

# Supporting couples in homelessness services

## Appendix: Couples and benefit claims

**Let's end homelessness together**

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## Introduction

This appendix accompanies Homeless Link's guidance 'Supporting couples in homelessness services'. It provides an overview of the benefit system as it applies to couples, to help services plan and shape their support. It is aimed at staff working with people who live in hostels and may be moving into the community.

Please note that this information is not intended to replace specialist advice and training, or to be relied on for individual case work.

In a process that began in 2013, some existing benefits are gradually being replaced by one benefit called Universal Credit. It is therefore necessary to consider the position of couples within the benefit system under both the old and new types of benefit. People getting certain benefits will be protected if their income drops once they move onto Universal Credit. This is called transitional protection.

## Type of benefit

Benefits and tax credits are divided into three types. The ways that couples are treated are different for each class. A general understanding of each type will help identify which benefits a couple might be entitled to and how couples are assessed for those benefits.

The classes are as follows:

- Non-Contributory Benefits
- Contributory Benefits
- Means Tested Benefits

### Non-contributory benefits

Non means-tested benefits can be divided into two types, non-contributory and contributory.

These benefits are paid irrespective of existing income/capital and National Insurance contributions. Partners/spouses are not included and people claim individually even if they are part of a couple. Many of these benefits aim to replace normal weekly income, if someone is not in a position to earn it themselves.

The names broadly give an idea of the circumstances in which someone can claim them. A claimant has to satisfy particular conditions for each benefit, such as being available for work, or being disabled.

Although there are no savings and income rules, there can be 'earnings rules' for some of these benefits and sometimes personal pensions can affect entitlement (see below for more information on savings and capital).

Benefits paid by someone's employer, such as Statutory Sick Pay and Statutory Maternity Pay, are not based on National Insurance contributions but on the claimant's usual earnings, as long as these are above a certain level. In this regard they are not viewed as contributory benefits, even when National Insurance contributions are actually being deducted from gross earnings.

## **Contributory benefits**

For these benefits the claimant will usually need to satisfy a National Insurance test. There are different tests for different benefits. The easiest way to find out if someone has enough contributions is to claim. Partners/spouses are not included and people claim individually even if they are part of a couple.

## **Paying National Insurance Contributions**

Most working people over the age of 16 and under pension age have to pay National Insurance contributions. The class paid depends upon whether someone is an employee, self-employed or a voluntary contributor.

## **Credited Contributions**

Some people can get National Insurance credits to help make up their contribution record if they are available for work or claiming benefit and in some other limited circumstances.

## **Carer's Credit**

If someone is caring for a child, or for a disabled person, they may be able to help their contribution record by applying for a Carer's Credit.

## **Means tested benefits**

For means tested benefits all of the couple's income and capital are taken into account (see below).

## **How the means-test works**

Different means tested benefits have different means tests, however they all have the following in common:

### 1. Calculating 'needs'

This involves adding up a set 'allowance' or 'element' for each dependent within the claim, then adding on extra amounts for specified extra needs, e.g. someone in the household is disabled or a carer for a disabled person and is in receipt of a relevant benefit.

### 2. Calculating resources

All these benefits also take into account both income and capital. This can include wages, maintenance, other benefits, savings etc. Some capital may reduce the amount of benefit. Too much capital can mean no benefit entitlement.

Note: Attendance Allowance and Personal Independence Payment never count as resources in these calculations.

## **Calculating the amount of benefit paid**

Once needs and income have been calculated, benefit can be worked out. Different benefits have different formulae for working out how much money will be awarded.

## Savings and benefits

All means tested benefits are affected by the savings rules (see also above). The respective capital and savings of the couples either held individually or jointly are added together.

Capital includes savings, investments, and property other than their own home.

For Income Support, Income-based Jobseekers Allowance and Employment Support Allowance, Housing Benefit and Council Tax Support, the rule is that if the claimant has savings above the upper savings limit, which is currently £16,000, they will not be eligible to receive any benefit. But if the savings are below the lower savings limit, currently £6000, they will receive their entitlement in full.

