Part 15 PM Check - Housing Benefit (including LHA)

Contents

INTRODUCTION
GENERAL PRINCIPLES
THE OFFICIAL ERROR CHECK – HB (INCLUDING LHA)
Definition of the selected period
Selected Period Check Principles
Review Week Check
Definition of the claimant review week
DEFINITION OF PASSPORTED AND NON-PASSPORTED HB/LHA CLAIMS
Passported HB
ATLAS NOTIFICATIONS
HB PASSPORTED BY ESA
Communication from DWP to LAs
HB claimants in receipt of ESA
ESA Linking rules
Linking with a previous ESA claim
Linking rules where IB or IS has been claimed previously
NON-PASSPORTED HB
CALCULATING NON-PASSPORTED/PASSPORTED HB/LHA
CALCULATING ELIGIBLE RENT - HB ONLY
Maximum Eligible Rent for HB purposes
Recording Rent on FREDA during a 53-week year
ELIGIBLE SERVICE CHARGES
INELIGIBLE SERVICE CHARGES
Deductions in respect of ineligible service charges
Eligible Rent for Council Tenants
Rent free weeks
53 WEEK YEARS
TENANTS WITH A PRIVATE LANDLORD
REGULATED TENANCIES
OLD SCHEME CASES
NEW SCHEME CASES
JOINT TENANTS
DISCRETIONARY HOUSING PAYMENTS (DHPs)
NON-DEPENDANTS
Non-dependants in remunerative work
Non-dependants not in remunerative work
Non-dependants for whom no deduction applies
Non resident carers
CALCULATION OF APPLICABLE AMOUNTS
The Claimant's Household
Working Age Personal allowances
Pension Age Personal allowances
PREMIUMS AND QUALIFYING CONDITIONS
Entitlement to more than one premium
CALCULATING INCOME
Earned Income
Calculation of Weekly Earnings
Claimants with Irregular Earnings
Weekly Earned Income Disregards
The Child Care Disregard
The Additional Earnings Disregard
OCCUPATIONAL AND PRIVATE PENSIONS
MAINTENANCE TOWARDS A STUDENT
UNEARNED INCOME TAKEN INTO ACCOUNT IN FULL
OTHER TYPES OF UNEARNED INCOME
Tax Credits
How Tax Credits are treated for HB purposes
Payment cycles/frequency of Tax Credit instalments
How To Calculate a weekly amount of Tax Credit
Tax Credit One-off payments in cycle
Tax Credit One-off payments paid out of cycle between Tax Credit regular payments
Arrears of Tax Credits
Calculating HB Error Start Dates for Tax Credits
DISREGARDS ON UNEARNED INCOME
Weekly Maximum Disregard
Permitted Work Disregard
PENSION CREDIT SAVINGS CREDIT IN PAYMENT
Modifying the AIF
Claimants not entitled to Pension Credit
CAPITAL
Stocks and shares
Shares Tool
Tariff Income - Working Age
Tariff Income over State Pension age
Valuing Capital
Capital Asset Disregards
Notional Income and Capital
CALCULATING EXCESS INCOME / TAPERS
Tapers
TREATMENT OF CLAIMANTS IN HOSPITAL
SPECIAL CASES (NON-PASSPORTED CLAIMS)
Self-employed Earners
Student cases
CHANGES IN CIRCUMSTANCES
Universal Credit Changes in Circumstances Affecting HB
PENSION CREDIT
Assessed Income Periods (65 +)
Effective dates for changes of circumstance for claimants in receipt of HB and
Pension Credit
LOCAL HOUSING ALLOWANCE CASES
Maximum and eligible rent
Applying the Correct LHA
Exemptions
TRANSITIONAL PROTECTION
Thirteen-week
Protection on death
Pre-April 2008 Claimants
LHA SIZE CRITERIA – THE NUMBER OF PEOPLE IN THE HOUSEHOLD
Resident Children
Foster Children
Students
Single people living on their own and aged under 35
Single people 35 and over and childless couples
Non resident carers
Joint tenants
Non-Dependants
Shared Non-Dependant
Change of Circumstances and Significant Birthdays
RECORDING LHA ERRORS
Definition of Error for LHA
Defining the correct BRMA
SIZE CRITERIA RESTRICTIONS IN SOCIAL SECTOR HOUSING FROM 1 APRIL 2013
Background
Size Criteria and Reductions
Foster Carers
Joint Tenants
Exceptions
Review Process
DWP Decision Referrals
Error Recording
DWP DECISION REFERRALS
RENT OFFICER DECISION REFERRALS
SUSPENSION OF HOUSING BENEFIT (INCLUDING LHA)
Termination of HB/LHA following a suspension
CATEGORISATION
Introduction

Note: Housing Benefit Regulations (2006)

Note: Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (2006)

15000 The following paragraphs explain the specific processes that are followed by Performance Measurement in performing the official accuracy check on HB sample cases.

15001 Whether the outcome of the check after categorisation will result in a PM fraud/claimant error or official error being raised is covered in Part 17.

General Principles

15002 The key principle applied to HB error recording is that PM will only record:

- Official error that occurs during the selected period
- Claimant errors/fraud errors that occur during the review week.

15003 Official error is not recorded where:

- the error ends before the selected period
- the error starts after the selected period (regardless of the fact it may be present during the review period)

15004 Claimant error/fraud error is not recorded where:

- the error ends prior to the review period (regardless of the fact it may affect the selected week)
- the error starts after the review period*

*Note: The exception to this principle is where a fraud with causal link has been established, it is possible that the error start date will be after the review week but if a link can be established with the review week then the case would still be classed as current period fraud with causal link.

The Official Error Check – HB (including LHA)

15005 On all cases it is essential that you carry out an official error check to show how the Local Authority calculated the award of HB. The purpose of this check is to ascertain that HB is correctly in payment. You should record any errors on the Decision Proforma and issue it to the LA at the end of the check.
The level of check varies between non-passported and passported HB/LHA cases.

**Definition of the selected period**

15006 This is defined in [Part 5 Sampling – Abandonment](#) paragraphs 5240 – 5251.

15007 - 15009

**Selected Period Check Principles**

15010 These are explained in [Part 6 - Preview](#) paragraph 6160

15011 - 15019

**Review Week Check**

15020 You will also be required to undertake a ‘Review week error check’.

**Definition of the claimant review week**

15021 This is defined in [Part 5 Sampling – Abandonment](#) paragraphs 5260 – 5263

15022 – 15029

**Definition of passported and Non-passported HB/LHA claims**

15030 There are two types of HB claim:

- passported (also known as non-standard or certificated)
- non-passported (also known as standard or in work Housing Benefit)

**Passported HB**

15031 Passported HB is awarded to claimants or their partner, who are in receipt of Income Support, Jobseeker’s Allowance (Income Based), Employment and Support Allowance (Income Related) or State Pension Credit (guarantee credit).
15032 The LA award maximum HB to claimants in receipt of IS/JSA (IB)/ ESA (IR)/ SPC (guarantee credit) as the “means test” will have been completed by Jobcentre Plus when the claim for IS, JSA (IB), ESA (IR) or SPC (Guarantee Credit) was assessed.

15033 The award of the SPC (Guarantee Credit), either on its own or with the savings credit, gives the HB claimant entitlement to maximum HB even if the person has capital exceeding £16,000 (or subsequently obtains capital exceeding £16,000). When the SPC claimant is entitled to a guarantee credit but the weekly entitlement is less than 10p, Pension Credit will not be payable if the claimant is not in receipt of another combinable benefit. However, there will be linked entitlement to maximum HB.

15034 Maximum Housing Benefit is where full eligible rent is payable to the claimant, less any ineligible service charges and any non-dependant deductions.

ATLAS notifications

15035 You will need to ensure that you check for ATLAS notifications and obtain a print off at preview stage. To enable you to refresh the case at the 48 hour check you will need to ask the LA representative to confirm if an ATLAS notification has been received during the intervening period.

15036 It is anticipated that HB is likely to be suspended where an ATLAS transaction has been received. Where, at the selected week, the LA has suspended the HB award, abandon and replace using the ‘benefit not in payment’ abandonment reason.

15037 If the LA has failed to complete intervention action on the ATLAS information, any error relating to this aspect of the HB award will be ‘LA Official’.

15038 Where the LA holds an ATLAS transaction at the review week and the LA has suspended the HB award, you must abandon and replace using the ‘benefit not in payment/ceased’ abandonment reason.

15039 The LA may need to contact the claimant for more information, following receipt of an ATLAS transaction. In these circumstances, where HB has not been suspended, you must record as ‘Claimant Error/Fraud’ due to claimant failure to notify the LA.

HB passported by ESA
Communication from DWP to LAs

15040 Notification of awards, changes to and cessation of ESA (IR) claims generate an Electronic Transfer of Data (ETD) to the relevant LA. In ESA cases where claimants appeal the outcome of the Limited Capacity for Work determination, ESA can continue in payment when medical evidence is provided and HB will continue to be passported.

15041 Automated ETDs for ESA (C) and credits only cases are also provided in addition to those for ESA (IR) cases.

15042 Changes notified by ETD will include the claimant’s move from the Assessment phase to the Main phase of ESA and details of the components awarded.

15043 Evidence required by both Jobcentre Plus and the LA will be sent to the Jobcentre Plus Benefit Delivery Centre (BDC), copied, stamped as original and forwarded to the appropriate LA. The original evidence will be returned to the claimant by the BDC.

15044 Where a new claim to HB is made with a claim to ESA, a full gather of HB/Council Tax reduction information by Jobcentre Plus is output to LAs on a Local Authority Claim Information (LACI) document.

HB claimants in receipt of ESA

15060 For information on how to treat HB claimants where ESA is payable to the claimant or partner see HB/CTB A11/2008.

ESA Linking rules

Linking with a previous ESA claim

15061 ESA has two linking rules. The short linking rule allows a claimant to leave benefit for up to 12 weeks and return in the same position as when they left. For example, if a claimant leaves ESA after six weeks and returns five weeks later they will only need to serve another seven weeks before entering the main phase.

15062 The second linking rule allowed a claimant, after 13 weeks of a claim, to leave benefit for up to 104 weeks and return to the same benefit position as
when they left. The rule applied only if the claimant enters work or training and has been removed from 01.05.12.

Linking rules where IB or IS has been claimed previously

15063 Where a claim links to a previous IB claim it will be taken as an IB claim rather than an ESA claim. This is decided based on IB linking rules, which are different from ESA linking rules.

15064 A claim to IS on grounds of sickness or disability made after 27th October 2008 will normally be treated as a claim to ESA, unless the claimant is entitled to IB or Severe Disablement Allowance (SDA) when it will be treated as a claim to IS. Also, if the claimant would have qualified for ESA for a period of at least 4 days before 27th October 2008 and there is a gap of no more than 8 weeks between the claims, the later claim will be taken as IS. A claim to IS on the grounds of incapacity will link with a previous claim to IS on the grounds of incapacity within 8 weeks, or if the claimant is receiving IB or Statutory Sick Pay (SSP).

15065 From 31.1.11 no claims for IB, SDA and IS on the grounds of disability can be made, other than a claim for:

- IS on the grounds of disability (see DMG 45205) made by a claimant already entitled to IB or SDA; or
- IB made by a claimant who is already entitled to IS on the grounds of disability.

