

Department for Work and Pensions

**Housing Benefit Amendment
(No 2) Regulations 2009**

Changes to the Local Housing Allowance
Consultation on draft regulations
June 2009

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Part 1 Foreword and consultation arrangements

Who this consultation is aimed at

This consultation is primarily aimed at organisations such as local authorities and their representative bodies, landlord associations and welfare rights agencies although comments from other organisations and the general public are also welcome.

Subject of consultation

This document sets out the Secretary of State's proposals on the draft secondary legislation that would remove the up to £15 excess Housing Benefit in cases where the Local Housing Allowance rate is higher than the contractual rent. The change was announced by the Chancellor of the Exchequer in the 2009 Budget Report on April 22.

Purpose of the consultation

This document seeks views on the draft Housing Benefit Amendment (No 2) Regulations 2009 and the associated equality impact assessment.

The intention is that the regulations would come into force on 5 April 2010.

We have sent this consultation document to organisations that have expressed an interest or who have already been involved in previous consultations regarding the Housing Benefit scheme. Please do share this document with, or tell us about, anyone you think will want to be involved in this consultation

Scope of the Consultation

This consultation applies to England, Wales and Scotland.

Duration of the Consultation

The consultation period begins on 19 June 2009 and runs until 10 September 2009.

How can you respond to this Consultation?

Please send your consultation responses to:

By post: Mr Ron Butler
Local Housing Allowance Reform Team
1st Floor
Caxton House
Tothill Street
London
SW1H 9NA

Email: ron.butler@dwp.gsi.gov.uk

Please ensure your response reaches us by 10 September 2009.

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled. We will acknowledge your response.

Queries about the content of this document

Any queries about the subject matter of this consultation should be made to:

Name: Mr Ron Butler
Address: as above
Phone: 020-7340-4039

Email: as above

Freedom of information

The information you send us may need to be passed to colleagues within the Department for Work and Pensions and published in a summary of responses received, and referred to in the published consultation report.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal

information which is provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this. We cannot guarantee confidentiality of electronic responses even if your IT system claims it automatically.

If you want to find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact: Charles Cushing, Department for Work and Pensions, Information Policy Division, Central Freedom of Information Team, Adelphi 1-11 John Adam Street, London, WC2N 6HT charles.cushing@dwp.gsi.gov.uk or carol.smith14@dwp.gsi.gov.uk . Please note that Charles and Carol, cannot advise on this particular consultation exercise, only on Freedom of Information issues.

More information about the Freedom of Information Act can be found on the website of the [Ministry of Justice Fol pages](#)

The information you send us may need to be passed to colleagues within the Department for Work and Pensions and published in a summary of responses received, and referred to in the published consultation report.

The consultation criteria

The consultation is being conducted in line with the Government Code of Practice on Consultation - www.berr.gov.uk/files/file47158.pdf - and its' seven consultation criteria, which are as follows:

- **When to Consult.** Formal consultation should take place at a stage when there is scope to influence the outcome.
- **Duration of consultation exercises.** Consultations should normally last for at least 12 weeks, with consideration given to longer timescales where feasible and sensible.
- **Clarity of scope and impact.** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals.
- **Accessibility of consultation exercises.** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is designed to reach.
- **The burden of consultation.** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

- **Responsiveness of consultation exercises.** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- **Capacity to consult.** Officials running consultation exercises should seek guidance in how to run an effective consultation exercise, and share what they have learned from the experience.

Feedback on this consultation

We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact our Consultation Coordinator:

Name: Roger Pugh
Address: DWP Consultation Coordinator,
Room 4F, Britannia House, 2, Ferensway, Hull HU2 8NF
Phone: 01482 609571
Fax: 01482 609658
Email: roger.pugh@dwp.gsi.gov.uk

In particular, please tell us if you feel that the consultation does not satisfy the consultation criteria. Please also make any suggestions as to how the process of consultation could be improved further.

If you have any requirements that we need to meet to enable you to comment, please let us know.

The responses to the consultation will be published by October 31st 2009 in a report on our consultation website that will summarise the responses and the action that we will take as a result of them.

Equality Impact Assessment

An equality impact assessment for the draft Housing Benefit Amendment (No 2) Regulations 2009 is attached to this consultation document.