For savings in between the two limits the 'tariff income' rule applies. This rule says that the claimant is assumed to yield a weekly 'tariff income' of £1 for every £250 of savings. This amount will have the effect of reducing the weekly benefit received.

Thus, if the lower limit is £6000, and the claimant has £12,000 saved, £6000 of that will be counted. £6000 divided by 250 is 24, so the claimant will receive £24 less per week in benefits.

NB: Total capital of £10,000 or less does not affect benefit at both of the couple are above the qualifying age for State Pension Credit ('pension age').

## Benefits and work

### Means tested benefits – working or not

At this point it should be noted what the position is if someone in the household is working.

In work (16 hours or more a week)	Out of work (less than 16 hours a week)
Working Tax Credit	Income Support Income-based Jobseeker's Allowance Income related Employment and Support Allowance
	Child Tax Credit Housing Benefit Council Tax Reduction Universal Credit

### The 16 hour rule

Part-time work is generally defined as less than 16 hours a week. If the claimant gets Jobseeker's Allowance or Income Support they must not work 16 hours or more per week. Their partner/spouse must not work 24 hours per week or more.

Full-time work is usually defined as 16 hours or more per week. For Working Tax Credit someone must work 16 hours, 24 hours or 30 hours or more per week (depending on their circumstances – see table below).

**Working Tax Credit for single people and couples**

Circumstance	Hours a week
Aged 25 to 59	At least 30 hours
Aged 60 or over	At least 16 hours
Disabled	At least 16 hours
Single with 1 or more children	At least 16 hours
Couple with 1 or more children	Normally, at least 24 hours between them with 1 of them working at least 16 hours

**Working and Universal Credit**

There are no 'hours' rules within Universal Credit. A claimant can continue to receive Universal Credit regardless of hours worked, but the amount of Universal Credit is reduced as earnings rise. Working hours may be relevant, however, if the claimant is required to look for work up to a certain level of earnings (the minimum wage multiplied by a number of hours the DWP thinks should apply to them). For further information about Universal Credit, see below.

**Earnings rules**

Many other non-means tested benefits also have earnings rules. For example, if in receipt of Carer's Allowance, the claimant must not earn more than £120 a week. If they do, Carer's Allowance is lost entirely. But Carer's Allowance is a non-means-tested benefit and so other income and capital does not affect it.

**Disregarded earnings**

Generally, for means tested benefit, someone who is working can keep a small amount from any earnings. The wages are calculated after deducting income tax, National Insurance and half of any pension.

The amount of disregard depends on circumstances. For Income Support, income-based JSA and HB the three main levels of disregard are £25 (lone parents), £20 (specific groups including the claimant or their partner/spouse qualify for a carer's premium, are a part-time firefighter – there are a number of others groups), £10 for a couple and £5 for a single claimant.

For Housing Benefit there are additional disregards depending on the hours worked, a childcare cost disregard (see below) and a permitted work disregard (see below).

**Paying for childcare**

If the claimant(s) are a couple or a lone parent and paying for childcare they may be able to get a childcare earned income disregard worth:

- up to £175 per week for one child aged 15 or below or
- up to £300 per week for two or more children.

Only certain types of childcare provision will entitle the couple/lone parent to this disregard. Childcare providers should know the rules on this but, if there is any doubt, advice should be sought.

### **Permitted work rules**

As a general rule, if someone does any paid work they will no longer be treated as unable to work, and so work related health/disability benefits such as Employment Support Allowance (ESA) should stop. But 'permitted work rules' allow a claimant to do certain work and still get ESA. The rules set out how many hours someone can work, over what period of time, and how much they can earn. Advice should be sought about this. Suffice to say here that within Universal Credit, if a claimant has a limited capability for work, then the permitted work rules apply in the same way.

## **General definition of a couple in the benefit system**

It might help to be clear as to what the benefit system defines a 'couple'.

If a couple is living together – including in a hostel – the general rules on claiming as a couple would apply to them. The key points are as follows.

### **Basic definition of who is a couple for means tested benefits**

A couple for means tested benefit purposes is defined as:

- two people who are married or
- are living together as married (this includes co-habiting partners and civil partners). There are no differences in the way claims for same sex couples and couples of different sex are worked out.