15066 - 15079

Non-passported HB

15080 Non-passported HB is awarded to claimants who are not in receipt of IS/JSA (IB)/ESA(IR)/SPC (guarantee credit) who have applied for help with their rent on grounds of a low income. This includes claimants who are in receipt of IB /JSA(C)/ ESA(C) / SPC (Savings Credit) only or any other non-means tested Benefit.

15081 When a SPC claimant has entitlement to SPC (Savings Credit) only of under 10p per week, it will not be payable if the claimant is not in receipt of another combinable benefit. The SPC (Savings Credit) entitlement in these cases will not form part of the assessment for non-passported HB. However, the LA will still be required to use the Assessed Income Figure (AIF) as DWP will continue to maintain the Pension Credit application.
Calculating non-passported/passported HB/LHA

15090 There are four steps to calculating Non-passported HB/LHA and two steps to calculating passported HB/LHA:

• Calculate the claimant’s eligible rent (non-passported and passported HB/LHA) – paragraph 15070
• Assess any non-dependants in the home (non-passported and passported HB/LHA) – paragraph 15200
• Calculate the claimant’s applicable amount (non-passported HB/LHA only) – paragraph 15210
• Calculate the claimant’s income, or where an Assessed Income Figure (AIF) has been provided by DWP, and there is entitlement to the SPC(savings credit) the AIF must be used. The LA will only calculate the claimant’s income when Pension Credit is not in payment or where DWP has not calculated an AIF (non-passported HB/LHA only) - paragraph 15300

15091 The calculation is completed by comparing the claimant’s applicable amount to their total income/AIF. If their income/AIF is equal to or below their applicable amount the maximum HB is awarded, based on the claimant’s eligible rent/LHA. If the claimant’s income/AIF exceeds their applicable amount, HB/LHA is reduced by 65% of the excess. See paragraph 15450

15092 When calculating HB/LHA the LA may round any amount involved in the calculation to the nearest penny, halfpennies being rounded upwards. HB Guidance A5.900, HB Reg 80(7) (working age), HB Reg 61(6) (pension age)

Calculating Eligible Rent - HB Only

Maximum Eligible Rent for HB purposes

Note: HB Guidance Manual Part A4
Note: HB Reg 12(1) (Working Age)
Note: HB Reg 12(1) (Pension Age)

15100 Entitlement to HB is calculated using the claimant’s “eligible rent”. The eligible rent is determined by the LA, and could differ from the actual gross rent charged. The reasons for this are:
• not all 'service charges' can be met by HB
• some rents charged by private landlords (and occasionally by housing associations) are subject to a 'rent officer' decision although most HB claims for private tenancies are subject to LHA rules.

Note: For conversion to weekly rent see:
   HB Guidance Manual A5 5.300-5.302
   HB Reg 80 (Working Age)
   HB Reg 61 (Pension Age)

15101 All rents have to be converted to a weekly figure, using the calculation formulas listed below:

• Calendar monthly rents must be multiplied by 12 and divided by 52 (even if there are 53 Mondays in the year).
• Rents paid every 4 weeks are divided by 4
• Rents paid on any other basis, e.g. half yearly or annually, should be converted to the annual figure (i.e. multiply by two for a half-yearly payment) divided by 365 (or 366 in a leap year) and multiplied by 7

15102 These are the conversions as prescribed in HB legislation. Some authorities incorrectly convert monthly rents by using the monthly income conversion - this is incorrect and you should record this as an official error. However, the LA may be unable to correct the calculation as often their HB system software dictates the conversion calculation.

Recording Rent on FREDA during a 53-week year

15103 Normally you record the 52 weekly figure for rent on FREDA, as this is the actual rent charged. During a '53 week' year, therefore, the actual rent charged is the 53-week figure, so you record the figure on FREDA.

   Note: ensure FREDA is annotated whenever this occurs.

Eligible Service Charges

Note: HB Guidance A4.730

15104 A tenant may pay for services within their rent, or separately. Legislation defines “services” as “services performed or facilities… provided for, or rights made available to, the occupier...” and “service charge” any periodical charge for any such service. Service charges are eligible for HB, provided they:

• have to be paid as a condition of occupying the dwelling as a home; and
• they are not listed in the regulations as ineligible; and
• are not excessive in relation to the service provided

15105 Eligible service charges are generally the services that are shared by more than one tenant. The LA can restrict the amount allowable in respect of eligible service charges if the amount is considered excessive.

Ineligible Service Charges

Note: HB Guidance A4.721
Note: HB Regs Schedule 1 Part 1 (Working Age)
Note: HB Regs Schedule 1 Part 1 (Pension Age)

15106 If the tenant pays a charge that is 'ineligible for HB', this charge cannot be included as part of the service charges. The charge is valued and deducted from the service charges.

Deductions in respect of ineligible service charges

15107 If ineligible service charges are included in the claimant’s rent, The LA must deduct an amount in respect of these charges. Should the charges be appropriate to setting the rent, the LA may include the ineligible service charge as part of the eligible rent. If the amount of a fuel charge is not identifiable a standard amount is deducted. For rates of deductions see the latest HB/Council Tax reduction Uprating Circular

Eligible Rent for Council Tenants

Note: HB Guidance A4.20
Note: HB Reg 12B(2) (Working Age)
Note: HB Reg 12B(2) (Pension Age)

15108 The eligible rent for a council tenant is the actual gross rent minus any amounts for service charges that are ineligible for HB.

Rent free weeks

Note: HB Guidance A5.450
Note: HB Reg 81(Working Age)
Note: HB Reg 62 (Pension Age)

15109 Many LAs and some housing associations have 'rent free' weeks; i.e. the 52 weekly rent is paid over 48 or 50 weeks, or other periods. In order to
calculate the correct weekly rent, the rent paid should be multiplied by the number of weeks it is paid over and the resulting figure divided by 52.

| Example |
|-----------------|------------------|
| Weekly Rent     | £40.00           |
| Paid for 48 weeks| £1920.00 (48 x £40.00 = £1920.00) |
| Correct weekly rent | £36.92 (£1920.00 / 52 = £36.92) |

53 week years

15110 Where 53 Mondays occur in the LA’s financial year you will have to consider and calculate accordingly. LAs who have 'rent free' weeks, often compensate for the 53rd week by adding it onto the existing 'rent free' weeks. Other LAs do not compensate, and charge rent for the extra week. This slightly alters the calculation for conversion from the 'rent free' figure to the 53-week figure.

| Example |
|-----------------|------------------|
| The LA usually has 4 rent free weeks; therefore the 52 weekly rent is paid over 48 weeks. |
| The LA is compensating for the 53rd week by making it another 'rent free' week. Therefore rent is still payable over the 48 weeks, but the 48-week rent must be converted to 53, instead of 52. |
| Rent = £50.00 (paid over 48 weeks) multiplied by 48 and divided by 53 = £45.28. |
| If the LA does not compensate, and charges rent for the extra week then the rent figure is multiplied by 49, as the tenant now has to pay rent for 49 weeks rather than the 48. |
| Rent = £50.00 (now paid over 49 weeks) multiplied by 49 and divided by 53 = £46.23. |

Note: whenever this occurs you must note FREDA with an explanation how the LA calculates their rents during a '53-week' year.

15111 The conversion of income in 53 week years is covered under the header ‘Occupational and Private Pensions’
Tenants with a Private Landlord

The start date of the tenancy and the date of claim will determine the amount of rent eligible for HB or whether LHA applies. There are several 'schemes' with differing provisions into which privately rented claims fall.

Regulated Tenancies

Tenancies that commenced before 15.01.89 are often known as "regulated tenancies" or "old, old scheme cases". The LA is required to check if a "registered fair rent", has been fixed by a rent officer, as this amount would be the eligible rent for HB purposes. The LA can restrict the rent if there is no registered rent. In all cases, deductions are made in respect of:

- water charges
- fuel
- meals
- other non-accommodation related ineligible services included in the rent

Old Scheme Cases

Tenancies that commenced after 15.01.89 but before 02.01.96 and HB has been paid continuously at the same address prior to 02.01.96, are known as 'Old Scheme' cases. For details on 'Old Scheme' cases refer to the HB Guidance A4.1000.

New Scheme Cases

Non LHA claimants whose tenancy commenced on or after 15.01.89 and who first became entitled to HB on or after 02.01.96 are classed as 'new scheme' cases. Within this scheme - up to 05.10.97, tenants may also have been entitled to a '50% top up'. For details on 'New Scheme' cases follow HB Guidance A4.1330.

Joint Tenants

Note: HB Guidance 4.1920
Note: HB Reg 12 (Working Age)
Note: HB Reg 12 (Pension Age)
15124 If the claimant is a joint tenant the eligible rent is apportioned between the joint tenants, having regard to the number of joint tenants, the proportion of rent paid by each, and any other relevant circumstances, such as the size and number of rooms each occupies.

Discretionary Housing Payments (DHPs)

15125 DHPs were introduced on 2 July 2001 to replace the old 'award of additional HB for exceptional circumstances', which was funded by the LA. DHPs are payments under an independent scheme, administered by the LA, but not counted as part of the HB award. The DHP award therefore, is disregarded as both income and capital.

15126 The following can apply for DHPs:

- Claimants in receipt of HB (including LHA)
- Claimants who require further financial assistance towards their housing costs, if the LA think this is appropriate

15127 The following cannot apply for DHPs:

- Ineligible service charges or support service charges
- Any rent liability, if the claimant is not already in receipt of HB (including LHA)
- Increases in rent to cover rent arrears
- Amounts of HB/LHA that have been suspended
- Reductions in benefit as a result of Child Support, 'One', or 'Two strikes’ sanctions

Note: DHPs must not exceed the claimant's rent (rent, for DHP purposes being actual rent minus ineligible service charges).

15200 A non-dependant is someone who normally lives with the claimant. This could be an adult son or daughter or other relative, or a person treated as not
liable to make payments in respect of the home for HB purposes. Deductions are made from the claimant’s HB depending on the non-dependant’s circumstances. In the case of a non-dependant couple only one deduction applies. The joint gross weekly income of the couple is taken into account, and the appropriate deduction applied (unless no deduction is applicable).

Non-dependants in remunerative work

15201 There are six levels of deduction for non-dependants in remunerative work. The rate of deduction is determined by the non-dependant’s gross income from all sources, (including state benefits). The only exception is that payments of the following are always disregarded:

- Disability Living Allowance
- Attendance Allowance and Constant Attendance Allowance
- Payments from the Macfarlane Trusts, the Eileen Trust Fund or the Independent Living Funds

For the rates of non-dependant deductions refer to the latest HB/Council Tax Reduction Uprating Circular

Non-dependants not in remunerative work

15202 The lowest level of deduction applies for non-dependants not in remunerative work regardless of income (unless no deduction is appropriate for non-dependants for whom no deduction applies - see below).

Non-dependants for whom no deduction applies

15203 For the list of non-dependants for whom no deduction is taken refer to HB Guidance A5.504.

15204 Note that with the publication of HB/CTB circular A10/2013, a non-dependant deduction will not be made in respect of a member of the armed forces who is away on operations.

Non resident carers

15205 From the 1st April 2011 there is a provision that permits an extra bedroom to be included for non resident carers in the size criteria in the Rent Officers
order for private rented sector cases that are referred individually to the Rent Officer.

