subsidy on payments for exempt claims. As budgets are cut, this gives them a strong incentive to challenge high rents.

¹ The median is the middle number – so if on LHA currently, 50% of market rents will be higher than the allowance. From October 2011, 70% of market rents will be higher than the allowance.

Emergency Budget and Spending Review 2010

The new limits on HB introduced by the Coalition Government in the June Emergency Budget and the October Spending Review 2011-15 will be implemented in phases, see dates listed below. They will be applied to new and renewed claims after each date. A claim is renewed either on a change of circumstances or when an existing claim comes up for its annual review.

With the exception of the impact of the overall household benefit income cap, referred to below, it appears that current exclusions and exemptions to the current powers to limit unreasonably high rents will continue to apply. The decision to link benefit increases to the Consumer Price Index instead of the Retail Price Index is described as affecting all benefits from 2011 but LHA from 2013 (see below).

New HB limits:

The HB specific cuts with dates of introduction are:

April 2011	Capping Local Housing Allowance rates at £250 a week for a one-bedroom property, £290 for a two-bedroom property, £340 for a three-bedroom property and £400 a week for a four-bedroom property; removal of five-bedroom rate so maximum is now the four-bedroom rate.
	Local Housing Allowance set at 30% of market rent instead of 50%
January 2012	Shared room rate age limit up from 25 to 35 years old
April 2013	Capping benefits to working age tenants who live in a social housing property that is considered too large for their household size
	Local Housing Allowance increased by Consumer Price Index instead of the actual percentage of market rents

The Government has promised extra money for HB authorities to make Discretionary Housing Payments to deal with hardship caused by the HB cuts. This fund is calculated by the Social Security Advisory Committee as equivalent to 4% of the total cash cut. For the changes coming into effect in April 2011 it has announced a “transitional protection” period of nine months for existing claimants. It has also said it will consider extending the provision for local authorities to make direct payment to landlords of Local Housing Allowance where this will help secure or retain a tenancy.

The Government had included in these proposals an intention to reduce Housing Benefit by 10% for people who have been on Jobseeker's Allowance for 12 months or more from April 2013 but this was subsequently dropped from the Welfare Reform Bill.

It is understood, following reference to this in a House of Commons debate, that the Government is also considering changing the geographical areas across which market rents are compared for calculating the LHA. The areas may even be increased to regions.

Other housing related cuts

There are a number of other cuts which affect tenants and landlords in supported housing:

- The Spending Review introduced higher rents (“intermediate rental contracts”) for new tenants of registered providers as a means of generating income for new social housing. This was described as 80% of market rents. How this is to be defined is still being queried. On lettings of properties where there are significant levels of service charges,

landlords will need to ensure these are taken into account in setting the overall charge. These new rents would not apply to schemes started with grant funding by the current approved development programme which have been financed on the basis of current target rents. However, it appears that as the estimates of potential income for new build were calculated on that basis, any registered provider applying for grant to develop new housing will be expected to set intermediate rents for all re-lets of existing properties too.

- From 2013 Council Tax Benefit will be transferred to local authority budgets, with a 10% cut in central government funding.
- From 2013 there will be a new cap on benefit payments to entire households at around £500 a week for couple and lone parent households and around £350 a week for single adult households. All Disability Living Allowance claimants, War Widows, and working families claiming the working tax credit will be exempt from the cap. This appears to be intended to be applied to all, regardless of any particular exclusions or exemptions in place for HB.

Reactions to HB cuts

The scale of the impact on homelessness, debt and household poverty for private tenants in higher cost areas is predicted to be enormous and has hit headlines even in mainstream media. It will affect supported housing tenants' ability and willingness to move on to the private rented sector and of course all housing related support work with homeless and vulnerable people trying to find or keep a home.

The Government's localism agenda means that it is local government which is in most cases left to implement cuts and juggle what priority to give to spending on discretionary exemptions or transitional protection for hardship. The cut to local government grant of 28% between 2011 -15 means that it is unlikely that any authority can avoid putting its HB spending under the microscope.