If people in a relationship are living together in the same home they must claim any benefits as a couple. People are not a couple if one of the partners only stays 2 or 3 night a week. They should, however, still have a home elsewhere in the sense they pay bills and keep their things there which belong to them and not to their partner/spouse.

### **Claiming separately even if still living under the same roof**

In addition, there are rules (albeit rarely used) for dividing claims should the couple have split up but continue to reside under the same roof. In this situation one or both of the former couple should make a new claim in their name only. They will need to prove that they are no longer living as a couple. This means that, although they are both still living in the same property, they:

- no longer sleep in the same room,
- no longer have meals together and/or buy food together,
- no longer do each other's washing or ironing,
- no longer pay for things as a couple (including the whole rent – even if one pays their share to the other),
- should close joint accounts, and
- family and friends should be told that they are no longer couple.

### **Separation that is likely to be permanent**

For Income Support, income-based JSA, income-related ESA, Pension Credit and Housing Benefit, the DWP will not consider the claimants to be a couple if they are likely to be separated for more than 52 weeks. Although periods longer than this might not be definitive, e.g. where one of the couple is in hospital or one is abroad but for some reason is unable to get back to the UK. Note the same definition applies to Universal Credit; except that the separation should not last more than 6 months (see fuller details about couples and Universal Credit below).

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For Income Support, income-based JSA, income-related ESA and Pension Credit only there are some additional rules where two people are not viewed as a couple. These rules apply where either of them are:

- in custody
- released on temporary license from prison
- detained in a high security psychiatric hospital under the mental health provisions
- staying permanently in a care home, Abbeyfield Home or an independent hospital
- currently broad and do not qualify for benefit while temporarily absent.

### **Living together and benefit fraud**

If claimants have acted dishonestly or deliberately to claim benefits to which they are not entitled and this comes to the attention of the office paying their benefit, then the claimants might be investigated for benefit fraud. This indeed could be the case where the couple is actually living together but one of them claims to be a lone parent.

The Department for Work and Pensions (DWP) is responsible for carrying out the investigation. Fraud investigations are carried out by officers in the Fraud Investigation Service, who are located in local Jobcentre offices. In some cases the local authority will carry out the investigation.

### **The claimants' response**

If the claimants has been told that they are suspected of benefit fraud, even if they don't deny the claim, they should seek advice immediately.

If the claimants are asked to attend an interview under caution, they should get advice from a criminal law solicitor straight away and make sure that they only go to the interview with their solicitor. It may be possible for them to get free legal advice under criminal legal aid.

## **Means tested benefits – which of them should claim**

To claim Income Support or income-related Employment Support Allowance, only the person claiming for them and their partner/spouse must be eligible.

Advice should be sought about whether it is advantageous to swap the claimant role.

For the position on income-based Jobseeker's Allowance – see below.

## **Tax credits: the rules for couples**

A claim for tax credits can be made jointly by a couple (a joint claim) or by an individual (a single claim).

The definition of a couple is set out in legislation, but it is a very basic definition and essentially agrees with that given above, but varies to the degree that, for tax credits the focus is the state of the relationship, not exclusively whether the couple is 'living in the same household'.

Married claimants are treated as a couple unless the evidence shows they are separated and it is likely to be permanent.

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The HMRC also uses this test for assessing unmarried couples although, as just noted, there is no requirement in tax credits law that the couple need be part of the same household.

The HMRC, however, suggests that their staff should consider the 'living together' criteria (see above) when determining whether a couple are separated in circumstances that are likely to be permanent.

This test is based on social security law, and HMRC state in their manuals that they will use the criteria adopted by DWP for this purpose (see above).

NB: If the claimant is suspected of fraudulently claiming tax credits as a couple, advice should be sought about appealing (see also above).

## **Benefits and supported housing: some differences**

Housing which provides residents with care, support or supervision, supplied by the landlord is known as 'supported housing'. A range of different housing types, including hostels, refuges, supported living complexes, extra care schemes and sheltered housing is covered by this definition.