*Note: further information can be obtained from HB/CTB Circular A25-2010 and HB/CTB Circular A3-2011*

15206 - 15209

Calculation of Applicable Amounts

*Note: HB Guidance Manual BW3.30-3.48 (Working Age)*  
*Note: HB Guidance Manual BP3.30-3.50 (Pension Age)*  
*Note: HB Reg 22 (Working Age)*  
*Note: HB Schedule 3 (Working Age)*  
*Note: HB Reg 22 (Pension Age)*  
*Note: HB Schedule 3 (Pension Age)*

15210 The applicable amount is the figure used to reflect the basic living needs of the claimant and family when calculating HB. The LA does not calculate the applicable amount for claimants in receipt of IS, JSA (IB) or ESA (IR) as Jobcentre Plus will have calculated this when determining entitlement to those benefits. The applicable amount is made up of personal allowances, and any premiums that may be payable based on the claimant’s household.

The Claimant’s Household

15211 For HB purposes, the household comprises the claimant, the partner if applicable, and any children for whom the claimant and/or partner are responsible for, and any ‘non-dependant’ members of the ‘family’ (e.g. adult sons and daughters or elderly relatives).

- Boarders and sub-tenants and non-dependants do not form part of the family. Except for LHA - See [the Size Criteria](#) – the number of people in the household.
- Foster children are not included as part of the family for HB purposes, and do not attract any child personal allowances or premiums. Any fostering allowance received is totally disregarded.
- A child/young person's capital is not counted as belonging to the claimant, irrespective of the amount. Only where a dependant does not meet the definition of a child or young person will their capital be aggregated with that of the claimant.
Working Age Personal allowances

15212 The rate payable depends on the claimant’s circumstances:

- Single aged under 25 or over age 25
- Lone parent aged under 18, or over age 18
- Part of a couple, both aged under 18, or at least one over age 18
- Child addition - applies from the Monday following the day on which the child is born

Pension Age Personal allowances

15213 From 6th October 2003 there are two sets of personal allowances for HB pension age cases, one for claimants aged 60 – 64 and one for claimants or their partner, aged 65 or over. From April 2010, state pension age for women increases in stages from age 60 – 65 until 2020.

15214 For claimants aged 60 – 64:

- There will be a personal allowance equivalent to the Pension Credit standard amount
- Pensioner premiums no longer apply
- The HB applicable amount continues to include a severe disability premium
- And/or a carer premium when appropriate, and allowances and premiums for children/young people

15215 For claimant or partner aged 65 or over:

- The personal allowance will be increased to include the appropriate maximum savings credit figure, i.e. for single people or couples. This increase in personal allowances ensures that any gains in Pension Credit, from receipt of a savings credit, are not clawed back in HB.
- Pensioner premiums no longer apply
- HB applicable amount continues to include a severe disability premium and/or a carer premium when appropriate, and allowances and premiums for children/young people

Note: these applicable personal allowances apply to all pension age HB claimants, whether or not they are in receipt of Pension Credit, other than the ones in receipt of JSA(IB), and irrespective of any actual entitlement to the SPC (Savings Credit) component.
Premiums and Qualifying Conditions

15270 Premiums are awarded to reflect extra living costs in certain circumstances.

15271 These premiums are:-

- Family Premium (FP)
- Family Premium (Lone Parent) (FP-LP)
- Disabled Child Premium (DCP)
- Carer Premium (CP)
- Disability Premium (DP)
- Severe Disability Premium Single Rate (SDP-SR)
- Severe Disability Premium Couple Rate (SDP-CR)
- Enhanced Disability Premium (EDP)

Entitlement to more than one premium

15272 Some claimants, because of their personal circumstances, will attract more than one premium. In these cases include any or all of the following:

- FP or FP(LP) if appropriate
- SDP
- DCP
- CP

15273 For further guidance on premiums awarded in Working Age cases see [HB Guidance BW3 Assessment of needs](#)

15274 For further guidance on premiums awarded in Pension Age cases see [HB Guidance BP3 Assessment of needs](#)

15275 - 15299

Calculating Income

Note: [HB Guidance BW1 (Working Age – capital)](#)
Note: [HB Guidance BW2 (Working Age – income)](#)
Note: [HB Guidance BP1 (Pension Age – capital)](#)
Note: [HB Guidance BP2 (Pension Age – income)](#)
Calculating a claimant’s income is an important part of the HB calculation. Income for HB purposes comprises three different types:

- Earned income
- Unearned income
- Capital

**Earned Income**

Earnings are averaged over the five weeks immediately preceding the date of claim if the claimant is paid weekly; or the two months immediately preceding the date of claim if the claimant is paid monthly. However, if averaging the earnings over some other period would produce a more accurate estimate, then the period chosen should be one that would reflect the earnings correctly. If the claimant has not been employed long enough to assess earnings correctly, an estimate should be used based on information supplied by the employer. FREDA must be fully documented, for these particular cases, with how the earnings have been calculated, over what period and the reason why they have been averaged in this manner. As long as this has been done and is both, understandable, logical and mathematically correct a data quality adjustment will not be required.

**Earned income includes:**

- Earnings from full-time work
- Earnings from part-time work
- Bonuses, tips and commission
- Holiday Pay
- Statutory Sick Pay
- Statutory Maternity/Paternity Pay/Statutory Adoption Pay
- Self-Employed Earnings

HB entitlement for employed earners is calculated using gross weekly earnings and deducting:

- Income tax paid (or notional if an estimate is used)
- Class 1 National Insurance Contributions (or notional if an estimate)
- Half of any Occupational Pension or Private Pension contributions

*Note: the working patterns of claimants and partners can be accurately recorded on the HB Questionnaire Part 3, to allow correct attribution of earnings.*

*Note: These are the only items that should be deducted from gross pay. Items such as salary overpayments should be disregarded. HB Reg 36(3) refers.*
Calculation of Weekly Earnings

15304 Earnings have to be converted to a weekly figure in order to assess the weekly HB:

- Earnings paid in multiples of weeks i.e. 4-weekly are simply divided by the number of weeks over which they are paid
- One week or less, the weekly amount is the amount of that payment. For example, if a claimant with a part-time job works and is paid for two days each week, the weekly amount is the amount of that payment.
- Three months, the amount to be included in the weekly income is calculated by multiplying the payment received by four and dividing the product by 52
- A year, the amount to be included in the weekly income is calculated by dividing the amount of payment by 52 for a pension age case
- A year, the amount to be included in the weekly income is calculated by dividing by 365/366 and multiplying by 7 for a working age case.
- Calendar monthly paid earnings should be converted to the annual figure (multiplied \(x\) 12) and divided by 52
- Earnings over any other period, the average weekly income is calculated by multiplying the amount of payment received by seven and dividing product by the number of days in the period in respect of which it is made

Example

Two calendar monthly payslips received.

First, deduct the Tax, National Insurance and half of any occupational pension contributions from the gross figure.

Then multiply the total net of the two payslips by 6 (2 x 6 = 12) to give an annual figure and divide by 52 to find the weekly figure.

Example

After allowable expenses, net earnings are £5,000.
Amount [\(£5000\) \(\times\) 7 = £35,000].

Payment is in respect of 40 weeks that is 280 days.

Average weekly earnings to be taken into account is:
Amount [\(£35,000\) \(\div\) number of days in period [280] = £125]
Claimants with Irregular Earnings

15305 Claimants, who, according to the terms of their employment, are not paid regularly throughout the year, should have their earnings averaged over a reasonable period of time in order to estimate the earnings more accurately.

15306 For example, a university lecturer does not have any earnings for 2 months each year. It would be unfair to use those two months’ wages to calculate the earnings. Therefore, the MRO must obtain the most appropriate wage slips and use these to average the claimant’s wages over an appropriate period of time in order that the average weekly earnings can be estimated accurately. However, the length of time used must not exceed a year.

15307 FREDA must be fully documented, for these particular cases, with how the earnings have been calculated, over what period and the reason why they have been averaged in this manner. As long as this has been done and is both, understandable, logical and mathematically correct a data quality adjustment will not be required.

Weekly Earned Income Disregards

15308 Earned income is subject to a disregard, the amount depends on the circumstances of the claimant. For details of circumstances and disregards refer to the latest HB/CTB Uprating Circular.

The Child Care Disregard

15309 In addition to the earnings disregard, a disregard for ‘Child Care Costs’ (CCCs) can be allowed if all the relevant conditions are satisfied. CCCs should be averaged over the same period as the earnings are averaged. However, as with earnings, CCCs can be averaged over some other period to produce a more accurate estimate.

15310 The following groups qualify in the following circumstances:

- lone parents in remunerative work
- couples if both are in remunerative work
- couples if one of them is in remunerative work and the other one:
  - satisfies the conditions for a disability premium, or
  - is under 80 and satisfies the conditions for a higher pensioner premium
  - has been incapable of work for 28 weeks
Note: See HB Guidance BW2 Annex H for a list of Registered or Approved Child Care providers

15311 The amount of the disregard equals what the claimant pays, up to a maximum of:

- £175 per week for claimants with one child who meets the criteria
- £300 per week for claimants with two or more children who meet the criteria

15312 The disregard is applied to the earnings of the claimant or partner. However, any balance, if the earnings are insufficient, is deducted from any Working Tax Credit (WTC) being received.

Note: LAs apply the Child Care Disregard to either Working Tax Credit (WTC) or earnings. You will mirror the LA assessment when showing which income the Child Care Disregard has been deducted from. For example, if the LA assessment shows the Child Care Disregard being deducted from the WTC, then you will also deduct the disregard from the WTC. The only time that the Child Care Disregard can be deducted from both is if it exceeds either the WTC or the earnings.

15313 An error can occur in the amount, calculation or disregard of CCC in Standard HB. In order to accurately distinguish the numbers of CCC errors from earnings errors recorded as ‘amount earned’, the sub category ‘Child Care Costs’ should be used in these cases.

15314 - 15329

The Additional Earnings Disregard

15330 Providing that certain conditions are met an additional disregard of £17.10 per week is made providing the application of all the relevant disregards does not result in a negative earned income figure (If this occurs a disregard is made from Working Tax Credit (WTC).

15331 For details of when the AED should be allowed see:

- HB Guidance BW2 (Working Age)
- HB Guidance BP2 (Pension Age)

Note: The Additional Earnings Disregard should not be applied to SSP/SMP/MA/SPP/SAP where a claimant in receipt of one of these benefits is not in remunerative work because they are sick/on maternity leave/ on adoption leave. However, if WTC is in payment, the Additional Earnings
Disregard can be applied to that if there is insufficient earned income to be disregarded. It can also be applied to WTC or CTC run-on as long as there was an entitlement to Additional Earnings Disregard before the 4 week run-on period started.

15332 Single people, and at least one member of a couple without children, must still work at least 30 hours per week in order to be eligible for WTC and have entitlement to the additional earnings disregard. However there is one exception. A small group of people who are single or part of a couple without children may benefit from this measure even though they are working between 16-29 hours per week. This group is people aged 50 or over who are entitled to the 50 plus element of WTC. However, from 06/04/2012, the 50-plus element of WTC will cease to exist and will in turn mean the loss of the additional earnings disregard.

Occupational and private pensions

15333 Any occupational or private pensions received calendar monthly, must be converted to a weekly figure in order to assess the weekly HB.

- Calendar monthly pensions should be multiplied by 12 and divided by 52.
- Pensions received every 4 weeks are divided by 4.
- Pensions received quarterly (or every 13 weeks) are divided by 13
- Pensions received annually are divided by 365/366 and multiplied by 7.

