

HOUSING SYSTEMS: BRIEFING

03/2016:

Social Housing LHA 'Cap'

Updated November 2016

Key Points:

1. Will affect all general needs Universal Credit claimants from April 2019 regardless of when their tenancy started. (Although protection will be given to those 'migrated' onto UC from HB). Statement by Damian Green on 21st November 2016.
2. Will affect general needs tenants on Housing Benefit where their tenancy started on or after April 2016 – although they will not see a reduction in their HB until April 2019. Statement by Damian Green on 21st November 2016.
3. HB and UC claimants living in Supported Housing will be affected from 2019/2020 (with the exception of very short term accommodation) according to a statement made by Damian Green on 15th September 2016 – although the Shared Accommodation Rate will not apply.
4. The rules under Housing Benefit and Universal Credit are different.
5. It is the LHA based on the size of the property the claimant requires that will be used - not the LHA based on the size of the property they are living in.
6. Under the Housing Benefit rules - the Shared Accommodation Rate can affect people age 35 or over and couples - ie it's not just for single people aged under 35. Special consideration needs to be given to non-couple joint tenants.
7. There is no upper age limit ie older people will be affected by this measure as they are not (currently) excluded.
8. The main areas for concern are: under 35's, older tenants, and properties with higher rents such as affordable rents, Supported Housing & Sheltered Housing.
9. Despite the Government's assurances that there will be safeguards for supported housing we believe that as the aim of a new funding structure is to ensure any 'top-up' funding given is locally decided taking into account need, quality and value for money, some claimants in supported housing may not receive this 'top-up', or any 'top-up' given is short terms whilst more suitable accommodation is found eg where a claimants care/support needs have diminished or where a surviving partner has not care/support needs.

WARNING: Little is known about this proposal – the contents are therefore subject to change.

Please note written March 2016 (updated July 2016, September 2016, & again November 2016) - contents subject to change – and no doubt will, so look out for updates in your monthly Housing Systems newsletter.

Social Housing 'LHA' Cap

This Briefing

We see our role as helping you to ensure that your clients are not losing out due to the complexities of the benefit system. We do this by providing you with solid and useful information and commentary that you can use to the benefit of your clients and organisation.

With this briefing we are having to break those rules – because there is so little information currently available we have to make assumptions about how the social housing LHA 'Cap' might work. What follows is therefore not a statement of law and should not be relied upon to make policy decisions - but we hope you will nevertheless find this commentary useful.

Introduction of the Social Housing LHA 'Cap'

The Government are proposing to cap the amount of Housing Benefit / Housing Costs Element available to social housing tenants to the lower of two figures: their eligible rent (after Bedroom Tax), or the Local Housing Allowance rate applicable to their circumstances.

These new rules will affect:

- **General needs housing: Housing Benefit:** Claimants who have taken on a new tenancy from 1st April 2016, although if these new rules result in a lower award, they will not see any reduction until 1st April 2019 (changed from 2018 - Damian Green's announcement of 21/11/16 [here](#)).
- **General needs housing: Universal Credit:** All claimants (ie not just those whose tenancy began from April 2016), although if these new rules result in a lower award, they will not see any reduction until 1st April 2019 (changed from 2018 - Damian Green's announcement of 21/11/16 [here](#)).
- **Transitional protection** will be available for those moved by DWP from Housing Benefit to Universal Credit after April 2019 if their overall benefit entitlement is lower. Those of PC age who move back onto HB from UC will also be protected if their tenancy began before April 2016.
- **Supported Housing:** All Housing Benefit and Universal Credit claimants living in supported housing from 2019/20. (Although the Shared Accommodation Rate will not apply to them).

As the Government are still formulating the details of this policy there is a lot of uncertainty regarding how it will actually work and who will be affected in 2019.

The Government are attempting to align the social and private sectors. This is because they believe that social rents are increasing at a much faster rate than in the private sector and that benefit recipients in the social sector are receiving more than they would if they were renting in the private market, which in turn is creating more pressure upon the Housing Benefit bill. So the overall aim is to take control of the Housing Benefit bill and to ensure that tenants are treated the same regardless of whether they live in the private or social rented sectors.

They are also trying to take control of the extra Housing Benefit / Universal Credit paid to those in Supported Housing by taking away the automatic right to have these higher housing costs covered where the landlord has provided the service ie provider led, and making this decision a locally made one dependent on need, quality and value for money. In other words making sure that any extra funding is given to those who need it.

How will the LHA 'Cap' work?

As the Government are still formulating the policy around this proposal we can only guess as to how it might work.

