

Under occupation – frequently asked questions

1. What does under occupation mean?

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

2. When will the change come into force?

The regulations are due to come into effect from April 2013

3. 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
- Any two children of the same sex aged under 16
- Any two children aged under 10
- Any other child (other than a foster child or child whose main home is elsewhere)
- A carer (or team of carers) who do not live with you but provide you or your partner with overnight care

4. 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. (eligible rent / services charges refers to the amount used to assess your entitlement to Housing Benefits) This percentage will depend on how many rooms you are under occupying by:

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

5. 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

6. What does working age mean?

Anyone under state pension credit age

7. Is anyone exempt?

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

- Non mainstream accommodation – these are mooring charges for houseboats and site charges for caravans and mobile homes as well as various ‘excluded tenancies’ such as regulated tenancies.
- Temporary accommodation – any claimant who is placed in temporary accommodation by the local authority because they are homeless or to prevent homelessness

8. 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

9. Are you allowed a room for a foster child?

No, when calculating how many bedrooms a family unit require, a room for a foster child will not be taken into account. Therefore, a household that has an extra room for a current or potential foster child will be treated as under occupying

10. 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.

If 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.

11. 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 size limit rules

12. 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 size limit rules, other than the reasons stated above

13. 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 13 weeks or 52 weeks for student) and the young person concerned intends to return home

14. I have had a death in the household and will now be classed as under occupying. Will my Housing Benefit entitlement be cut straight away?

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)

15. I could afford my rent but lost my job and need to cover all my rent because I have an extra room. 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

16. How will my rent be paid?

If you are assessed as under-occupying your accommodation, 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.