Note: some LAs convert their monthly income incorrectly, and use the ‘weekly rent conversion’ calculation. This is incorrect according to HB legislation, and should be recorded as an official error. However, the LA may not correct the HB calculation in this case, as often their particular HB system software dictates the monthly conversion calculation. Also, if the LA operate a ‘53 week year’ (wherever they occur) then as, per HB law, they should continue to multiply calendar monthly income by multiplying by 12 and dividing by 52. If the LA is dividing by 53, this is an official error. As above, the LA may not alter the calculation if their software will not allow this but it remains an official error.

Maintenance towards a Student

15334 A disregard can be allowed for parental contributions towards student maintenance which has been taken into account by a Local Education Authority in calculating a student’s entitlement to a grant or loan.

15335 For more details see:

- HB Guidance BW2 (Working Age)
• **HB Guidance BP2 (Pension Age)**

15336 The amount to be disregarded is the:

• actual amount of the contribution
• personal allowance for a single claimant under 25 less the weekly amount of any award, whichever is the smaller

15337 Parental contributions should be disregarded first against the claimant’s other income. If the other income is insufficient to meet the whole of the parental contribution, the balance may be offset against any earnings.

**Unearned Income Taken Into Account in Full**

15338 Certain unearned income is taken into account in full when assessing HB. A list of unearned income can be found in HB Guidance BW2.500

**Unearned Income Disregarded in Full**

15339 Certain unearned income is disregarded in full when assessing HB. A list of disregarded unearned income can be found in HB Guidance BW2 Annex B

15340 There are LAs that operate “local schemes”, under which they disregard War Disablement Pensions and War Widows Pensions in full. In these cases, the LA has discretionary powers to treat the income differently and an error should not be recorded.

15341 - 15349

**Other types of Unearned Income**

**Tax Credits**

**How Tax Credits are treated for HB purposes**

15350 Tax Credits are taken fully into account as income in the HB calculation (Non-passported HB only), unless the claimant receives IS/JSA(IB)/ESA(IR) or is of Pension Age when CTC is disregarded for HB purposes.

15351 The procedures for calculating the weekly income of tax credits mean that the actual instalment the claimant is being paid by Her Majesty’s Revenue & Customs (HMRC) is used, rather than the annual award. It is then taken into account for the period it is payable from.
Payment cycles/frequency of Tax Credit instalments

15352 In order to be able to calculate the weekly amount of tax credit, you need to be aware that instalments can be paid in one of three ways:

- Weekly: payable at the end of the weekly period
- Four-weekly: payable at the end of the four-weekly period
- One-off: paid out of cycle or an amount that differs from the amounts of regular payments.

How To Calculate a weekly amount of Tax Credit

15353 For all payments of tax credits, you must identify the payment that affects the selected period/review week.

Tax Credit One-off payments in cycle

15354 These are treated in the same way as regular payments of Tax Credits.

Example 1 – Weekly Paid CTC

CIS shows:

<table>
<thead>
<tr>
<th>WTC/CTC</th>
<th>Payment Due</th>
<th>Payment Date</th>
<th>Payment End Date</th>
<th>Payment Type</th>
<th>Amount</th>
<th>Payment Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>CTC</td>
<td>19-Apr-2013</td>
<td>04-Apr-2014</td>
<td>Regular</td>
<td>£113.99</td>
<td>Weekly</td>
<td></td>
</tr>
<tr>
<td>CTC</td>
<td>12-Apr-2013</td>
<td>12-Apr-2013</td>
<td>One-off</td>
<td>£114.11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CTC</td>
<td>03-Aug-2012</td>
<td>05-Apr-2013</td>
<td>Regular</td>
<td>£111.16</td>
<td>Weekly</td>
<td></td>
</tr>
<tr>
<td>CTC</td>
<td>30-Jul-2012</td>
<td>30-Jul-2012</td>
<td>One-off</td>
<td>£112.96</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

You visited the claimant on 01/05/2013.

The Tax Credits taken into account by the LA for the review week were £111.16 per week.
The claimant stated that she had not notified the LA of any changes in her tax credits and the LA had not been notified of the increase by any other source (e.g. ATLAS).

A claimant error is recorded. The Tax Credit rate applicable to the Review Week is £113.99. This rate has applied since 13/04/2013.

**Example 2 – 4 Weekly Paid CTC**

CIS shows:

<table>
<thead>
<tr>
<th>WTC/CTC</th>
<th>Payment Due</th>
<th>Payment End Date</th>
<th>Payment Type</th>
<th>Amount</th>
<th>Payment Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>CTC</td>
<td>13-May-2013</td>
<td>17-Mar-2014</td>
<td>Regular</td>
<td>£224.60</td>
<td>4-weekly</td>
</tr>
<tr>
<td>WTC</td>
<td>13-May-2013</td>
<td>17-Mar-2014</td>
<td>Regular</td>
<td>£298.17</td>
<td>4-weekly</td>
</tr>
<tr>
<td>WTC</td>
<td>15-Apr-2013</td>
<td>15-Apr-2013</td>
<td>One-off</td>
<td>£298.26</td>
<td></td>
</tr>
<tr>
<td>CTC</td>
<td>15-Apr-2013</td>
<td>15-Apr-2013</td>
<td>One-off</td>
<td>£224.17</td>
<td></td>
</tr>
<tr>
<td>WTC</td>
<td>01-Oct-2012</td>
<td>18-Mar-2013</td>
<td>Regular</td>
<td>£297.93</td>
<td>4-weekly</td>
</tr>
<tr>
<td>CTC</td>
<td>01-Oct-2012</td>
<td>18-Mar-2013</td>
<td>Regular</td>
<td>£240.71</td>
<td>4-weekly</td>
</tr>
<tr>
<td>WTC</td>
<td>03-Sep-2012</td>
<td>03-Sep-2012</td>
<td>One-off</td>
<td>£299.21</td>
<td></td>
</tr>
<tr>
<td>CTC</td>
<td>03-Sep-2012</td>
<td>03-Sep-2012</td>
<td>One-off</td>
<td>£241.10</td>
<td></td>
</tr>
</tbody>
</table>

You visited the claimant on 01/06/2013.

The CTCs taken into account by the LA for the Review Week were £60.18 per week (£240.71 every 4 weeks).

The claimant stated that she had not notified the LA of any changes in her Tax Credits and the LA had not been notified of the increase by any other source (e.g. ATLAS)

A claimant error is recorded. The Tax Credit rate applicable to the Review Week is £56.15 (£224.60 every 4 weeks). The rate has applied since 16/04/2013.
Example 3 – One-off Payments of Tax Credits

CIS shows:

<table>
<thead>
<tr>
<th>WTC/CTC</th>
<th>Payment Due</th>
<th>Date</th>
<th>Payment End Date</th>
<th>Payment Type</th>
<th>Amount</th>
<th>Payment Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>CTC</td>
<td></td>
<td>13-May-2013</td>
<td>17-Mar-2014</td>
<td>Regular</td>
<td>£224.14</td>
<td>4-weekly</td>
</tr>
<tr>
<td>WTC</td>
<td></td>
<td>13-May-2013</td>
<td>17-Mar-2014</td>
<td>Regular</td>
<td>£298.17</td>
<td>4-weekly</td>
</tr>
<tr>
<td>WTC</td>
<td></td>
<td>15-Apr-2013</td>
<td>15-Apr-2013</td>
<td>One-off</td>
<td>£298.26</td>
<td></td>
</tr>
<tr>
<td>CTC</td>
<td></td>
<td>15-Apr-2013</td>
<td>15-Apr-2013</td>
<td>One-off</td>
<td>£224.00</td>
<td></td>
</tr>
<tr>
<td>WTC</td>
<td></td>
<td>01-Oct-2012</td>
<td>18-Mar-2013</td>
<td>Regular</td>
<td>£297.93</td>
<td>4-weekly</td>
</tr>
<tr>
<td>CTC</td>
<td></td>
<td>01-Oct-2012</td>
<td>18-Mar-2013</td>
<td>Regular</td>
<td>£240.71</td>
<td>4-weekly</td>
</tr>
<tr>
<td>WTC</td>
<td></td>
<td>03-Sep-2012</td>
<td>03-Sep-2012</td>
<td>One-off</td>
<td>£299.21</td>
<td></td>
</tr>
<tr>
<td>CTC</td>
<td></td>
<td>03-Sep-2012</td>
<td>03-Sep-2012</td>
<td>One-off</td>
<td>£241.10</td>
<td></td>
</tr>
</tbody>
</table>

You visited the claimant on 01/04/2013.

The CTC taken into account by the LA for the Review Week were £60.18 per week (£240.71 every 4 weeks).

The claimant stated that she had not notified the LA of any changes in her tax credits and the LA had not been notified of the increase by any other source (e.g. ATLAS).

As the one-off payment clearly falls within the normal cycle of payments, it is attributed using normal income rules. The CTC rate applicable to the Review Week is £56.00 (£224.00 every 4 weeks). This rate has applied since 19/03/2013.

Tax Credit One-off payments paid out of cycle between Tax Credit regular payments

15355 HB regs surrounding the treatment of Tax Credit one-off payments when paid out of cycle can be difficult to calculate as they normally represent
periods equating to part weekly or part four-weekly payments. HB regs afford the LAs flexibility in the way that ‘out of cycle’ one-off Tax Credit payments are attributed to the claimant’s HB.

15356 PM analysis has concluded that the majority of out of cycle one-off payment following the examples in paragraph 15334, and must be attributed in the manner described in those examples.

15357 In cases where:

- A one-off payment of Tax Credit is paid in the selected week/review week, and the payment is out of cycle from regular payments of tax credits; or
- The payment is considerably different to the amounts of regular payments

you should take the following action:

15358 Using CIS, establish the first day of the payment, and the usual pattern of payment. You may need to check prior, or more recent, patterns of payment on CIS to identify the sequence of payment start dates.

15359 Identify the payment end date of the previous regular payment. Identify the payment start date of the next regular payment. As a general rule, although there may be exceptions, one-off payments will cover the interim period.

Example

CIS print showing weekly paid Tax Credit

<table>
<thead>
<tr>
<th>WTC/CTC</th>
<th>Payment Due</th>
<th>Payment Due Date</th>
<th>Payment Type</th>
<th>Amount</th>
<th>Payment Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>WTC</td>
<td>21-Dec-2011</td>
<td>25-Jan-2012</td>
<td>Regular</td>
<td>£39.93</td>
<td>Weekly</td>
</tr>
<tr>
<td>WTC</td>
<td>15-Dec-2011</td>
<td>15-Dec-2011</td>
<td>One-off</td>
<td>£42.97</td>
<td></td>
</tr>
<tr>
<td>WTC</td>
<td>15-Jun-2011</td>
<td>07-Dec-2011</td>
<td>Regular</td>
<td>£40.12</td>
<td>Weekly</td>
</tr>
</tbody>
</table>

In this case the regular payments prior to the one-off payment were Wednesday pay dates. The one-off payment is a Thursday pay date and therefore falls out of the regular cycle of payments.
The one off payment will be applicable from 08/12/11. The next regular payment commences 16/12/11.

15360 Any exceptions should still be referred to AGA in the usual way.

**Arrears of Tax Credits**

15361 Arrears payments of Tax Credits must not be taken into account as income and are treated as capital and disregarded for 52 weeks. Arrears payments are easily identified on CIS prints.