General Needs Housing

In his statement on 21st November 2016, Damian Green said the DWP will:

"... bring in the policy for general needs accommodation in the Social Rented Sector in 2019, instead of 2018. For Housing Benefit it will apply... to tenants who have signed new or re-let tenancies from 1 April 2016 and their social sector rent is higher than the LHA rate...

...For Universal Credit, LHA rates will apply to all new and existing tenants...

'People moved by DWP from Housing Benefit to Universal Credit after April 2019 whose overall benefit entitlement is lower will be protected, in cash terms, under transitional protection arrangements. On reaching state pension age Universal Credit claimants flowing back on to Housing Benefit with tenancies signed before April 2016 will also be protected. '* (We can assume he meant Pension Credit age?)

Housing Benefit

We think that from 1st April 2019 when the HB Office assess/review a claim from a social housing tenant they will first need to check whether they fall under the LHA 'Cap' rules - ie whether their tenancy[^] was signed on or after 1st April 2016 (including mutual exchanges, joint to single tenancies and new tenancies where the tenant does not move address).

[^] On 29th June NatFed announced:

'There has been some uncertainty about how the cap would apply to mutual exchanges and where a tenancy moves from joint to a single tenancy, or vice versa. The DWP has indicated that the Government's intention is to apply the cap where a mutual exchange takes place and the levels of rent are higher than the local LHA rate.

The cap will also be applied where a new tenancy is created but the tenant does not move home. The rate of LHA at which the cap will be applied reflects the size of the household, rather than the size of the property.'

If the tenancy was signed before this date, then the social housing LHA 'Cap' will not apply and Housing Benefit will be assessed as now.

If it was signed after this date then the HB Office will need to work out the starting point for Housing Benefit - ie the maximum that can be paid / included. They will do this by comparing two figures: the actual gross rent less ineligible services and any Bedroom Tax reduction, and the LHA rate applicable to the claimant*.

The HB Office will then compare these two figures and whichever is the lower of the two will be the maximum Housing Benefit from which the HB Office will go on to deduct any non-dependant deductions etc.

Universal Credit

We think that from 1st April 2019 when the DWP Office assess/review a claim from a social housing tenant, the DWP will need to work out the starting point for the Housing Costs Element- ie the maximum that can be included when the claimants award of Universal Credit is assessed. They will do this by comparing two figures: the actual gross rent less ineligible services and any Bedroom Tax reduction, and the LHA rate applicable to

the claimant*. NOTE: This will apply to all Universal Credit claimants – those ‘migrated’ from HB after this date may receive transitional protection.

The DWP will then compare these two figures and whichever is the lower of the two will be the maximum Housing Costs Element from which the DWP will go on to deduct any housing costs contributions (non-dependant deductions etc).

* The LHA rate applicable to the claimant will depend on the area in which the claimant lives and the size of property they are deemed to require. There are five LHA rates: a room in a shared house (the Shared Accommodation Rate (SAR)), a one bed, two bed, three bed, or four+ bedroom property (where a tenant is deemed to need five or more bedrooms the four+ rate will apply).

Please note there are many differences between the Housing Benefit and Universal Credit systems in terms of: how it is decided how many bedrooms a claimant requires, which service charge are eligible, when a non-dependant deduction is made and its amount - and many, many more - please see the website for more details.

Supported Housing

We think that from a given date sometime during 2019/20, all claims for Housing Benefit / Universal Credit (where a Housing Costs Element is included) for claimants living in Supported Housing will be reviewed ie including those whose tenancies started prior to April 2017 as previously announced.

This is because in his statement made on 15th September, Damian Green said:

‘It is our intention that from 2019/20 core rent and service charges will be funded through Housing Benefit or Universal Credit up to the level of the applicable LHA rate. This will apply to all those living in supported housing from this date.’

The HB Office / DWP will need to work out the starting point for Housing Benefit / Housing Costs Element - ie the maximum that can be paid / included. They will do this by comparing two figures: the actual gross rent less ineligible services and any Bedroom Tax reduction, and the LHA rate applicable to the claimant.

The LHA rate applicable to the claimant will depend on the area in which the claimant lives and the size of property they are deemed to require. For supported housing tenants there will be four LHA rates: a one bed, two bed, three bed, or four+ bedroom property (where a tenant is deemed to need five or more bedrooms the four+ rate will apply).

This is because the Shared Accommodation Rate (SAR) will not apply to claimants living in Supported Housing.

This is because in his statement made on 15th September Damian Green said:

‘I can also confirm that the Shared Accommodation Rate will not apply to people living in the supported housing sector, in recognition of the particular challenges this would have placed upon them.’

