



## **Social rented sector under occupation size limits – Frequently Asked Questions (FAQs) for claimants**

### **When was the size limit measure announced?**

The Chancellor announced the introduction of size limit rules in the social rented sector in the June 2010 emergency budget. It now forms part of the Welfare Reform Act 2012, which received Royal Assent on 8 March 2012.

### **When will the change come into force?**

The regulations are due to take effect from 1 April 2013.

### **What does under-occupying mean?**

If someone is assessed as having more bedrooms in their accommodation that is necessary according to the new rules (see 'how many rooms am I allowed?'), they will be considered to be under-occupying that property.

### **How many rooms am I allowed?**

The new rules will restrict the size of accommodation you can receive Housing Benefit for based on the make up of your household.

The new rules allow one bedroom for:

- Every adult couple (married or unmarried)
- Any other adult aged 16 or over, including non dependants
- Any two children of the same sex aged under 16
- Any two children aged under 10
- Any other child
- A foster child or children who live with their approved foster carer
- A carer (or team of carers) who do not live with you but provide you or your partner with overnight care
- A sub tenant
- A boarder
- An adult child who is in the armed forces whilst deployed on operations

If you want to check how many bedrooms you are entitled use an Internet search engine and type under occupation bedroom calculator or bedroom tax calculator. Please bear in mind that when using online calculators do not include foster children and if your child is severely disabled and cannot share a bedroom the result may be wrong. If in doubt, check with us.

## **What will happen if I am under-occupying?**

If you are assessed as under-occupying your accommodation a percentage reduction will be made to your eligible rent and any eligible service charges. This percentage will depend on how many rooms you are under-occupying by:

- 14% if someone is considered to have one extra bedroom
- 25% if someone has two or more extra bedrooms

## **Who is affected?**

The size limit measure will affect anyone who is of working age and is receiving Housing Benefit or has made a claim for Housing Benefit.

## **What does working age mean?**

Anyone under state pension credit age.

## **What if my partner is over state pension credit age?**

If one member of a couple receiving Housing Benefit is over state pension credit age then the size limit will not apply to them.

## **Is anyone exempt from the under occupation rules?**

There are certain circumstances where the size limit rules will not be applied.

*Non-Mainstream accommodation* – These are site charges or fees for caravans and mobile and static homes. Regulated tenancies where the Rent Officer has set the rent under the Rent Act 1977 are also exempt.

*Temporary accommodation* – Any claimant who is placed in temporary accommodation by Merton Council because they are homeless or to prevent homelessness is exempt.

*Exempt accommodation* – The size limit rules will not be applied to those in supported 'exempt' accommodation. *This is a particular type of supported accommodation defined for Housing Benefit purposes as accommodation provided by a housing association, a registered charity or voluntary organisation where that body or a person acting on its behalf also provides the claimant with care, support or supervision. Check with your social landlord first or Merton Benefits Service.*

## **Will the shared accommodation rate apply?**

There is no shared accommodation rate in the social rented sector. A person living on their own will require one bedroom, whether the property is self contained or not regardless of their age.

## Are you allowed a room for a foster child?

Yes, when calculating how many bedrooms a family unit require, one bedroom for a foster child will be taken into account, if you or your partner are approved foster carers who:

- have a foster child or foster children placed with you; or
- are between placements, but only for a period of 52 consecutive weeks from the date of the last placement; or
- are 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 you during that period.

If you or your partner are going through the fostering approval process to become adoptive parents, you or your partner are still prospective adoptive parents. You need to prove that you have a spare bedroom. You will not be entitled to the additional bedroom until the foster child is part of your household.

If you have more than one foster child, you still only get one additional bedroom entitlement.

If you are still assessed as under-occupying, foster carers should apply to us for help with the shortfall in their rent by claiming a Discretionary Housing Payment (DHP). This is administered by us and not the Fostering Service. Although you may want to ask the Fostering Service for help with supporting evidence with your DHP claim. For more information on DHPs:

- Visit [www.merton.gov.uk/dhp](http://www.merton.gov.uk/dhp) or
- Email [Housing.Benefits@merton.gov.uk](mailto:Housing.Benefits@merton.gov.uk)

## I share the house with someone else, how is my room allowance worked out?

If you occupy your accommodation jointly with someone else the size limit rules will take into account everyone living in the property when deciding whether you are under-occupying for Housing Benefit purposes. If it is decided that you are under-occupying, a percentage reduction will be taken off the whole eligible rent and any eligible service charges and your Housing Benefit will then be based on the proportion of the rent you are liable to pay.