**Calculating HB Error Start Dates for Tax Credits**

15362 For guidance in calculating the Start date of error, see [PMG part 17](#).

15363 – 15369

**Disregards on unearned income**

*Note: HB Guidance BW2 (Working Age)*  
*Note: HB Guidance BP2 (Pension Age)*

15370 There are various disregards available for unearned income such as :-

- Payments to compensate for non-payment of War Widow’s and War Disablement Pensions
- War Widows and War Disablement Pensions
- Analogous payments from Governments outside the UK
- Nazi persecution compensation payments.

*Note: There are LAs that operate “local schemes”, under which they disregard War Disablement Pensions and War Widows Pensions in full. In these cases, the LA has discretionary powers to treat the income differently and an error should not be recorded.*

- Student loans

*Note: All students who are eligible to apply for a student loan are treated as receiving one whether or not they apply.*

- Widowed Mother’s Allowance and Widowed Parent’s Allowance
- Charitable and Voluntary Payments
Note: Payments made, or due to be made, at regular intervals which are charitable and/or voluntary, are fully disregarded, provided it is intended, and that they are actually used, for the claimant’s (or a member of the family’s) food, ordinary clothing or footwear (excluding school uniform and sportswear), household fuel, eligible rent, council tax, or water charges. If it is for any other item, also disregard in full. This also applies to payments in kind (i.e. goods not money) from a charity, which are always disregarded in full.

• Income from a Personal Injury Trust Fund

Note: Lump sum payments from such a Trust Fund should be treated as capital.

• Income from Personal Injury Structured Settlements

Note: A personal injury structured settlement is a settlement that pays the injured person a regular income rather than a lump sum. In some circumstances these also include a “contingency fund”, which should be treated in the same way as any other lump sum award. Income from these annuities, are treated in the same way as income from personal injury trust funds as described above.

• Income from Court of Protection Cases

Note: The treatment of income received from an award held under the control of the court is treated as capital.

• Fostering, Boarding, Respite Care Payments, Adoption and Custodianship Allowances
• Payments in Kind

Note: credits received via Local Exchange Trading Schemes (LETS) do not count as payments in kind but should be given a cash value as earnings.

• Payments from Boarders

Note: 'boarders' receive meals; 'Sub-tenants' do not.

• Payments from Sub-tenants

Weekly Maximum Disregard

15371 The weekly maximum disregard per claim per family is £20 from any of the following:
• Student covenant income
• Student loans
• War Widow’s/Widower’s and War Disablement Pensions (unless local scheme applies)
• Widowed Mother’s Allowance and Widowed Parent’s Allowance
• Certain other pensions including War Disablement Pension
• Access fund payments taken into account as income

Permitted Work Disregard

15372 Permitted Work Rules are to encourage people with disabilities to join the employment arena. These rules allow any person claiming benefit based on incapacity, to try some paid work without prior approval from a doctor. There are two disregards:

• Up to the higher weekly limit indefinitely, or up to 52 weeks and then the lower limit
• Up to the lower limit for an unlimited period.

15373 – 15389

Pension Credit savings credit in payment

15390 When there is entitlement to the savings credit only, the claimant will only be able to claim non-passported HB, and will have their savings credit amount taken into account in full in their HB assessment. The LA will be required to use the information provided by DWP.

15391 This will detail the total assessed income and capital for the claimant. This figure will be known as the Assessed Income Figure (AIF), and will include details of incomes taken into account in the Pension Credit assessment, and the disregards DWP has applied to those incomes. The AIF will not include the savings credit, but DWP will inform the LA of that amount.

Modifying the AIF

15392 LAs will be required to modify the AIF provided by DWP only to:

• Take account of the savings credit
• To modify the income of a partner who is not included in the Pension Credit calculation, for example due to absence of the partner abroad,
when Pension Credit removes the partner from the Pension Credit assessment at an earlier stage than HB
• To take account of the income of a non-dependant that is treated as the claimant’s income.
• To apply the HB disregard when it is more generous than the Pension Credit disregard, for example:
  • £25 of a lone parent’s earnings
  • £15 of a widowed parent’s allowance
  • £15 of a widowed mother’s allowance
  • Childcare charges, 30 hour element in WTC
*Note: the LA should not modify the AIF for any other reason than those stated above.*

**Claimants not entitled to Pension Credit**

15393 For those pensioners who have made an application for Pension Credit but are not entitled to it, DWP will still pass on details of the claimant’s income and capital to the LA. The LA may use the information in the assessment for non-passported HB should it wish to. However, the LA would be accountable for any overpayments that arise due to any errors in the information passed on by DWP.

15394 - 15399

**Capital**

15400 Capital is the total savings or investments held by a claimant and/or their partner. Capital can be distinguished from income because it is:

• Made without being tied to a period; and
• Made without being tied to any past payment; and
• Not intended to form part of a series of payments.

15401 Examples of capital are included in [HB Guidance BW1.72](#)

15402 Certain capital payments can be disregarded. Examples of disregarded capital are included in [HB Guidance BW1.180](#)

**Stocks and shares**

15403 Stocks and shares are marketable holdings. The face value of shares may differ from the sell price which is the figure used to establish the market value.
Shares Tool

15403 The DWP Shares Wizard is no longer in use. For guidance, see the Shares Wizard section of the intranet.

*Note: when using the tool please take a print of the final share price results appropriate to the claimant’s claim and file in the case.*

15404 - 15409

Tariff Income - Working Age

15410 The total amount of any capital held by the claimant has to be calculated. Anyone with capital of more than £16,000 is not entitled to HB. Capital below £6,000 is ignored when calculating HB. If the claimant has capital between £6,000 and £16,000, they are treated as having an assumed income from their capital. This is termed “tariff income”. £1 is assumed as income for every £250, or part of £250 above the appropriate lower capital limit. The lower capital limit depends on whether the claimant and/or partner are under State Pension age and in a residential care home. This tariff income is added to the claimant’s income when calculating entitlement to HB for non-passported cases. If the claimant is in receipt of IS/JSA (IB)/ESA (IR) tariff income will have been taken into account by DWP.

Tariff Income over State Pension age

15411 The total amount of any capital held by the claimant has to be calculated. Anyone with capital of more than £16,000 is not entitled to HB unless in receipt of Pension Credit guarantee credit (when the whole of the income and capital will be disregarded). Capital below £10,000 is ignored when calculating HB. If the claimant has capital between £10,000 and £16,000, they are treated as having an assumed income from their capital. This is termed “tariff income”. £1 is assumed as income for every £500, or part of £500 above the appropriate lower capital limit. The lower capital limits depend on whether the claimant and/or partner are under State Pension age and in a residential care home. This tariff income is added to the claimant’s income when calculating entitlement to HB for non-passported cases. If the claimant is in receipt of Pension Credit, tariff income (known as assumed income from capital for Pension Credit) will have been taken into account by DWP and will be included in the AIF. When the HB claimant has capital
exceeding £16,000 and is entitled to the savings credit only, there will be no entitlement to non-passported HB.

15412 A tariff income table showing the levels of tariff income for both working age claimants and claimants over State Pension age is available in HB Guidance BW1 Annex B (15413 - 15419)

Valuing Capital

15420 The following rule applies whenever a property, shares or anything else (apart from national savings certificates), has to be valued for HB purposes. The rule has three steps:

- Take the current market or surrender value of the capital item
- Then disregard 10% if selling it would involve costs
- Then disregard any mortgage or other “encumbrance” (e.g. a loan) secured on it

15421 To assess a person’s share of jointly held capital:

- First assume that all the joint owners have equal shares in the capital item
- Then value the person’s resulting share using the above rule.

Capital Asset Disregards

15422 Certain capital assets can be disregarded:

- In full (for further details see HB Guide BW1.180)
- For 26 weeks (for further details see HB Guide BW1.200)
- For 52 weeks (for further details see HB Guide BW1.201)

15423 - 15429

Notional Income and Capital

15430 If a claimant deliberately deprives him/herself of income or capital in order to qualify or increase the amount of HB, he/she is treated as still possessing that income or capital. In order to establish whether a claimant has deprived him/herself of income/capital, all the circumstances and the reasons given for disposing of the income/capital must be carefully considered.
15431 Securing entitlement to benefit must be a significant factor if the claimant is to be treated as possessing notional income/capital. If there is income or capital available to the claimant on application, then they are treated as possessing that income or capital from the date it could be obtained. For example a claimant is paid less than the going rate for a job; the claimant can be treated as receiving whatever additional pay is reasonable for that job in the circumstances. However:

• If the LA has used the Minimum Wage as notional income, they must supply evidence of comparable jobs paying the notional or minimum wages. If not, this may result in an Official Error being recorded.
• The income of a Non-Dependant can be taken into account if the arrangement has been designed to take advantage of the HB scheme.

15432 There are some exceptions such as:

• A discretionary trust
• A trust set up in consequence of a personal injury or where a court administers payments in respect of compensation for personal injuries
• A personal pension scheme or annuity contract, but only where the claimant has not attained the qualifying age for Pension Credit. Where the Claimant has attained the qualifying age for Pension Credit the claimant can be treated as possessing notional income and/or capital.

15433 If notional capital is used on the benefit claim, then the LA should check the effect this has had on the award of HB and reduce the notional figure according to the weekly loss in HB.

15434 - 15449

Calculating Excess Income / Tapers

15450 Once the claimant’s applicable amounts and income have been calculated, the next stage is to calculate whether there is any excess income. If there is any excess income HB may still be payable, depending on the amount of the excess.

15451 Claimants in receipt of IS, JSA (IB), ESA (IR) or SPC (GC) receive maximum HB (minus any ineligible charges and any non-dependant deductions) if they are LA tenants. If they are private tenants this will depend on several factors (See Calculating non-passported/passported HB)

Tapers
15452 If a claimant's income exceeds their applicable amount, the excess affects HB in that 65% of the excess is deducted from the allowable rent, this is known as the 'taper'.

<table>
<thead>
<tr>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income</td>
</tr>
<tr>
<td>Applicable amount</td>
</tr>
<tr>
<td>Excess Income</td>
</tr>
<tr>
<td>65% of excess</td>
</tr>
</tbody>
</table>

If the allowable rent is £40.00 per week, £4.94 would be deducted, and £35.06 per week would be paid as HB. (If any non-dependant deductions apply these would then be deducted to give the amount of weekly HB).

\[ HB = (\text{eligible rent} - 65\% \text{ of excess income less any non-dependant deductions}) \]

15453 - 15459

**Treatment of claimants in hospital**

15460 After 52 weeks hospitalisation the claimant’s right to HB (including LHA) will be lost altogether or in the case of any dependents (adults or children) they are likely to cease to be treated as a member of the family.