The HB Office / DWP will then compare these two figures and whichever is the lower of the two will be the maximum Housing Benefit / Housing Costs Element from which the HB Office / DWP will go on to deduct any non-dependant deductions etc.

Please note there are many differences between the Housing Benefit and Universal Credit systems in terms of: how it is decided how many bedrooms a claimant requires, which service charge are eligible, when a non-

dependant deduction is made and its amount - and many, many more - please see the website for more details.

Where affected the landlord will be able to apply for additional funding locally.

In his statement made on 15th September Damian Green said:

'In England, we will devolve funding to local authorities to provide additional 'top up' funding to providers where necessary, reflecting the higher average costs of offering supported accommodation, compared to general needs. This will give local authorities an enhanced role in commissioning supported housing in their area. This will also allow local authorities to ensure a more coherent approach to commissioning for needs across housing, health and social care, using local knowledge to drive transparency, quality and value for money from providers in their area.'

'In Wales and Scotland, an equivalent amount will be provided and it will be for those administrations to decide how best to allocate funding.'

This is in line with what we predicted – copied from the previous version of this briefing:

Our view is that the Government will eventually put a whole new pot of money together for the additional costs incurred by people living in supported housing - including the additional costs of providing the building they live in: supported housing rents tend to be higher for a number of reasons. This pot is likely to be locally administered and commission based rather than developer led.

The current Supported Housing Review on Supported Housing will feed into the future of how supported housing is funded. But there is no doubt that the help that is currently available from an entitlement led pot of central Government money will no longer be available to supported housing tenants at some point in the coming years.

The Government will have to decide whether to start restricting the help available to people living in supported housing to help them pay their rent by introducing a 'Housing Benefit plus' system ahead of this new support system.

If they do, then it could be that in the supported housing sector rents are funded by Housing Benefit (or even Universal Credit after HB gets abolished) up to the appropriate LHA rate and then the tenant would have to apply locally for further help (it was initially thought that this may be funded out of the DHP pot but this is increasingly unlikely).

What we are not sure about is how this fits in with the previous announcement that Attendance Allowance would at some point in the future administered by Local Authorities – could there be a link?

What is Local Housing Allowance?

Local Housing Allowance (LHA) is the way that HB is worked out for most tenants in the private sector - it does not replace HB but determines the eligible rent that it is based on.

When assessing a claim for HB under the Local Housing Allowance (LHA) scheme, the HB Office ignore the actual rent being charged by the landlord and use a standard rate instead - called the Local Housing Allowance (LHA). The LHA depends on the size of property the tenant requires and the Broad Rental Market Area (BRMA) in which they are living. 2016/17 rates [here](#).

Only if the claimant's weekly rent is lower than their LHA is their weekly rent figure used for assessing their entitlement to HB.

The issue of service charges ie what's eligible / ineligible, does not feature in Local Housing Allowance.

The LHA figures were once set at the bottom 30th percentile of rents in each of the Broad Rental Market Areas. But in April 2012 the rates were frozen and for 2013, 2014 and 2015 were increased by inflation (CPI). For 2016, the rates are being frozen again and will remain frozen for the next four years (though they can be *reduced* if the rent at the 30th percentile drops below this level).

The Broad Rental Market Area

BRMA's are areas containing a mixture of different residential accommodation within which someone could be expected to move and still have access to similar services of a similar standard. They are reasonably large areas often covering more than one Local Authority area. There must be one or more BRMA covering every part of a Local Authority area and they must not overlap. Everyone living within the same BRMA will come under one of five LHA rates depending on the size of property they are deemed to need.

The size of property the tenant is deemed to need

There are five different rates of LHA:

Shared Accommodation Rate (SAR), One bed, Two bed, Three bed, Four+ bed.

Where a tenant is deemed to need five or more bedrooms, the four+ rate will apply.

The number of bedrooms a claimant is deemed to need is worked out in a similar way as the Bedroom Tax rules – note there are some differences to how these work between the Housing Benefit and Universal Credit schemes (see website for more information).

The key difference between the social sector Bedroom Tax size criteria and the LHA in the private rented sector is the addition of the Shared Accommodation Rate (SAR)

What is the Shared Accommodation Rate?

The LHA Shared Accommodation Rate (SAR), previously called the Shared Room Rate (SRR), limits the amount of Housing Benefit payable to certain people to the rate for a room in a shared house. Certain people are excluded from it – see flowcharts at the end of this briefing and the website for more details.

Whilst the majority of people affected by the SAR are single people under the age of 35, it is not restricted to this group under the Housing Benefit rules. So some couples and some single people age 35 or over who are receiving Housing Benefit to help them pay their rent can be affected by the SAR. This is where they have 'chosen' to live in shared accommodation - this can include non-couple joint tenants. The SAR rules around joint tenants are very complex – please see the flowcharts at the end of this briefing and the website for more details.