Some general things can be said about supported housing and benefit entitlements for either single people or couples. So, for example:

- The bedroom tax does not apply to occupants in supported 'exempt' accommodation, which is where supported accommodation is defined for Housing Benefit purposes as 'accommodation provided by a non-metropolitan county council, a housing association, a registered charity or voluntary organisation where that body or a person'. Hostels would thus normally fall within this definition
- Residents of supported housing including hostels are exempt from the Benefit Cap.
- Currently, Universal Credit is not available to people who live in supported 'exempt' housing. If the claimants live in a Universal Credit full service area, they will be paid Universal Credit for personal living costs. More details on how to the rules for claiming Universal Credit is set out below.
- The shared accommodation rate for under-35s only applies to single people. But in any event it only applies to people living in private sector accommodation; so would not apply to couples living in hostels anyway.
- Council Tax reduction is not an issue for hostel dwellers as the liability for Council Tax falls on the owner of the hostel. Thus a Council Tax Support (CTS) claim will only become necessary if the couple move out of the hostel and become liable for council tax.

## **Hostels and service charges**

Claiming assistance to cover a service charge liability is a very likely a consideration for hostel residents.

Services are defined as:

"...services performed or facilities provided for, or rights made available to, the occupier of a dwelling (including the use of furniture)"

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DWP HB Guidance Manual provides a list of potentially eligible items but also states that the list:  
“...does not cover every service that may be eligible, it aims to cover the items HB will usually need to determine”

Charges for any service not connected to the provision of adequate accommodation are not eligible for Housing Benefit. This includes services which make it possible to occupy the accommodation but which have no bearing on the adequacy – that is the fabric – of the accommodation e.g. supporting tenants to address personal hygiene issues.

The accommodation must be adequate as accommodation in general, not just with regard to the particular claimant.

### **How does Housing Benefit decide the level of payment?**

HB will consider whether the rent levels (including service charges) are reasonable. They may request evidence to support their decision. Landlords should co-operate with all ‘reasonable’ requests made by HB, but this does not include personal details or information without the tenant’s permission.

## **Couples and service charges**

Determining the levels of charges should be relatively straightforward if the couple are sharing a room. It would be more problematic if the couple are in two separate rooms as they would almost certainly be viewed as a couple for benefit purposes (see above). Any charges would need to take into account what is said immediately below and above.

It is clear from the case law that landlords should only charge for something that benefits the occupant, and that most eligible charges for housing benefit purposes relate to the upkeep of the building and communal areas (see above).

So, in setting charges, this should not have anything to do with the number of occupants in a particular property or room. This also checks out with the fact that service charges are usually apportioned by the number of units and not by size of properties or number of people who live in each unit.

It would appear that there is no guidance on this issue but if there is doubt over charges levied on couples advice should be sought – perhaps on a local basis.

## **Housing Benefit (HB)**

To claim HB someone must be:

- normally resident in the accommodation for which they are making a claim and
- liable for rent
- not eligible for Universal Credit
- not have savings and capital that are too high (see above)

The rules on disregarding certain earnings and childcare costs are covered in the Benefits and Work section above.

## Some Housing Benefit issues for service providers

### If a couple live together in one room, how does that affect their claim?

As noted above the test for means tested benefits – including Housing Benefit – is that the couple live in the same household but that claimants can still be viewed as such if they are living apart temporarily.

As a result then it would be expected that a couple, notwithstanding that they are living in two rooms, would continue to be treated as part of a couple rather than as two single households. We have already seen that this would be the likely position for other means tested benefits.

Consequently, there would also seem to be no need to consider as to what in law constitutes a 'household' where a number of people are living together in a number of different rooms. See for example *Barnes v Sheffield City Council* (1985) and *Rogers v Islington London Borough Court of Appeal* (1999).

However, if it turns out that the couple have a problem claiming benefit, advice should be sought.

### What if the couple live in separate rooms but intend to move on as one household, what should the couple expect?

Bearing in mind as to what was said above, the couple will get less money than as two single claimants. The current personal allowance rates are as follows:

Single persons	
Under 25	£57.90
25+	£73.10
Couples	
Both under 18	£87.50
One or both 18 or over	£114.85

If the couple are both 16 and 17 or one is under and the other is over 18 advice should be sought.