15461 - 15469

**Special Cases (Non-passported Claims)**

**Self-employed Earners**

15471 For full guidance on HB Self-employed cases, see [HB Guidance BW2 (Working Age)](#) and [HB Guidance BP2 (Pension Age)](#)

15471 – 15479

**Student cases**
15480 For full guidance on HB Student cases, see HB Guidance C2.

15481 - 15499

Changes in Circumstances

15500 A change in circumstances for HB purposes is one which the claimant, or other relevant person, could “reasonably be expected to know” might affect:

- The entitlement to HB
- The amount of HB
- The method of payment of HB

*Note: See HB Guidance A6.360 onwards*

15501 Claimants have a duty to inform the LA of any changes in their circumstances immediately. This duty begins on the day the first claim was made and continues for as long as the HB claim is live. Changes which must be notified to the LA are:

- Changes in ALL income and/or capital
- Change of address
- Changes in the circumstances/income of non-dependants in the household
- Changes relating to the direct payment of HB to a landlord
- The end of the claimant or partner’s entitlement to IS, JSA(IB) or ESA (IR)
- The date that a child or young person ceases to become a member of the household
- Changes in rent or tenancy if the tenant resides in property other than LA property
- Absence from home when the absence is likely to be more than 13 weeks
- Capital exceeding £16,000

*Note: Pension Credit claimants may report changes of circumstances to DWP who must pass the information to the relevant LA.*

15502 The following changes are not required to be notified:

- Beginnings or ends of awards of Pension Credit or changes in the amount
- Changes in the age of any member of the household
- Changes in the HB regulations
- Changes which affect the rate of IS/ JSA(IB)/ ESA(IR) in payment
- Changes in rent if the tenant resides in LA property
A change in circumstances is normally effective from the Monday after the change took place. For PM purposes all changes will take effect from the Monday following the date of change even if the change occurs on a Monday.

**Universal Credit Changes in Circumstances Affecting HB**

15504 [HB Circular A13/2013](#) provides LAs with guidance for when a UC claimant and a HB claimant have a change in circumstances that requires the closure of an HB claim.

15505 The UC Pathfinder began on 29 April 2013 for eligible claimants in postcodes served by the following Jobcentres:

- Ashton-under-Lyne
- Oldham
- Warrington
- Wigan

15506 Once a claimant is in receipt of UC they will remain on UC even if their circumstances change (subject to conditions of entitlement), for instance if they gain a partner or children, or move away from the Pathfinder area.

15507 This means that an LA outside of the Pathfinder area will normally be required to close down a HB claim if:

- a HB claimant moves in with a UC claimant, or
- a UC claimant moves in with a HB claimant outside of the Pathfinder area.

15508 It is a fundamental principle that Universal Credit is assessed and paid on a whole month basis. Any previous HB entitlement paid to partners of UC claimants should end the day before the first day of the existing UC claimant’s assessment period, regardless of when in the month they become a couple.

15509 Where the UC claimant moves into the HB address, HB entitlement will end the day before the first day of the assessment period. In these cases the UC housing element will cover the cost of the property for the month.

15510 This means that any HB paid from the start of the UC assessment period will duplicate the UC housing element and any overlapping HB paid for the same period as the UC will be classed as overpaid.

15511 A HB claimant moving into a UC household as a partner may have had a genuine eligibility for HB for their previous property beyond the first day of the UC assessment period.
PMG October 2014

15512 HB regs take this into account for UC by ignoring any HB payment made to the HB claimant during the assessment period when calculating the first month’s UC payment for the new couple.

15513 Any payment of HB for a period beyond the date the HB claimant moves into the UC household should not be ignored but treated as overpaid.

15514 Please refer to AGA, following PM review, any cases where:

- a UC claimant has moved into a HB household creating an overpayment in the selected week or review week; or
- a HB claimant has moved into a UC household creating an overpayment in the selected week or review week.

15515 - 15529

Pension Credit

Assessed Income Periods (65+)

15530 At age 65 a claimant or partner can claim the savings credit element provided they satisfy the required criteria. This can be paid in addition to the guarantee credit. An AIP may be set. An AIP can be up to 5 years (or up to 7 years during the transition period), and is a period during which the claimant is not required to report any changes in their retirement provision (income from pension schemes and savings). If there are predictable changes in retirement provision (other than annual cost of living increases) during the 12 months following the claim, the Decision Maker may decide not to set an AIP, or to set one shorter than 12 months. If the date of change is not known, an AIP should not be set until the change has been notified.

15531 The setting of an AIP means that a claimant will keep the benefit from increases in capital value and certain types of income and no overpayment will occur during their AIP. For example, an AIP is awarded from 06.10.03 to 05.10.08. If the claimant obtains a windfall due to a lottery win of £50,000 in December 2003, this is not a reportable change during the current AIP; but this will need to be accounted for at the start of the next AIP. This applies only where Pension Credit (Guarantee Credit) is in payment. If Pension Credit (Savings Credit) only is in payment, capital exceeding £16,000 would remove entitlement to non-passported HB. Other "life event" changes, for example the death of a partner should be reported.
15532 Changes to other income, such as earnings, will affect the Pension Credit entitlement and must be reported to DWP. Any consequential change to Pension Credit entitlement will be made without ending the AIP.

15533 From 6th October 2003, when the HB claimant receives both Pension Credit and HB, they are required to report the majority of any changes in their circumstances to DWP. It is the responsibility of DWP to notify the changes of circumstance relevant to the LA and any revised AIF.

15534 The claimant is responsible for reporting the change directly to the LA as follows:

- In cases where the guarantee credit is in payment:
  - Changes to the tenancy, other than the amount of rent payable to a local authority (i.e. changes in the rent charged by the LA to its own tenants).
  - Changes to non-dependants
  - Absence from home when the absence is likely to be more than 13 weeks

15535 In Savings Credit only cases:

- Changes to the tenancy, other than the amount of rent payable to a local authority
- Absence from home when the absence is likely to be more than 13 weeks
- Changes to dependent children
- Changes to household composition and non-dependants
- Changes to Child Tax Credit
- Capital exceeding £16,000
- Changes to the income and capital of partners not included in the Pension Credit claim

**Effective dates for changes of circumstance for claimants in receipt of HB and Pension Credit**

15536 The Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (SI 2003/325) introduced regulation 68B. This deals with people who are in receipt of HB and Pension Credit, when the amount of Pension Credit awarded is changed due to a change of circumstance or official error and there is a knock-on effect to HB. It ties the effective date of the HB change to the effective date of the change in Pension Credit, when the claimant gets more HB as a result of the Pension Credit change. Thus:

- 68B(2). If the change increases both Pension Credit and HB, both changes have the same effective date (with Pension Credit dictating that date)
• 68B(4). If the change decreases Pension Credit but increases HB, the effective date of the HB change will be the first date of the benefit week in which Pension Credit is reduced (again, Pension Credit dictating the HB date)

• 68B(6). If guarantee credit is awarded, and this means that the claimant will get more HB, the change in HB shall take effect from the first date of the benefit week following the date from which the guarantee credit is payable (again, Pension Credit dictating the HB date)

15537 When the claimant gets less HB as a result of the Pension Credit change, it works thus:

• 68B(3)(a). If the change decreases both Pension Credit and HB, when the Pension Credit is reduced because the claimant failed to notify the change to DWP timeously, the change in HB shall take effect from the first day of the benefit week from which Pension Credit was reduced

• 68B(3)(b). In any other case, the change in HB shall take effect from the first day of the benefit week following the date on which the LA receives notification of the change from DWP

• Regulation 68B(5) provides that when the change of circumstance is that an award of Pension Credit has been made, and this has resulted in a decrease in the rate of HB, the change shall take effect from the first day of the benefit week next following the date on which the LA receives notification from DWP of the award.

15538 The paragraphs above describe the situations in Pension Credit and HB when changes in the Pension Credit award affect the HB award; however, there are two other groups of claimants who are not captured by regulation 68B and HB Decisions & Appeals Regulation 8(3). However, these regulations will still be applicable for:

• Claimants who are in receipt of Pension Credit, and who have a change of circumstances which affects HB alone

• Other claimants over State Pension age, who are not in receipt of Pension Credit

15539 Special rules apply to when changes take effect in HB to make sure LAs do not have to calculate overpayments when there has been a delay in the information being passed to them. For example, when a change of circumstances is reported on time to DWP the effective date will be:

• The date of change used by DWP when the change results in an increase in HB, or

• The date the LA receives the notification of the change from DWP when the change results in a reduction in HB
LAs must amend HB calculations as soon as they are provided with a revised AIF from DWP. If the HB is not amended by the pensioner’s next payday, any overpayment from that date should be recorded.

Local Housing Allowance Cases

Note: See LHA Guidance

15540 - 15549

15550 MROs must complete an official error check in the selected week and a review week check of the LHA award on all cases selected in the sample after the claimant has been visited. The full processes described in this guide are applicable to LHA with the exception of the Eligible Rent figure which is calculated differently. This process is explained in the following paragraphs.

Note: Official errors must only be recorded if they occur in the selected week. Conversely claimant fraud and error must only be recorded if it occurs in the review week.

15551 Some private tenants have their level of HB limited to a ‘maximum rent’, set by the Rent Officer. This can be the same as the rent that a person is charged by their landlord or it can be set at a level less than the landlord charges.

15552 Many private tenants now have their HB calculated under the LHA scheme which applies to the deregulated private sector. It is based on the household size and location rather than individual rents and is payable to claimants making new claims for assistance with their rent. It was initially piloted across a number of ‘Pathfinder’ LAs and from 7th April 2008, LHA was fully rolled out nationally.

• There will no longer be a five bedroom LHA rate. The maximum level is for a four bedroom property
• absolute caps are introduced so that LHA rates in any area cannot exceed:
  o £250 for a one bedroom property
  o £290 for a two bedroom property
  o £340 for a three bedroom property
  o £400 for a four bedroom property
These rates are the maximum amounts but entitlement will depend on where the claimant lives.

15553 From April 2013, LHA rates will be set annually at the lower of:
• The previous LHA rate uprated by Consumer Price Index (CPI) inflation at the previous September, or
• The 30th percentile of local market rents at the previous September.

15554 Also from April 2013 there is provision to review LHA cases where there has been either an increase or decrease in rent. Therefore, this will allow changes in rent to be treated as a change in circumstances and to be considered from the date of change as opposed to a future date.

Maximum and eligible rent

15555 The definition of a new claim for LHA is:

• A claim from a person who has never claimed before
• A change of address
• A re-application where there is a break in the claim of one week or more
• A re-application on an income based basis where a claimant has previously been on ESA (IR), Income Support or Jobseeker’s Allowance (Income-Based) and there has been an extended payment. (Where no extended payment has been awarded, then this is not a new claim).

15556 Under the LHA scheme the claimant’s maximum rent will be the LHA that he or she is entitled to.

15557 This avoids the need for Rent Officers to examine every property and decide what level of rent is eligible for HB in each case.

15558 The LHA will then normally become the claimant’s ‘eligible rent’, which is the figure used in calculating the claimant’s entitlement.

15559 If service charges are included in the rent, they are not deducted from the LHA rate that a person is entitled to, even if the landlord is being paid directly and the full contractual rent is paid.

Applying the Correct LHA

15560 You must check that the claimant receives the LHA that was in force on the date that their claim is treated as being made. To do this you must take into account:

• the ages, gender and number of people in the household, and
• the area in which they live (this is called the ‘Broad Rental Market Area’).
15561 You can check the correctness of the Broad Rental Market Areas (BRMA) and the rate payable for the month the treat as made date for the claim falls by accessing the official LHA website which holds historical LHA rates that apply in each LA etc.

15562 You must access the BRMA website to carry out the following 3 preview checks:

- The correct BRMA month has been applied, and
- The BRMA rate applied in the current LHA award is correct for the family composition, and
- The BRMA rate applied in the current LHA award is correct for the area the claimant resides in

15563 You must establish that there is a liability to pay rent and that the claimant has provided evidence to establish the amount of rent charged and the rent liability. Under the LHA scheme the claimant’s maximum rent will be the LHA that they are entitled to, which must not exceed their actual rental charge (including service charges) from April 2011, plus any transitional protection of maximum rent that applied previously.