Who will be affected by the social housing LHA 'Cap'?

Will it just be working age claimants or will this affect Pension Credit age claimants too?

We feel that it is likely to affect Pension Credit age claimants too as there is no mention of these rules applying only to working age claimants.

This effectively introduces a penalty – similar to the Bedroom Tax – into the Housing Benefit system for Pension Credit age claimants.

Older tenants with 'spare' rooms and those living in accommodation with higher rent such as an adapted bungalow or sheltered housing, are likely to be affected by the social housing LHA 'Cap'. For general needs tenant it will only affect them if they signed a new tenancy on or after 1st April 2016 (including mutual exchanges, joint to single tenancies and new tenancies where the tenant does not move address).

How will the social housing LHA 'Cap' work?

Will the LHA rate be based on the size of property the tenant is living in or the size they require under the size criteria?

We could be wrong, but because the Government have stated that the Shared Accommodation Rate for single claimants under 35 will be applicable (apart from where the claimant lives in supported housing), we have assumed that it must be the size of property the tenant is deemed to need under the size criteria rules rather than the LHA based on the size of property they are living in. And this has been confirmed in the Annex to Lord Freud's letter dated 3rd March which states '*.....capped to the LHA for your household size....*'

For example: Mary and John live in a three bedroom house with their son Tony. When they moved in, in May 2016, their daughter Josie also lived with them but she's recently left to move in with her boyfriend. Although Mary and John live in a three bedroom house, it will be the LHA rate for a two bedroom property that the HB Office / DWP will use when assessing whether the social housing LHA 'Cap' applies.

Please see the table in Appendix B & C for more examples.

Will those excluded from the Shared Accommodation Rate (SAR) under the LHA rules also be excluded from it in the social housing sector?

We would assume so – please see the flowcharts at the end of this briefing for more information on who is excluded from the SAR. But with an additional group – any claimant living in Supported Housing.

In reply to a question about whether those on disability benefits would be excluded from the SAR, Justin Tomlinson said: '*The existing exemptions that already apply to private rented sector tenants aged less than 35 will be carefully considered prior to implementing the cap for similar tenants living in the social rented sector.*'

In addition, in his letter dated 3rd March 2016 Lord Freud says '*....the exemptions similar to those that currently apply to the Shared Accommodation Rate in the private rented sector will be replicated for those in the social rented sector.*'

The Shared Accommodation Rate could apply to many HB claimants - including those age 35 or over who choose to live in shared accommodation - this will include some joint tenants. Please see our flowcharts at the end of this briefing for more information.

For Example: Ezra and Joyce live in a two bedroom flat – they are joint tenants. They were a couple when they moved in but have since separated. The trouble is neither of them can find alternative accommodation so are both still living in the flat - although in separate ‘households’.

Under Housing Benefit rules, regardless of their age, they will both fall under the Shared Accommodation Rate because they have ‘chosen’ to live in shared accommodation (unless excluded because they are under 22 and a care leaver or have a severe disability premium included in their benefit entitlements).

Under Universal Credit rules they will only fall under the Shared Accommodation Rate rules if they are under 35 (unless excluded because they are under 22 and a care leaver or are getting mid or high rate care component of DLA, a daily living component of PIP, or Constant Attendance Allowance (sometimes paid as part of Industrial Injuries Disablement Benefit or a War Pension), or Armed Forces Independence Payment).

Please see the table in Appendix B & C for more examples.

What about service charges?

We believe that when the HB Office compare the ‘traditional’ maximum HB / Housing Costs Element with the LHA ‘Cap’ they will be comparing the gross rent less ineligible service charges and Bedroom Tax deduction with the appropriate LHA rate given the claimant’s household circumstances. The maximum Housing Benefit / Housing Costs Element that the claimant will be entitled to will be the lower of these two figures.

We do not believe that any further consideration will be given to service charges.

Example: Adil is 44 and lives in a general needs one bedroom flat. His rent is £120 a week of which £15.00 is Intensive Housing Management and £5 is for personal heating and lighting.

Under HB, assuming the HB Office accept the Intensive Housing Management charge as eligible, his gross rent less ineligible services would be £115 a week. This would be compared to the LHA rate for a one bedroom flat and the lower of these two figures would become the maximum Housing Benefit figure.

Under UC, the ‘traditional’ maximum Housing Costs Element would be £100 a week (as both Intensive Housing Management and personal heating charges are ineligible for UC). This would be compared to the LHA rate for a one bedroom flat and the lower of these two figures would become the maximum Housing Costs Element.