## Moving out of the hostel

### Effect on a Housing Benefit claim

If the couple are due to move out of the hostel and are claiming housing benefit as a couple, the rules are quite straightforward.

If they are moving within the local authority area – where Universal Credit has not been rolled out - they will need to tell their local authority about this change in their circumstance so that their benefit can be recalculated. They will only need to complete a change of address form and provide proof of their new tenancy. This needs to be done within one month of the move to avoid being overpaid.

If they move outside of the area (and it is not into Temporary Accommodation provided under the council's homelessness duties) then the claim cannot be transferred and a new claim will have to be made. This can be done up to 13 weeks in advance.

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### **Effect on an Income-based Jobseekers' allowance claim**

A couple would normally be required to make a joint claim unless one of them is not required to satisfy the eligibility rules for seeking work e.g. because the partner/spouse is already working between 16 and 24 hours per week, is pregnant or receiving statutory maternity or statutory sick pay (although that does not mean that they are not part of the claim).

If the couple moves out of the hostel they don't need to cancel the current JSA claim. They should go to the new Jobcentre before they need to sign on ask for a live transfer from their old Jobcentre.

### **Effect on an Income Support/ESA**

Changes of address should not prevent the claim being transferred. The couple should contact the new Jobcentre. Confirmation of the new address may be required.

### **Effect on Universal Credit**

A more detailed section on couple and Universal Credit is set out below.

However, it is perhaps necessary to say in this section that if the couple live in a Universal Credit full service area – where all new claims are for Universal Credit - they will usually have to make a joint claim for Universal Credit.

If anyone is still in receipt of existing benefit: Jobseeker's Allowance, Employment and Support Allowance, Income Support, Housing Benefit or tax credits, these claims will need to be closed. This would also be the case if the Universal Credit claimant wants to add a partner/spouse to their claim.

In other areas, Universal Credit is only currently available to single jobseekers for new claims which would leave existing claims in place, including any couples moving out of hostels into these areas. Advice should be sought as to what the position will be for these couples.

## **Claims for Universal Credit where there's a couple**

Increasingly it will be the rules for Universal Credit that a couple has to satisfy. This section looks at those rules.

Couples will usually have to make a joint claim for Universal Credit. This means signing a Claimant Commitment and agreeing to comply with certain work-related requirements about looking for work. Universal Credit can stop or be reduced if these responsibilities are not met (see the Sanctions section below).

This applies to couples who are in work as well as those who are out of work – including people who were previously entitled to Working Tax Credit. If in work, the couple would need to produce evidence that they are looking for work with better pay or more hours to continue getting Universal Credit.

### **The claimants will be considered to be part of a couple if either:**

- they are married (or in a civil partnership) and living together
- living together as partners

### **Claiming if the couple separate**

One of the couple will be able to continue with the existing Universal Credit claim after separation, and one of them will have to make a new claim. The first person to contact Universal Credit to tell them of the separation will have to make the new claim. The remaining ex-partner will continue with the 'old' claim.

## **How Universal Credit works for couples**

If the claimant is part of a couple and living with their partner/spouse they can only apply for Universal Credit once Universal Credit is introduced into their area.

Couples can usually only apply for Universal Credit if both of them are eligible to apply. If only one of them is eligible, then neither of them can apply.

In order to be treated as a joint claim and continue to receive Universal Credit on an on-going basis, the couple must:

- apply together at the same time – although one of them can apply on behalf of both of them
- give details of their joint income and savings
- go to an interview separately at a Jobcentre
- both of them sign their own Claimant Commitment and go to regular meetings at the Jobcentre
- get a single payment into one bank account to cover both of them (although it can be requested that the payments are split into two separate accounts, see below).

### **When to claim as a single person even when the claimant is part of a couple**

Even when someone is a member of a couple, if one of them does not satisfy the conditions for Universal Credit, it is sometimes possible to claim as a single person. In this situation, the amounts received are for a single person but the couple's income and capital is still assessed jointly.

