

Social Rented Sector Size Limit (under occupancy)– Frequently asked questions from claimants

What is meant by Social Rented Sector?

This is tenants who rent their home from Chesterfield Borough Council or a registered social provider normally a housing association.

What does working age mean?

Anyone under the age for claiming state pension credit. On 01 April 2013 this will be anyone with a birthday later than

On 01 April 2013 this will affect a single person with a birthday later than 06 Oct 1951 or a couple where both members of the couple have a birthday later than 06 Oct 1951.

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

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

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 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?

There are certain circumstances where the size limit rules will not be applied.
Non-Mainstream accommodation – For example mooring charges for house boats and site charges for caravans and mobile homes.

Temporary accommodation – Any claimant who is placed in temporary accommodation by the local authority because they are homeless or to prevent homelessness.

Exempt accommodation – The size limit rules will not be applied to those in supported 'exempt' accommodation.

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?

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.

If assessed as under-occupying, foster carers or those being assessed to become foster carers should apply to their local authority for help with the shortfall in their rent from the Discretionary Housing Payment fund. (This is administered by the Housing Benefit office, not the Fostering Service – although they can ask the Fostering Service for help with the application).

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

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

EXAMPLE

Stewart lives in a three bedroom flat which he shares with Eusebio. The rent is £100 a week and they split the rent 50/50. Stewart currently receives Housing Benefit to cover his share of the rent.

Under the size limit rules Stewart 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 would be applied to the full rent making it £86, as Stewart is liable for half the rent he would then receive £43 Housing Benefit a week.

If Stewart decided to remain in the flat he would need to make up the remaining £7 himself.

EXAMPLE 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 £130 weekly rent.

Jane's earnings take her above Housing Benefit eligibility, but Ella is unemployed and entitled to Housing Benefit of the full eligible rent (half of £130 = £65).

Under the size limit rules, the accommodation is under-occupied by 1 room.

Total rent = £130, minus the 14% reduction of £18.20 = £111.80. Ella's eligible rent is half of this – that is, £55.90.

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.

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. If there is a reason that an extra room is necessary your local authority may be able to help you with the extra rent through the Discretionary Housing Payment fund.

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 cases stated above. If there is a reason that an extra room is necessary your local authority may be able to help you with the extra rent through the Discretionary Housing Payment fund.

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

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. It will be a decision for you and your landlord how this is done.

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 local authority 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 – You may wish to take in a lodger to fill the extra room you have. You should check 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. Income from your lodger/boarder may affect the benefits you receive. It is important that you check with the organisation paying your benefits how your benefits are affected.

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 on treatment of*

Take a job – If you are not currently in employment, finding a job could help you pay the additional rent.

Apply for a DHP – In certain circumstances a claimant may be entitled to a payment from the Discretionary Housing Payment Fund. This is a fund administered by the local authority for those they consider in real need of additional help with their housing costs.