### Example one

Stuart lives in a three-bedroom house, which he shares with Eusebio. The total rent is £160 per week and they split the rent 50/50. So they each pay £80 per week. Stewart currently receives Housing Benefit to cover his share of the rent.

Under the size limit rules Stuart would be considered to be under-occupying as he and Eusebio would only require two rooms.

As he is over occupying by one room a 14% reduction i.e. £22.40 would be applied to the full rent making the eligible rent £137.60 per week. As Stuart is liable for half the rent, his claim would be based on an eligible rent of £68.80 per week. The maximum Housing Benefit he could get would be £68.80 per week.

If Stewart decided to remain in the flat he would need to make up the remaining £11.20 per week himself.

**Example two**

Ella is a lone parent with one child, Laura. She lives in a four bedroom flat as a joint tenant with her friend Jane and pays half of the £200 per week full rent. Jane's earnings take her above Housing Benefit eligibility, but Ella is unemployed, claiming income based Jobseeker's Allowance. She is currently entitled to Housing Benefit of the full eligible rent (half of £200 = £100), prior to 1 April 2013.

Under the size limit rules from 1 April 2013, the accommodation is under-occupied by one room. Total rent = £200, minus the 14% reduction of £28.00 = £172.00. Ella's eligible rent is half of this – that is, £86 per week. This is also her maximum Housing Benefit. She must make up the shortfall of £14 per week.

**I share care of my children with my ex-partner, are we both entitled to a room for them?**

Where parents who don't live together have shared care of their children, the children will be treated as living with the parent who is treated as responsible for them and provides their main home.

For someone to be treated as responsible for a child or young person, the child or young person must normally be living with them. If a child or young person spends equal amounts of time in different households, or there is a question as to whom they normally live with, they will be treated as living with the person who is receiving Child Benefit for them.

The parent who is not considered to provide their main home will not be entitled to receive Housing Benefit for an extra room for their child/children. If they wish to remain in their current accommodation they will need to make up the shortfall in rent themselves. *See section on 'what options do I have?'*

**My house has been adapted to cater for my disability, am I included in the size limit rules?**

Other than the cases stated above there will be no exceptions to the application of the under occupation size limit rules. If there is a reason that an extra room is necessary, we may be able to help you with the shortfall between your rent and Housing Benefit with a Discretionary Housing Payment. Please visit [www.merton.gov.uk/dhp](http://www.merton.gov.uk/dhp) or email us at [Housing.Benefits@merton.gov.uk](mailto:Housing.Benefits@merton.gov.uk).

**My child has a disability and is not able to share a room; will I be allowed an extra room for them?**

Generally there will be no exceptions to the application of the under occupation size limit rules, other than the cases stated above. If there is a reason that an extra room is necessary because your child has severe disabilities that mean they cannot share a bedroom we may be able to decide they need a separate bedroom for the purposes of the new rules\*. You need to let us know about the child and provide evidence from their GP.

### **My child is away at university, can I keep their room for when they are home in the holidays?**

The new size limit rules do not allow for this, unless the absence is temporary (less than thirteen weeks) and the young person concerned intends to return home. This means if they return home during the Christmas, Easter and Summer breaks they can still be treated as normally living with you.

\* Due to a Court of Appeal judgment in the cases of Burnip, Trengove and Gorry those whose children are said to be unable to share a bedroom because of severe disabilities will be able to claim Housing Benefit for an extra room from the date of the judgment, 15 May 2012.

However it will remain for the local authority to assess the individual circumstances of the claimant and their family and decide whether their disabilities are genuinely such that it is inappropriate for the children to be expected to share a room.

### **My adult child is in the armed forces and serving on operations, can I get an additional bedroom entitlement?**

Yes. If your adult child is away from home in the armed forces and serving on operations and they intend to return home, you can get the additional bedroom. This means we can treat them as an occupier up to 52 weeks temporarily absent. Operations do not have to be abroad away from the UK. We would need to see proof such as a letter from your son or daughter's chain of command confirming. There will be no non dependant deduction whilst they are absent too.

### **Will my housing association find me a smaller house?**

If you wish to move to smaller accommodation it is advisable to talk to your landlord. They should be able to advise you if moving to smaller accommodation is possible and what steps you need to take.