*Note: For claimants in receipt of LHA as a result of the Pathfinder pilot no cap or limit exists. Please see the section on [Transitional Protection](#) for more information.*

15564 This ensures that claimants have their benefit based on a figure that more accurately matches the state of the housing market at the date of their claim or change of circumstances.

**Exemptions**

15565 If you identify the claimant’s property belongs to an exempt category then this will indicate that there is an error regarding the award of LHA rather than HB.

15566 These are:

- Registered social landlord tenancies (Housing Associations)
- Protected cases, such as housing provided by certain local authorities, social landlords, charities and voluntary organisations. Where that body or a person acting on its behalf also provides the claimant with care, support and supervision (supported housing). In these cases it must be shown that the landlord has overall responsibility for the provision.
**Transitional Protection**

**Thirteen-week**

15567 If the LA are satisfied that a claimant was able to pay the rent on their accommodation when their tenancy began and the claimant had not previously been entitled to HB in the 52 week period before their claim, they can have their eligible rent based on their actual rent less ineligible services (without rent officer restrictions) for 13 weeks, if this is higher than the LHA that they would qualify for.

15568 This protection is based on the existing thirteen-week protection scheme in Regulation 12D(4) and aims to help those who are ordinarily able to pay their rent but have fallen into difficulties. This provides time to either find another job or to find cheaper accommodation.

15569 Any break in an award means that a person will lose their protection. However, a claim that is backdated to the date the previous award ended would not be classed as a break in the claim and so protection would not be lost.

15570 If, at the point of transfer onto the LHA scheme, a person is already entitled to a thirteen-week protection, they will only continue to be protected for the remainder of the 13 weeks and would then be paid at the rate set by the rent service.

**Protection on death**
In the case of the death of a relevant person, the claimant can be protected for a year from any decrease in their eligible rent. This protection is based on the existing rules for protection on death in Regulation 12D (2). As now, people can benefit from this protection even if they only claim HB after the death. In this case, their eligible rent will be based on the actual rent less ineligible services unless the LHA based eligible rent is higher.

If the relevant person who is deceased is a non-dependant, in order for the LHA claimant to qualify for the 12 month protection the deceased must be:

- Any of the claimant’s family
- A partner in a polygamous marriage, any partners of his and any child or young person for whom he or a partner is responsible and is a member of the same household or
- A relative of the claimant who occupies the same dwelling. A relative is defined as meaning a grandparent, grandchild, uncle, aunt, nephew or niece and close relative is defined as parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister or if any other of the preceding persons is one member of a couple, the other member of that couple.

If, at the point of transfer, a claimant is already entitled to a 52-week protection, they will only continue to be protected for the remainder of the 52 weeks and would then be paid at the rate set by The Rent Service.

Pre-April 2008 Claimants

Pre-April 2008 pathfinder claimants will be protected at the point of transfer if they would lose out under the current LHA scheme.

If the claimant’s eligible rent, i.e. the rent used in the benefit calculation on the day immediately prior to the date the transfer is effective from, is higher, it will be frozen at that level until the LHA based eligible rent equals or exceeds it. At this point the claimant will receive the LHA based eligible rent and will lose their protected status.

Pre-April 2008 claimants will transfer onto the current LHA scheme at the point:

- When a new claim is received
- If there is a break in their claim of one week or more, or
- The claimant has a change of address
Note: for pre-April 08 pathfinder claimants in receipt of LHA no cap or limit exists.

15577 The claimant will only receive this transitional protection on their eligible rent until a new LHA based eligible rent is determined which equals or exceeds it (‘catching up’) or the claimant changes address. The protection is linked to the property.

15578 Discrepancies should be noted and recorded on FRED. It is necessary to check all sample cases to ensure that LHA has not been incorrectly applied, e.g. to a LA tenant.

LHA Size Criteria – the number of people in the household

15579 The size criteria are used to determine the appropriate number of rooms each household is entitled to and therefore the category of LHA that applies. Household members include dependents, non-dependents, boarders and sub tenants.

15580 The following calculation is applicable to couples, couples with children, single parents with children and single people over 35. One bedroom is allowed for each of the following:

- An adult couple
- Any other adult (aged 16 or over)
- Any two children of the same sex aged to 15 years
- Any two children under 10
- Any other child
- A foster parent and/or overnight carer if applicable

It is limited to a maximum of 4 bedrooms.

15581 The number of living rooms, kitchens and bathrooms that a property may have are ignored for the purposes of determining the category of LHA that should apply to the size of the household.

Resident Children

15582 Children who spend some time with absent parents should not be counted as occupiers of the home of the absent parent and will not be included in the calculation of the size criteria.

15583 Where there is a doubt over which parent a child normally resides with, the determining factor is normally which parent is receiving Child Benefit and
would therefore receive allowances for that child under means-tested benefits.

15584 A child who may be temporarily in hospital must still be included as an occupier of the claimant’s home.

Foster Children

15585 See Foster Carers for the treatment of foster children in Size Criteria cases

Students

15586 Students aged between 14-17 years of age, and placed with host families, should not be treated as boarders or sub-tenants with a commercial let. Neither would they be treated as non-dependants in view of the short time that they stay in the property and are therefore not included under the size criteria.

15587 Where students stay for longer periods (a year or more) they could be treated as a boarder, sub-tenant or tenant and therefore included under the size criteria and the income received treated as rent (consideration of commerciality is needed).

Single people living on their own and aged under 35

15588 From 1st January 2012 people who are single and aged under 35 are classed as ‘young individuals’ (this age threshold was previously under 25). They will be entitled to the shared accommodation rate rather than the one bedroom rate of LHA.

15589 There are a variety of people who are exempt from the shared accommodation rate, which include those who:

- are local authority or housing association tenants.
- live in supported housing that satisfy the definition of “exempt accommodation”.
- have a non dependent living with them
- are entitled to the severe disability premium.
- are under the age of 22 who were formerly in social services care.
- are entitled to an additional bedroom to accommodate a non-resident carer because they require overnight care.
15590 There are two further exemptions that only apply to those who are aged 25 and over:

- ex-offenders who are subject to active multi-agency management under the Multi Agency Public Protection Arrangements (MAPPA).
- people who have spent three months or more in a homeless hostel specialising in rehabilitating and resettling this group within the community.

**Single people 35 and over and childless couples**

15591 Single claimants aged 35 and over and childless couples will qualify for the one bedroom rate of LHA, but only if they have either exclusive use of two or more rooms, or exclusive use of one room, a bathroom, a toilet and a kitchen or facilities for cooking.

15592 The MRO will need to note the preview to check that the claimant actually rents accommodation that fits this criterion when they say that they do as this could be a potential error if not.

15593 If they decide to rent a shared property, they will only qualify for the shared accommodation rate of LHA.

15594 Those entitled to the severe disability premium will qualify for the one room rate regardless of what they rent. Also, care leavers under 22 will qualify for the one room rate regardless of what they rent until they reach the age of 22, when they will fall within the definition for under 35s.

15595 There is no time restriction on a care leaver making a claim to LHA provided a claim is made before the care leaver reaches age 22.

**Non resident carers**

15596 From the 1st April 2011 there is a provision that permits an extra bedroom to be included in the HB/LHA assessment for all tenants in the private sector who have care provided by someone who lives elsewhere.

15597 This will apply where a claimant or their partner has a need for overnight care and has a bedroom that is used by a carer or carers for overnight stays as part of caring for the claimant or partner.

15598 In order to establish whether an extra bedroom can be included in the assessment, LAs will need to be satisfied that:
• Overnight care is required
• The care is in fact provided
• They have a bedroom available for the carer’s use.

15599 If the claimant shares the property with other tenants and overnight care is provided to all the tenants by the same carer, an additional room allowance can be awarded.

Joint tenants

15600 If a claimant has a joint tenancy, they would receive the LHA that is appropriate to their own household. However, the MRO will only have regard to considering the claimant who has been selected for PM review when checking this information.

15601 - 15659

Non-Dependants

15660 The number of non-dependants living in a claimant’s household can affect the amount of LHA paid to a claimant. Extra bedrooms are allowed for each non-dependant living in a household so it will be the claimant’s responsibility to provide sufficient evidence to support their claim for any non-dependant living in the household.

Shared Non–Dependant

15661 Non-dependants can be ‘shared’ if they are residing in a property where LHA is being paid to a joint tenancy.

15662 In this case, the LA must decide who the non-dependant ‘belongs to’ when adding up the number of rooms.

15663 In some cases, however, the non-dependant will not ‘belong’ to any one person in the joint tenancy and the LA is unable to allocate the non-dependent to a tenant. In these cases the non-dependant is classed as belonging to each of the joint tenants and is classed as a shared non-dependant in each household.
A non-dependant deduction is then made from each of the joint tenants' claims. The non-dependant deduction is the normal deduction divided by the number of joint tenants.

It is important that the non-dependant can prove that they are resident at the property, and not just spending a couple of weeks with friends or just there whilst looking for somewhere else to live after being evicted from their home after a domestic dispute with a partner. The LA claim details should contain some evidence that the non-dependant is "normally resident" at the property.

The LA claim details should identify the person as a "shared" non-dependant. The LA can ask the joint tenants to decide which of them is responsible for the non-dependant, but they cannot legally force either of them to take individual responsibility for the non-dependant.

However, if the LA information does NOT specify that the LHA claimant being reviewed is living with a "shared" non-dependent the MRO should not immediately assume that the non-dependent should be shared.

The reason for the shared non-dependants rule is really to accommodate family members living together and looking after a relative.

Change of Circumstances and Significant Birthdays

The LA is responsible for calculating significant birthday controls for couples and single parents with children.

This is due to the fact that the number of rooms each household is entitled to is determined by the family composition and it is also impacted by two ‘significant age criteria’ for dependant children.

One additional bedroom is allowed on the following significant birthdays:

- where a child reaches age 10 and the claimant’s family composition is two children of different sex, they will qualify for an extra bedroom – and therefore an increase to their LHA
- where a child reaches age 16 and the claimant’s family composition is two children of the same sex, they will qualify for an extra bedroom – and therefore an increase to their LHA
Recording LHA errors

Definition of Error for LHA

15690 For the purposes of ‘change’ cases, a case is treated as ‘incorrect’ or ‘paid incorrectly’ if the amount of LHA paid to a claimant is different from the amount that would have been paid based on an accurate assessment of the correct circumstances of the claimant.

15691 The MRO must consider the following to carry out the “Official error” and “Preview checks” on LHA cases:

- The BRMA rate applied in the current LHA award is correct for the family composition, and
- The BRMA rate applied in the current LHA award is correct for the area the claimant resides in
- If non-dependant deductions are appropriate, has the LA applied them correctly?
- Have significant birthday dates been correctly set and actioned by the LA?

15692 For any errors in relation to the LHA you should select

- ‘what went wrong’
  - ‘Wrong LHA rate applied’

  The following drop down options will then be made available

  - Incorrect BRMA
  - Incorrect LHA rate for the month
  - Incorrect LHA rate for property size
  - Other

You should only select this in relation to the following:

- Transitional protection

Any errors that you identify in relation to an additional bedroom for a non resident carer should be recorded on FREDA as

- What went wrong?
  - Household composition

- Who does this relate to?
  - Non resident carer
If the MRO suspects any fraudulent activity they must continue with the preview and follow normal HST action.