Situations where the above applies are where one of the couple is:

- aged 16 or 17 and not eligible for Universal Credit as an under-18 year old
- not in Great Britain and not treated as in Great Britain during a temporary absence
- treated as not being in Great Britain, for example, because they've failed the 'habitual residence test' or 'right to reside' test
- a prisoner
- a member of a religious order and that order pays for all their housing and living costs
- temporarily not living with the claimant and they have been or are likely to be living apart for more than 6 months
- subject to immigration control

### **Who can claim?**

In addition to the rules for couples claiming Universal Credit set out above there are also general rules for claiming Universal Credit. The claimants must:

- be living in England, Scotland or Wales
- be 18 or over
- be under State Pension age
- not be in full-time education
- not have savings or capital over £16,000.

### **Impact of Universal Credit on tax credits**

If the claimant or their partner/spouse are getting tax credits, their tax credit claim will end when a claim is made for Universal Credit.

## Claiming Universal Credit

A claim can be made online or, if that is not possible, face-to-face and telephone support will be available at their local council or their local Jobcentre.

If the applicant is unsure about their eligibility, they complete an online application form anyway. Any issues with the claim can be sorted out afterwards.

### **How is the payment made up?**

Just like the means tested benefits, Universal Credit payment will be made up of different amounts depending on the circumstances of the household. It can include support for the cost of housing, children and childcare, as well as support for disabled people and carers.

### **Support in finding a job**

Universal Credit aims to provide greater support in helping people back to work by helping to identifying skills and a clear job search plan to help the claimant get back to work more quickly.

The role of the Jobcentre adviser changes under Universal Credit as they become the claimant's individual work coach. This will include activities such as getting help with drafting CVs, applying for jobs using Universal Jobmatch or contacting employers directly.

### **Change of circumstances**

In Universal Credit, couples making a joint claim to Universal Credit are both responsible for meeting the entitlement conditions, reporting any changes in their circumstances and ensuring that all information relating to their claim is current and correct.

### **If one of the couple gets a job**

If one of the couple finds a job, it is essential they tell the DWP. This gives the DWP the opportunity to amend the Claimant Commitments and stop/rearrange appointments to avoid clashing with their employment contract. In addition, based on the way Universal Credit is calculated it is possible that couple's total income will increase.

## Universal Credit payments

To receive Universal Credit payments, the couple will need to have a bank, building society or credit union account. The couple will be asked to nominate which account to have their money paid into and this can be either:

- A single account in either of the couple's name
- A joint account in both of their names

### **Managing Money**

Managing money together might be difficult for some couples e.g. if one of the couple is worried about their

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partner/spouse unreasonably taking control of the money and leaving them with no access to cash. They can talk to their Jobcentre Plus about having the Universal Credit payments split. A case will need to be made for this change. A history of domestic abuse or addiction might make split payments appropriate.

## **Local Housing Allowance**

### **What is local housing allowance?**

If the claimant is a private tenant, their maximum Housing Benefit entitlement is based on the Local Housing Allowance rate appropriate to their circumstances. If the Local Housing Allowance is less than the rent on the property, Housing Benefit or Universal Credit will not cover the full rent and the tenant will have to make up the shortfall.

If someone is a social sector tenant claiming Housing Benefit and has signed a tenancy after 1 April 2016, they will be affected by the introduction of LHA for social sector tenants from 1 April 2019. Social tenants on Universal Credit will be affected from 1 April 2019 regardless of when the tenancy was signed.

### **Who is currently affected**

Local Housing Allowance affects most people renting from a private landlord who make a new claim for Housing Benefit after April 7<sup>th</sup> 2008, or who have a change of address or break in their Housing Benefit entitlement after April 2008.

Many people are not affected as they are exempt or protected from the LHA (including those living in hostels).

### **Number of bedrooms allowed**

LHA is calculated on the basis of the number of bedrooms allowed for under the rules. One bedroom is allowed for:

- every adult couple
- every adult aged 16 or over (including lodgers or boarders)
- any two children of the same sex under age 16
- any two children regardless of their sex under age 10
- any other child

### **An extra room may be allowed if someone has:**

- a severely disabled child who needs their own room but would be expected to share under the rules above
- a non-resident carer (if the claimant, or their partner/spouse is, a disabled person who needs overnight care)
- a foster child or children
- a child who is away on duty with the Armed Forces but intends to return to live with the claimant

The number of bedrooms that a claimant is assumed to need is set by the LHA rate they qualify for and hence the maximum amount that Housing Benefit will pay.