### **My partner has just passed away, am I going to be expected to move as well?**

There may be circumstances where someone in receipt of Housing Benefit would be considered to be under-occupying because of a death in their household. In these circumstances they would be protected and the size limit rules would not be applied until after 12 months or they moved home or there was another change of circumstances (whichever came first).

### **I could afford my rent but just lost my job and need to claim Housing Benefit. Does this mean I won't get benefit to cover all my rent because I have an extra room?**

If you could previously afford to pay your rent and find yourself in a situation where you now cannot, for example because of a loss of job, provided you have not claimed Housing Benefit in the last 52 weeks, the size limit rules will not be applied for the first 13 weeks. They will be applied earlier than 13 weeks if you move home or have another change of circumstances.

## How will my rent be paid?

If you are assessed as under-occupying, your reduced Housing Benefit will be paid as it has been previously and the remainder of the rent will need to be paid by you to the landlord. You still have the option to request that we pay Housing Benefit direct to your landlord. You must ensure that you adjust your payments to your landlord if you are subject to either the 14% or 25% reduction from 1 April 2013.

## How will I make up any shortfall in rent?

If you are assessed as under-occupying your accommodation and experience a reduction in your Housing Benefit, there are a number of courses of action open to you. You may wish to find more appropriately sized accommodation or stay where you are and make up the shortfall in rent yourself.

**Move** – You may decide that it would be best to move to appropriately sized accommodation in the social rented sector. Your landlord will be able to talk this through with you and advise you as to whether this is a viable option.

You may decide that moving to the private rented sector would be appropriate for you. Again your landlord or our Housing Options team will be able to advise you about this.

**Ask non-dependants to contribute** – If you decide to stay in your current accommodation and make up the shortfall yourself you may wish to ask other non-dependants living with you to contribute to the rent.

**Take in a lodger (sub tenant or boarder)** – You may wish to take in a lodger to fill the extra room you have. You should check if this is allowed by your landlord. If you do this, the lodger would be assessed as part of the household meaning you would not necessarily be considered to be under-occupying and you may have more income from their rent. See our **Factsheet Renting out your spare room**.

**Increase hours of work** – If you are in employment you may consider increasing your working hours to make up the shortfall in rent. See **Factsheet The effect of additional income on your Housing Benefit**

**Take a job** – If you are not currently in employment, finding a job could help you pay the additional rent. See **Factsheet The effect of additional income on your Housing Benefit**

**Apply for a DHP** – In certain circumstances you may be entitled to a Discretionary Housing Payment. If we consider you are in real need of additional help with housing costs. See **Factsheet Claiming Discretionary Housing Payments** for more details on this.

All the above factsheets are more can be downloaded and printed from links at [www.merton.gov.uk/benefits/hb-ctb](http://www.merton.gov.uk/benefits/hb-ctb)

## Useful contacts

### Merton Benefits Service

To get advice on Housing Benefit and claiming DHP:

- Email [Housing.Benefits@merton.gov.uk](mailto:Housing.Benefits@merton.gov.uk)
- Phone 020 8274 4903
- Visit us in person at the ground floor Civic Centre, London Road, Morden, SM4 5DX
- View our website [www.merton.gov.uk/benefits/hb-ctb](http://www.merton.gov.uk/benefits/hb-ctb) or [www.merton.gov.uk/dhp](http://www.merton.gov.uk/dhp)

### Merton Housing Options

- Phone 020 8545 3636 to discuss your housing options, or
- Email them at [housingadvice@merton.gov.uk](mailto:housingadvice@merton.gov.uk)

### Shelter

Shelter offers face-to-face, phone, email and online advice about any housing problems (not just homelessness).

- Visit their website at [www.shelter.org.uk](http://www.shelter.org.uk) , or
- Phone [0808 800 4444](tel:08088004444) ([calls are free from UK landlines and main mobile networks](tel:08088004444)).

### Merton Citizens Advice Bureau

Merton CAB offers free, confidential advice face-to-face or by phone. Most CABs also offer home visits, and some give email advice.

- Visit their website at [www.mertoncab.org.uk](http://www.mertoncab.org.uk) or,
- Phone [08444 243 8430](tel:084442438430)
- Email [advice@mertoncab.org.uk](mailto:advice@mertoncab.org.uk)

### National Debt line

National Debt line is a free, confidential service offering independent advice about dealing with debt. You can get information:

- Online at [www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk) or
- Phone the free helpline number [0808 808 4000](tel:08088084000)

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