So will the HB Office / DWP ignore the actual rent and use LHA rates instead?

No. Even under LHA rules, the LHA figure is a maximum ie if the rent that is being charged by the landlord is lower, then the Housing Benefit / Housing Costs Element award is assessed using the rent actually being charged. If the Government decided just to use the LHA rate, they would end up spending more in Housing Benefit / Universal Credit as the majority of social housing rents are below LHA rates.

Example: Patrick lives in a one bedroom flat with a rent of £79 a week / £316 a month. The local Housing Allowance for one bedroom flats in his area is £86 a week / £372.67 a month. As his rent is lower than the LHA rate the HB Office / DWP will use his actual rent when working out his entitlement to HB / UC.

Please see the table in Appendix B & C for more examples.

Could someone have their HB / HCE capped at LHA rates and be affected by the Bedroom Tax too?

No. The announcement is that the Housing Benefit / Housing Costs Element available to tenants in the social housing sector will be capped at LHA rates. This suggests that the maximum HB that can be paid is up to the LHA rate - not that the LHA rate is the starting point for working out HB entitlement. We may well be wrong, but it makes sense to us that the HB Office / DWP work out the claimant's maximum Housing Benefit / Housing Costs Element award in the normal way - ie eligible rent less any Bedroom Tax deduction, and then compare this to the LHA rate for the size property that the claimant needs: the maximum Housing Benefit / Housing Costs Element then becomes whichever is the lower of these two figures. This has been confirmed in a letter dated 3rd March 2016, where Lord Freud says: *'The removal of the Spare Room Subsidy (RSRS) will continue to apply for working age tenants but only the highest deduction from either the relevant Local Housing Allowance Cap or RSRS reduction will apply.'* Lord Freud's letter and annex.

Example: Maddie is 57 years old and lives on her own in a two bedroom house. Her rent is £100 a week. The one bedroom LHA rate for her area is £83 a week or £359.67 a month.

Under HB, her 'traditional' maximum Housing Benefit would be £86 a week ie £100 less 14% due to a Bedroom Tax reduction. As the LHA rate that applies to her is lower, it is this lower figure of £83 that would be used to assess her entitlement to HB – this would be the most she would be entitled to; it is not reduced further due to under-occupancy as it is already based on the size of property she is deemed to require.

Under UC, her 'traditional' maximum Housing Costs Element would be £372.66 a month ie £433.33 less 14% due to a Bedroom Tax reduction. As the LHA rate that applies to her is lower, it is this lower figure of £359.67 that would be used to assess her entitlement to UC – this would be the maximum her Housing Costs Element could be; it is not reduced further due to under-occupancy as it is already based on the size of property she is deemed to require.

Please see the table in Appendix B & C for more examples.

Will this new rule replace the Bedroom Tax?

We don't think so - because many social rents are below the LHA rates, so this would mean that social housing tenants living in a property deemed too large for them could end up with their full rent covered by HB / UC and this would defeat the Government's intentions.

Where do I find out the LHA rates for the area/s we cover? And do they ever change?

LHA rates are available on the gov.uk website - [click here](#).