## Who gets the maximum amount of LHA?

Someone will usually get the maximum LHA rate for their household if they also get any of the following benefits:

- income-related employment and support allowance (ESA)
- income-based jobseeker's allowance (JSA)
- income support
- pension credit guaranteee

### The maximum amount of LHA rate will be reduced if:

- the actual weekly rent is lower than the applicable LHA rate
- non-dependants (usually grown-up children) are living with the claimants who are expected to contribute to the rent
- the benefit cap applies

If someone is working more than 16 hours per week (or 24 hours per week if they are part of a couple) then they won't receive the maximum LHA rate but will still receive some LHA if their income is low enough.

## Benefit cap

If the household has income from certain benefits that is more than the benefit cap, the amount of money above the Benefit Cap limit will be taken off the claimant's Housing Benefit or Universal Credit. No deductions will be made from other benefits and so the cap can only work if the household is in receipt of Housing Benefit or Universal Credit.

Since 7 November 2016, there are different rates for the Benefit Cap – one for Greater London and one for the rest of the country.

If someone is getting Housing Benefit, the cap outside Greater London is:

- £384.62 a week for a couple - with or without dependent children
- £384.62 a week for a lone parent with dependent children
- £257.69 a week for a single person without children

If someone is getting Housing Benefit, the cap in Greater London is:

- £442.31 a week for a couple - with or without dependent children
- £442.31 a week for a lone parent with dependent children
- £296.35 a week for a single person without children.

However, some people could lose all their Housing Benefit, except for a nominal amount of 50p which will continue to be paid.

## Sanctions

### What are benefit sanctions and how do they affect couples?

Sanctions are a feature of Universal Credit, JSA and ESA. They are used to reduce entitlement for claimants who fail to complete their work-related requirements.

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If the claimant is single, the whole of their JSA payment is sanctioned and they will receive no benefit. However, if they are a joint-claim couple and their partner/spouse has not been sanctioned, they can receive JSA at the rate paid to a single person.

### **Levels of sanctions**

There are four levels of sanctions: higher, medium, lower and lowest level sanctions. Where claimants incur more than one sanction when claiming UC, they run 'end to end', rather than concurrently (as happens with some JSA sanctions) and will resume on a reclaim for Universal Credit (less the number of days benefit was not in payment). Fixed period sanctions incurred in a 'compliance period' cannot exceed 3 years.

### **Differences with Universal Credit sanctions**

Hardship payments may have to be paid back to the DWP from ongoing future Universal Credit entitlements. Recovery is suspended if the claimant moves into work at or above their conditionality earnings threshold and, if the claimant remains in such work for at least six months out of a year, the outstanding balance will be written off.

### **Higher level sanctions**

These apply to claimants subject to all work-related requirements who:

- cease working, lose pay permanently (of more than a set amount), or fall below their conditionality threshold, because of misconduct, or voluntarily for no good reason;
- fail for no good reason to apply for a specified vacancy or take up an offer of paid work;
- fail for no good reason to undertake required Mandatory Work Activity (4 weeks unpaid work placement).

Losing a job or pay, and failing to take up a job offer in the 6 months before claiming Universal Credit can also result in a sanction.

The higher level sanction is normally the loss of the standard allowance for 3 months for a first failure, 6 months for a second higher level failure within a year, and 3 years for a subsequent failure within a further year.

### **Medium level sanctions**

These apply to claimants subject to all the work-related requirements who fail, for no good reason, to look, or be available for, work.

If both of the couple are unemployed and able to work, both must engage in the process of looking for a job. Each would usually be expected to look or prepare for work for 35 hours a week unless for example one of them is looking after children or has other caring commitments.