The HB cuts will have differing impacts on supported housing providers depending on whether they are registered or non-registered social landlords, whether they are relying on exclusions or exemptions, whether they are in high rent or low rent areas, how much they have relied on maximising HB to keep a project viable. A range of modelling exercises are being carried out by NHF, CIH and others in addition to the impact assessments the DWP has said it will publish.

Legislative change

The introduction of Universal Credit (see below) involves a new Act of Parliament, which would have to be passed by both Houses. Almost all the detail of HB is contained in regulations made under the Social Security Contributions and Benefits Act 1992, which states regulations will say how to work out a person's maximum HB.

Changes to HB regulations will usually be subject to consultation with the HB authorities that have to administer them and also public consultation exercises run by the Social Security Advisory Committee. This Committee was consulted on the changes proposed in the June Budget that were to come into effect in 2011. It recommended that the Government should not go ahead with its proposals for cuts because of the serious impact on those renting in the private sector, but its recommendations were rejected.

HB regulations can also be the subject of inquiries by the Commons Work and Pensions Committee and there will sometimes be debates in one or both Houses of Parliament. After the Spending Review, the Labour Opposition used a day in the House of Commons to debate the government's proposed HB cuts. Their motion was defeated by 61 votes.

Welfare Reform White Paper

The White Paper, “Universal Credit – welfare that works”, published by the DWP on 11 November 2010, included a number of references to HB and to social housing.

Universal Credit is intended to replace most means-tested benefits and tax credits for working age people. The White Paper notes that Pension Credit will have to be changed to include help with housing costs for those over working age. It lists a number of non-means-tested, contributory benefits which will continue to exist.

It proposes that changes will be phased in, starting in October 2013, completed by October 2017. It intends most claims to be dealt with on-line.

Universal Credit

Its section on housing costs confirms that Universal Credit will include “an appropriate amount” to help meet rent and mortgage interest costs. For those who rent, amounts will be based on the current HB system. The setting of LHA at 30% of market rents is confirmed. The housing component of Universal Credit will transfer over time from local authorities to the DWP.

The White Paper states that for housing association and local authority tenants, including those on the new “intermediate rental contracts”, this housing component will continue to reflect actual costs, not the LHA. With the exception of the new cap for under-occupation by working age tenants, it says that no further changes for social housing claimants are anticipated in the short to medium term.

The White Paper leaves open the option for direct payment to social landlords of the housing component of Universal Credit and says this will be subject to further detailed consultation with administrations, providers and lenders.

Although it sees the DWP as the main administrator of the welfare system, in a section on residual responsibilities of local authorities it refers to discussions with them on: “whether there may still be a role for Local Authorities in dealing with non-mainstream Housing Benefit cases (for example, people living in supported or temporary accommodation).”

It notes that Council Tax Benefit (as a rebate on tax for local services) will continue to be administered by local authorities, and as announced in the Spending Review, will be funded by them from 2013. It intends that, although this will be outside the Universal Credit system, there will be some sharing of information, e.g. to avoid claimants having to duplicate provision of personal details.

Conditionality and sanctions

The White Paper’s proposals for the conditions on which welfare benefits will be withdrawn from people are to be applied to existing benefits and the new Universal Credit. It sets out four broad bands of conditionality, which will apply both to those out of work and those on benefits but in work earning below a set threshold:

1. Full conditionality – jobseekers;
2. Work preparation – people with a disability or those with a health condition which means they have limited capability for work at the current time;
3. Keeping in touch with the labour market – lone parent or lead carer in a couple with a child over age one but below age five; and

4. No conditionality – people with a disability or health condition which prevents them from working, carers, lone parents or lead carers with a child under the age of one.

There are different timescales and penalties for the first three bands. The White Paper sets out the detail of how sanctions will apply to current benefits and allowances as Universal Credit is phased in, and then to Universal Credit. It says that the amounts deducted to penalise those on Universal Credit will be broadly equivalent to the amounts under the current benefits system, i.e. an amount equivalent to Jobseeker's Allowance or Employment and Support Allowance.

Conditionality and sanctions are an important issue for people living and working in supported housing services, but according to the above, the housing component of a Universal Credit payment will not be cut. Under both current and new system, tenants theoretically can continue to pay their rent even if they have no money for food. The only change relating to housing costs might be decreased visibility of the housing component of Universal Credit.