On the completion of the above checks where the MRO identifies any errors and the cause the MRO must, as a matter of routine, carry out the following actions:

- MRO must calculate any MVFE and establish any underlying entitlement to HB/LHA
- Record and note any nil value error, as appropriate
- Calculate an OP/UP and the start date
- Calculate an end date
- Complete Appendix 11c and refer changes to LA on Appendix 11d

Defining the correct BRMA

The LHA rate will be the rate that applied at the preceding April uprating

Size Criteria Restrictions in Social Sector Housing from 1 April 2013

Note: *HB Guidance Circular A4/2012*

Background

Under the Housing Benefit (Amendment) Regulations 2012, Housing Benefit will be restricted for claimants found to have more bedrooms than they are entitled to under size criteria rules.

From 1 April 2013, LHA size criteria for private rented sector will be applied to all claimants (and partner where applicable) under pension age living in Social Rented Sector (SRS) housing.

This change will apply to all existing and new HB claimants from this date.

This change will not apply to the following cases:

- Shared ownership
- Pension age claimants
- Non-mainstream accommodation
• Temporary accommodation
• Supported ‘exempt’ accommodation

15754 Full guidance can be found in HB/CTB circular A4/2012 and HB/CTB circular A10/2013.

Size Criteria and Reductions

15755 One bedroom will be allowed for each of the following:

• An adult couple
• Any other adult (aged 16 or over)
• Any two children of the same sex aged to 15 years
• Any two children under 10
• Any other child
• A foster parent and/or overnight carer if applicable

It is limited to a maximum of 4 bedrooms.

15756 From 15 May 2012, claimants whose children are said to be unable to share a bedroom due to severe disabilities may be entitled to an extra bedroom under the size criteria. The LAs will assess each case on individual merit to identify whether an extra bedroom is applicable.

15757 Legislation does not define a bedroom – and there is no definition of a minimum bedroom size.

15758 Claimants that are considered to be under-occupying their accommodation after consideration of bedroom entitlement as at paragraph 15753 will be subject to a reduction in their rent:

• 14% of the total eligible rent for under-occupation by one bedroom
• 25% of the total eligible rent for under-occupation by two bedrooms or more.

15759 Any boarders or lodgers will be taken into account when assessing the overall make up of the household.

15760 Where parents live apart, and have shared care of their children, only the parent treated as responsible for that child, providing their main home, will be eligible to have that child considered as part of their household.

15761 From 1st April 2013, adult children who are in the armed forces but who continue to live with their parents will be treated as continuing to live at home whilst deployed on operations for the purpose of applying the size criteria.
See [HB/CTB circular A10/2013](#) for full details. Note also that a non-dependant deduction will also not apply in respect of a member of the armed forces away on operations.

**Foster Carers**

15762 From 1st April 2013, an additional room will be allowed for a foster child or children living with an approved foster carer (or kinship carer in Scotland).

15763 A claimant or partner who is an approved foster carer (or a formal kinship carer in Scotland) will be allowed one extra bedroom under the size criteria rules for use by a foster child or children, private and social rented sectors.

15764 One extra bedroom will apply to:

- Approved foster carers (or kinship carers in Scotland) who have a child placed with them;
- Approved foster carers who are between placements but only for a period of up to 52 consecutive weeks from the date of the last placement;
- Newly approved foster carers but only for a period of up to 52 consecutive weeks from the date of approval if no child is placed with them during that period.

15765 The claimant must have a bedroom in their home which is in addition to those occupied by their household for the additional room to be allowed in the size criteria (subject to a maximum of 4 bedrooms for LHA claims).

15766 If the claimant requires more than one additional room for foster children, they will be required to apply for Discretionary Housing Payments. See also [HB/CTB Circular A10/2013](#) for full information.

**Joint Tenants**

15767 When considering the composition of the household in order to apply the size criteria, you will also have regard to any joint tenants living in the same house. All occupants will be taken into account in establishing whether under-occupancy is applicable.

15768 You should not take into account how the rooms are divided between the tenants.

15769 If under-occupancy is established, the appropriate reduction will be applied to the whole eligible rent, and then apportioned between the tenants.
**Example**

John, Sally, and Theresa are jointly responsible for rent. They currently rent a four bedroom property.

The total eligible rent on the property is £300.

Applying the size criteria as at paragraph 15755, from 1st April 2013, the household is eligible for three bedrooms. No regard is taken to the way that the property is actually divided between the three tenants.

They are therefore deemed to be under-occupying the property by one bedroom.

A 14% reduction in the eligible rent of £300 for under-occupancy is applied. The remaining rent of £258 (£300 - £42) is apportioned three ways, resulting in an HB entitlement for each tenant of £86.

**Example**

A four bedroom property is occupied by a single adult, Rose, and by a lone parent, Liz, and her daughter.

Liz is the claimant whose claim is being checked.

Both Rose and Liz, as joint tenants, are responsible for paying half the rent each.

Liz maintains that she is not under-occupying the property, as she is entitled to two rooms – one for herself and one for her daughter.

The total eligible rent for the property is £400.

With no regard being taken as to the way that the property is actually divided, applying the size criteria means that there should be one bedroom for Rose, one for Liz and one for her daughter. This means that the household is deemed to be under-occupying by one bedroom.

A 14% reduction of £56 from the total eligible rent of £400 is applied. The remaining £344 is apportioned two ways, resulting in an HB entitlement for Liz of £172.
Exceptions

15770 Protected eligible rent can be awarded based on the actual rent in the following circumstances:

• For 13 weeks where the claimant has not previously been awarded HB in the past 52 weeks, and could meet their rent obligation themselves when they entered into it.
• For 12 months where certain members of the claimant’s household have died. This is based on either the actual rent, or in the case of an existing HB award, the previous eligible rent.

Review Process

15771 You must ensure that all information relating to the application of size criteria has been obtained at preview. This includes all DIP prints showing responses from landlord/claimant concerning the number of bedrooms.

15772 Some LAs will be paying DHPs to claimants affected by Social Housing Deductions. You should ensure that you obtain prints of any awards of DHP to provide you with full information prior to visit. The LA pro-forma will incorporate this.

15773 You must ensure that the relevant question on the questionnaire relating to the number of bedrooms is answered at review visit.

15774 When entering cases on FREDA where size criteria restrictions apply, you must enter the following data in the Housing screen:

• Gross 52 week rent – Enter the gross 52 weekly amount of rent before any deductions are taken into account (includes non-dependant deductions and social housing deductions)
• Eligible 52 week rent – Enter the eligible 52 weekly amount of rent after any deductions (includes non-dependant deductions and social housing deductions)
• 52 week rate of HB – Enter the amount of HB

DWP Decision Referrals

15775 If, at visit, the claimant supplies information as to the number of bedrooms that conflicts with information supplied by the landlord, you should not probe the discrepancy with the claimant.
PMG October 2014

15776 The case should be referred on App 11e to the DM for a decision, as with other errors.

Error Recording

15777 You will consider an official error under ‘size criteria – bedrooms’ where:

- The LA fail to confirm the correct number of bedrooms with the social landlord/claimant; or
- The LA fail to implement size criteria deductions; or
- The LA fail to implement the correct size criteria deduction.

15778 You will consider a claimant mistake/fraud error under ‘size criteria – bedrooms’ where:

- The claimant fails to reply to a request from the LA to confirm the correct number of bedrooms, or provides incorrect information.

15779 You will consider an error under ‘Household Composition’ where the claimant fails to notify the LA of the correct information concerning those resident in the property.

15780 - 15799

DWP Decision Referrals

15800 There will be scenarios where you require a decision from the DWP Decision Maker before HB categorisation can be considered, for example:

- Change of circumstances identified at the preview/review that may affect the amount of passporting benefit in payment
- Change of circumstances identified at the preview/review that may cause the passporting benefit to cease
- Information gathered at the review that differs from the information held by the DWP
- Unactioned DWP changes of circumstances
- Outstanding applications to a DWP passporting benefit
- Change of circumstances on non-passported claims that may affect Pension Credit (Savings Credit)

Note: This list is not exhaustive.

15801 Where a DWP decision is required you will refer the following to the appropriate DWP DM via the ECO/PCP:
• Completed decision pro forma
• Statement of Circumstances
• Any other supporting evidence.

15802 The DWP DM will provide you with a decision within 5 working days.

15803 Following the receipt of the DWP decision you will be in a position to
categorise the case and refer any errors to the LA (see Part 17).

Rent Officer Decision Referrals

15804 Some cases may need to be re-referred to a Rent Officer for a
determination.

Note: there will be fewer of these cases since Local Housing Allowance (LHA) was introduced.

15805 For example, where the Rent Officer’s Decision has resulted in a restricted award of HB and you identify:

• There has been a change to the age of a person living in the property (i.e. when a child from the household becomes an adult or where there are children of the opposite sex sharing a room in the household and one reaches age 10), and/or
• There has been a change to the number of persons living in the household
• There has been a change to the amount of rent charged, and this was a condition of the tenancy agreement.
• There has been a change of landlord

This list is not exhaustive see HB guidance A4.1000

15806 Section one of the Rent Officer's Decision Proforma (RODP) Appendix 11e, together with the Statement of Circumstances and any supporting evidence must be sent to the LA DM who will then refer all the evidence to the Rent Officer. This must be sent to the LA within 5 working days of receipt of necessary evidence/supporting documentation from the claimant and/or any interested parties.

15807 Where a case has had a revised Rent Officer decision that will subsequently affect the amount of HB entitlement, the LA should complete section two of the RODP and return this to you

15808 If you find out at interview that the claimant is not contributing toward any “shortfall” in rent (i.e. the difference between the actual rent and the eligible
rent as determined by the Rent Officer), this information must be reported to the LA on a data discrepancy proforma. The LA should then consider either amending the actual rent on the claim to the amount being accepted by the landlord or re-referring to the Rent Officer using the information. Amending the actual rent of the HB claim would not affect the eligible rent, so the rate of HB would not be affected.

15809 - 15819

Suspension of Housing Benefit (including LHA)

15820 Where all review options have been exhausted, you will request suspension of HB/LHA prior to the case referral to LA fraud/FRAIMS.

15821 The LA may suspend, in whole or in part, any payment of HB/LHA where there is doubt as to whether the conditions of entitlement are or were satisfied. The LA may also suspend, in whole or in part, any HB/LHA payment where it is considering whether a decision relating to an award should be revised or superseded.

15822 The LA may suspend in whole or in part, any payment of HB/LHA that relates to someone who fails to comply with the requirements to provide information or evidence needed by the LA in deciding whether a decision should be revised or superseded.

15823 The LA will notify the claimant that they must:

- Provide the information or evidence required within one calendar month of the date of notification being sent to them; or such longer period as the LA considers necessary to enable them to comply with the requirements; or
- Satisfy the LA within the relevant period that the information or evidence required does not exist; or it is not possible for them to obtain the required information or evidence

Termination of HB/LHA following a suspension

15824 Where the LA has suspended payment of HB/LHA and the claimant subsequently fails to comply with the information requirement, they are no longer entitled to HB/LHA.

Categorisation
Following the completion of the official error check/Review check the MRO who carries out the check will be required to categorise the case using the findings following the Review/Fraud investigation outcome and the official error check.

15825-15999