Various job-related activities can count towards making up the 35 hours. These include:

- searching and applying for jobs
- attending interviews and visiting potential employers
- meeting with their work coach
- taking part in activities and training courses to improve their jobseeking

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The sanction is the loss of the standard allowance (50% of the couple allowance) for 4 weeks for a first failure, and 3 months for subsequent medium level failures within a year of a previous failure.

### **Lower level sanctions**

These apply to a failure, for no good reason, to undertake a specific work search requirement, a work preparation requirement, or attend a compliance interview (or provide evidence or information) or a work-focused interview. The sanction is normally the loss of the standard allowance (or 50% of the couple allowance) until the requirement is met, plus a further fixed period of 7 days for a first failure, 14 days for a second lower level failure within a year, and 28 days for a subsequent failure within a further year.

### **Lowest level sanctions**

These apply where claimants subject to work-focused interview requirements only fail to participate in a work-focused interview or connected requirement without good reason. The sanction is made at 40% of the standard allowance and is open ended until the claimant meets the requirement.

## **Employment and Support Allowance sanctions**

A claimant may be sanctioned if they receive income related ESA in the Work Related Activity Group and they fail to attend a work-focused interview or fail to carry out work related activity without a good reason. The sanction is:

Loss of the personal allowance until the claimant complies and then

- A further one week; or
- Two weeks if they have not complied in the last 52 weeks; or
- Four weeks if they have failed to comply more than once and the most recent failure was in the last 52 weeks.

Since 3 April 2017, ESA claimants who are sanctioned will continue to receive 80% of their payments, instead of the previous 60%. This change does not apply to ESA claimants who continue to receive the work-related activity component after 3 April 2017; they will remain subject to the 60% rate. Hardship payments are paid from Day 1 but paid two weeks in arrears.

## **Good reason (sometimes known as good cause)**

If a sanction is imposed, seeking a revision is an option. However it should be noted that the Decision Maker cannot impose a sanction if there is a good reason as to why the claimant failed to complete an activity.

Good reason is not defined in legislation. The test, however, involves establishing the facts and consideration as to whether a reasonable person would have acted as the claimant did. The decision should be made on the balance of probabilities with consideration given to whether the evidence is inherently improbable in the circumstances.

NB: The administration of the conditionality regime is 'contracted out' to private and voluntary sector organisations. They deliver the Government's Work Programme via a network of personal advisers who have the duty to assist and support claimants, and the power to direct them to undertake specific work-related requirements. These contractors, however, cannot make decisions about sanctions.

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### **Hardship Payments**

If a claimant has been sanctioned from JSA they may be able to receive a hardship payment which is paid at a reduced rate during the sanction period.

The claimant must show they would experience hardship if it were not paid, unless they are in one of the following vulnerable groups, in which case they should always be paid:

- Pregnant
- A carer
- They have a chronic medical condition
- They are responsible for a child who would experience hardship

If the claimant is in one of the vulnerable groups above they should get a payment straightaway otherwise they should be paid from the 15<sup>th</sup> day and will get nothing for the first two weeks.

The amount of hardship paid is calculated as for Income based JSA however the appropriate personal allowance is reduced by 40%. In some circumstances this is 20%.

## **Resource list**

### **Advice Now: [www.advicenow.org.uk](http://www.advicenow.org.uk)**

Independent advice service: topics include housing, benefit and housing advice.

### **Shelter: [www.shelter.org.uk](http://www.shelter.org.uk)**

Advice on housing issues – including repossession, publications and news about housing issues. There is a comprehensive section on Housing Benefit.

### **Welfare Benefits & Tax Credits:**

#### [www.dwp.gov.uk](http://www.dwp.gov.uk)

Information on what benefits are available for claimants and how to claim them.

#### [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

The Revenue website for Tax credits – includes the legislation & Code of Practise for Overpayments.

**CPAG Welfare Benefit and Tax Credits Handbook** – An essential resource for advisers and also contains links to legislation/case law. Also produce a range of reference books and bi-monthly Welfare Rights Bulletins. See [www.cpag.org.uk](http://www.cpag.org.uk)



## What we do

Homeless Link is the national membership charity for organisations working directly with people who become homeless or live with multiple and complex support needs. We work to improve services and campaign for policy change that will help end homelessness.

# Let's end homelessness together

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