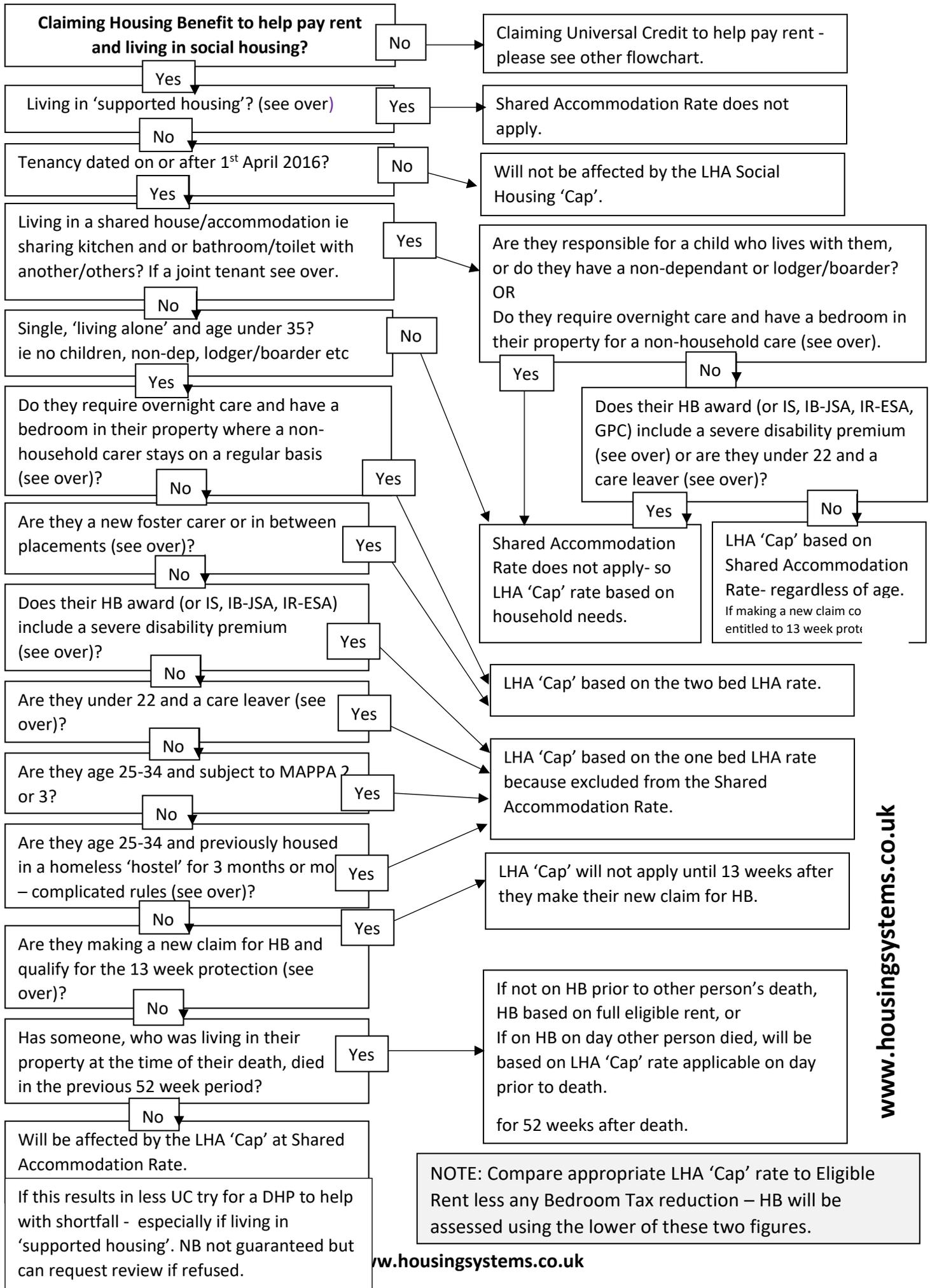
They normally change every April but have been frozen alongside the general freeze in benefit rates for 4 years from April 2016. However, if the general level of rents in an area falls, the LHA rate will also fall ie the 'freeze' means that the LHA rate will not increase for 4 years but could decrease.

What should we be doing now to minimise the impact on our tenants and our business?

It is very difficult to say without knowing the details about the rules. But it would be advisable that on any new general needs tenancy (including mutual exchanges, joint to single tenancies and new tenancies where the tenant does not move address) from April 2016 tenants are informed of the maximum HB / Housing Costs Element that would be payable from April 2019 assuming no change in their circumstances and warned that they could be affected if there is a change in their circumstances.

And ensuring that any new Supported Housing tenancy is given to a tenant who requires the level of care and support provided by the scheme.

LHA Social Housing 'Cap' under Housing Benefit – shared accommodation rate



NOTE: Compare appropriate LHA 'Cap' rate to Eligible Rent less any Bedroom Tax reduction – HB will be assessed using the lower of these two figures.

Supported Housing – The government have said this will take a wide remit - awaiting exact definition.

Joint tenants

Where a joint tenant lives with a (non-partner) joint tenant as if members of a common household eg they eat together, shop together etc then they are considered members of each other's household so will not be classed as living alone and the SAR will not apply – no need to continue with flowchart - the LHA rules in such situations are complex -please see website. Otherwise a joint tenant could be classed as 'living alone' and could be subject to the SAR.

Severe Disability Premium

Will be included in a HB award (or IS, IB-JSA, IR-ESA) where the tenant:

- Is getting: Disability Living Allowance CARE component middle or high rate or a daily living component of Personal Independence Payment, Armed Forces Independence Payment, Constant Attendance Allowance (sometimes paid in with Industrial Injuries or War Pension), or Attendance Allowance, and
- they are deemed as living alone, and
- no-one gets paid Carers Allowance, or gets a Carers Element included in a UC award for looking after them.