Part 2 – Local Housing Allowance Policy and Legislative Background

Background

1. The Local Housing Allowance (LHA) was introduced for Housing Benefit customers in the deregulated private rented sector who make a new claim for Housing Benefit or change address from 7 April 2008. LHA rates are determined by rent officers each month for properties ranging from one to five bedrooms. The local authority uses the appropriate LHA rate, based on the area where the person lives and the size of their household, to determine the maximum amount of HB payable (before any deduction¹).
2. Currently, if the LHA rate is higher than the contractual rent, customers are able to keep the excess benefit up to a maximum of £15 per week. If the rent is higher than their LHA entitlement they must make up the difference from other sources of income.
3. The Secretary of State for Work and Pensions proposes to amend the Housing Benefit regulations from 5 April 2010 so that the up to £15 weekly excess that customers can receive over and above their contractual rent is removed. This will mean that no customer can receive more in Housing Benefit than they actually pay out in rent.
4. This proposal was announced in the 2009 Budget report HC 407, page 97 paragraph 5.33 [“Economic and Strategy Report and Financial Statement and Budget Report April 2009”](#).

Proposed Changes

5. The proposed regulations which are attached at Annex B would amend the:
 - Housing Benefit Regulations 2006 regulations 13D(6)(b) and inserted regulation 12I in paragraph 6 of Schedule 9
 - Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006; regulation 13D(6)(b) and inserted regulation 12I in paragraph 6 of Schedule 9

¹The maximum Housing Benefit payable can be reduced, for example, if the customer has income or non-dependants living with them.

6. The removal of the up to £15 excess is being applied across the caseload nationally and it should not affect individuals' ability to meet their rent, as these customers are already having their full rent covered by Housing Benefit (before any deduction). The effect of the proposed changes is that :
- All new customers claiming Housing Benefit in the deregulated private sector on or after 5 April 2010 would not be entitled to any excess benefit over their contractual rent.
 - Existing customers, including those in the former LHA Pathfinder² areas, who are currently entitled to an excess payment of up to £15, would see a reduction in their benefit when their claims are reviewed, usually on the anniversary date of their claim.
7. The Government has decided that the amending regulations should apply to all customers in the former LHA Pathfinder authorities. In the Pathfinders there was no limit on the excess payable and customers in those areas had their excesses transitionally protected for a year from 7 April 2008 when the LHA was rolled out nationally. Since 6 April 2009 their excess payment has been restricted to the maximum of £15. The impact of these proposed regulations is that customers in the previous Pathfinder areas would lose the excess from their anniversary date of 7 April.
8. It is not intended to provide transitional protection for customers affected by this change as it has never been the intention that people would have their entitlement to the surplus protected. For example, under the current arrangements people could lose or have their surplus reduced as a consequence of a rent increase.

Reasons for the change

9. The change was announced as part of the Chancellor of the Exchequer's 2009 Budget Report on April 22. The Government is committed to help people keep a decent roof over their heads but cannot afford in the current economic climate to pay people more than they need to do that. In the interests of fairness our priority is to target benefits where they are needed most. The removal of the £15 excess would mean that some

² The Pathfinders areas that operated the LHA and was subject to independent evaluation are as follows: Argyll and Bute, Blackpool, Brighton and Hove, Conwy, Coventry, East Riding of Yorkshire, Edinburgh, Guildford, Leeds, Lewisham, North East Lincolnshire, Norwich, Pembrokeshire, St Helens, Salford, South Norfolk, Teignbridge, Wandsworth.

people would receive less benefit but, importantly, this should not affect their ability to meet their rent.

Impact assessments

10. An equality impact assessment is attached at Annex C. Because the current data available do not include information about gender, age, ethnicity or disability status we are unable to estimate the impact on specific groups using this information.
11. We will be consulting with the Local Authority Associations on the administrative impact of the proposed change and how best the Department could support its implementation.

Consultation Questions

12. We would be grateful for any comments on these draft regulations by 10 September 2009. We are interested in your views on the proposed changes and the impact that they will have.

Author(s) contact details

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Welfare and Wellbeing Group,
Department for Work and Pensions

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Direct line 020-7340-4039

Annex A: List of organisations consulted

Organisations
Advice Services Alliance
Advice UK
Age Concern
Association of Chief Executives of Voluntary Organisations (ACEVO)
Barnardo's
British Property Federation
Child Poverty Action Group
Citizen's Advice
Citizen's Advice Scotland
Convention of Scottish Local Authorities
Disability Alliance
Disability Awareness in Action
Family Welfare Association
Help the Aged
Homes and Communities Agency (formerly Housing Corporation)
Joseph Rowntree Foundation
Local Government Association
London Councils
London Welfare Rights Group
MENCAP
MIND
National Association of Welfare Rights Advisers (NAWRA)
National Federation of Residential Landlords
National Landlords Association
Northern Ireland Assembly
One Parent Families Gingerbread
One Parent Families Scotland
Oxfam

Policy and Practice Chartered Institute
Rent Officers Wales
Rent Registration Service (Scotland)
Scope
Scottish Council of Voluntary Organisations (SCVO)
Scottish Landlord's Association
Scottish Government
Shelter
Valuation Office Agency (VOA)
Welsh Assembly Government – Housing Directorate
Welsh Local Government Association