Non-household carer

- The carer must not be living in the household ie they are a non-household carer, and
- There must be a bedroom (or room) in the property where they stay and sleep (CH/1940/2012) overnight, and
- They must stay to care for the tenant or tenant's partner - ie care given to any other member of the household will not count, and
- They must stay on a regular basis (not defined in the Regulations but CH/4319/2013 decided that this means often and steadily enough to require a bedroom to be kept for this purpose, and does not need to be for the majority of the nights), and
- The care they give must be reasonably required, and
- The claimant must either:
 - be getting mid or high rate care component of DLA or a daily living component of Personal Independence Payment or Armed Forces Independence Payment or Constant Attendance Allowance or Attendance Allowance, (CH/4319/2013 - DLA does not have to be in payment in respect of night time needs), **or**
 - if they do not receive either of the these, has provided the local authority (LA) with sufficient evidence to show that this type of care is required.

Care leavers

For this purpose - are care leavers who were formerly in social services care under a court order (under section 31(1)(a) of the Children Act 1989 in England and Wales, or equivalent provisions in Scotland), which applied (or continues to apply) after his or her 16th birthday OR were formerly provided with accommodation by social services (under section 20 of the Children Act 1989 in England and Wales, or equivalent provisions in Scotland) but is no longer in that accommodation or remains in it but that accommodation is no longer provided by social services.

Former residents of specialist homeless hostels

Need to have stayed in a homeless hostel (not self-contained units) for homeless people for at least three months (not necessarily continuously and not necessarily in the same hostel) – where they were provided with meals and/or had to share cooking facilities, at any time prior to current HB claim.

To benefit from this exemption claimants will need, while in the hostel, to have been offered and to have accepted support services to enable them to be rehabilitated or resettled into the community. See: HB Circular A12/2011.

Please note: The DWP has confirmed that Approved Premises (formerly known as probation or bail hostels) do not meet the definition of homeless hostel.

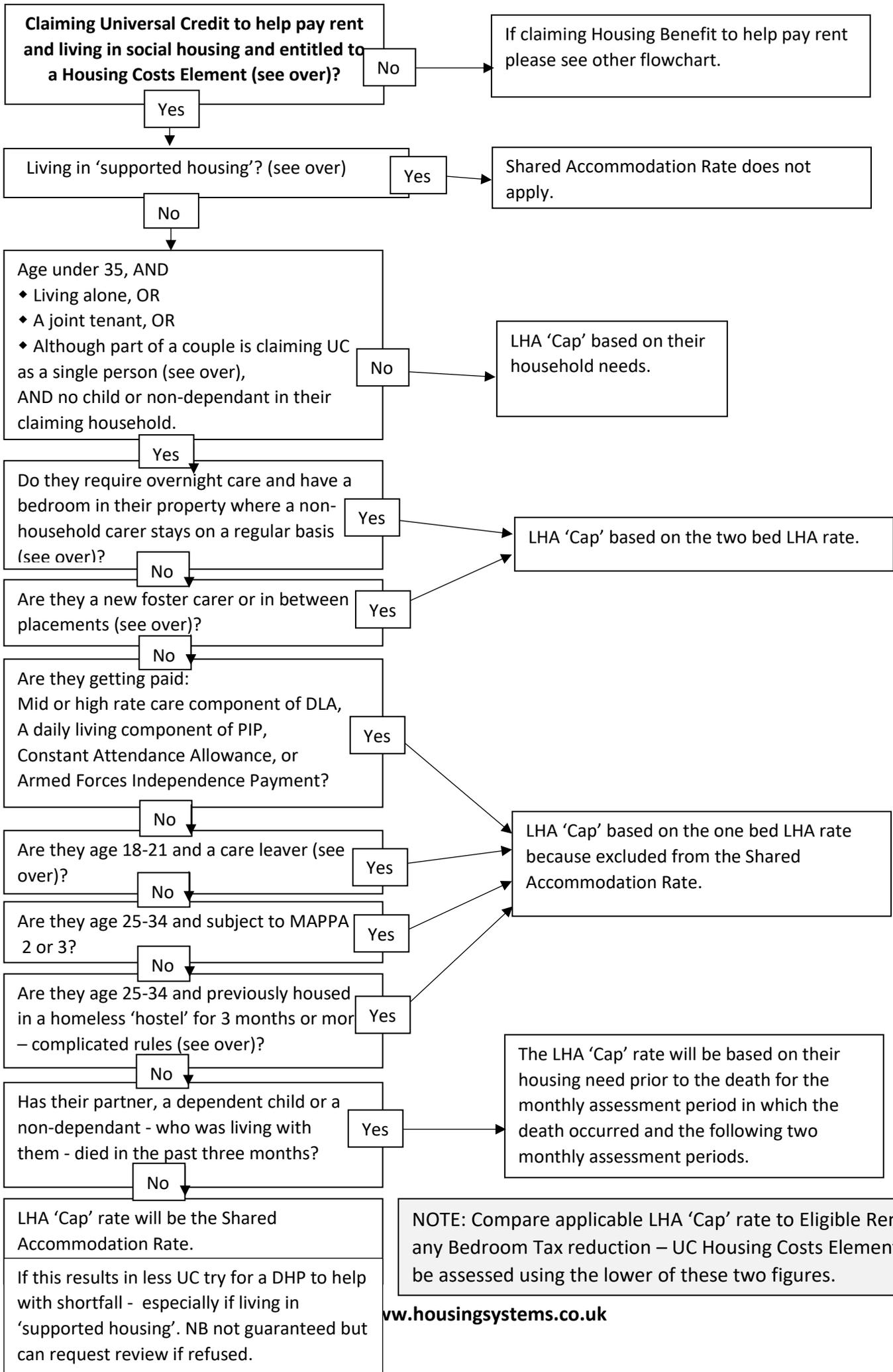
13 week protection

The tenant can have their LHA based on their actual rent (gross rent less ineligible services) for 13 weeks if a HB Office is satisfied that the tenant

- was able to pay the rent on their accommodation when their tenancy began, and
- had not previously been entitled to HB in the 52 week period before their claim.

NOTE: This information assumes that the LHA rules under the social housing cap will work as they currently do for the private rented sector – this may not be the case – we await the proposed Regulations. **Correct as at November 2016 – subject to change.**

LHA Social Housing 'Cap' under Universal Credit – shared accommodation rate



Entitled to a Housing Costs Element

ie meet the payment, liability and occupation conditions

AND

From April 2017: If aged 18 – 21 are not excluded from having a Housing Costs Element included in the award ie are currently working or been out of work for less than 6 months after having worked for 6 months or more, are 'vulnerable' (awaiting definition), or unable to live with parents.

Claiming as a Single Person

Someone will be claiming Universal Credit as a single person where their partner is:

- A 'prisoner' – either on remand or sentenced - from day one of their absence.
- Age 16 or 17 and not one of the prescribed groups of 16 / 17 years olds that can claim.
- Temporary absent within GB for 6 months or more – or likely to be away 6 months or more.
- Not in GB (and not temporarily absent from GB – normally needs to be away less than one month).
- A 'person from abroad' or EEA national with no right to reside.

For more information on any of the above please see the website.

Supported Housing

The government have said this will take a wide remit - awaiting exact definition.

Non-household carer

- The carer must not be living in the household ie they are a non-household carer, and
- There must be a bedroom (or room) in the property where they stay and sleep (CH/1940/2012) overnight, and
- They must stay on a regular basis (not defined in the Regulations but CH/4319/2013 decided that this means often and steadily enough to require a bedroom to be kept for this purpose, and does not need to be for the majority of the nights), and
- The care they give must be reasonably required, and
- The person who needs the care ie the tenant must either: be getting mid or high rate care component of DLA or a daily living component of Personal Independence Payment or Armed Forces Independence Payment, (CH/4319/2013 - DLA does not have to be in payment in respect of night time needs).

New Foster Carer or in between placements

Has been approved as a foster parent under the Fostering Services (England) Regulations 2011 or the Fostering Services (Wales) Regulations 2003 or as a kinship carer or a foster carer under the Looked After Children (Scotland) Regulations 2009 but does not have a child or qualifying young person placed with them and has not had a child or qualifying young person placed with them for a period which does not exceed 52 weeks.

Care leavers

For this purpose - are care leavers who were formerly provided with accommodation by social services (under section 20 of the Children Act 1989 in England and Wales, or section 25 of the Children Act 1995 in Scotland) and were provided with such accommodation on their 16th birthday.

Former residents of specialist homeless hostels

Need to have stayed in a homeless hostel (not self-contained units) for homeless people for at least three months (not necessarily continuously and not necessarily in the same hostel) – where they were provided with meals and/or had to share cooking facilities, at any time prior to current HB claim.

To benefit from this exemption claimants will need, while in the 'hostel', to have been offered and to have accepted support services to enable them to be rehabilitated or resettled into the community.

More information in HB Circular A12/2011.

Please note: The DWP has confirmed that Approved Premises (formerly known as probation or bail hostels) do not meet the definition of homeless hostel.

NOTE: This information assumes that the LHA rules under the social housing 'Cap' will work as they currently do for the private rented sector – this may not be the case – we await the proposed Regulations.

Correct as at November 2016 – subject to change.

Appendix B: Social Housing LHA 'Cap' General Needs from 1st April 2019 – examples

The case studies below are for illustrative purposes only, please note LHA rates vary across the country.

Assumptions: All HB case studies signed tenancy on or after 1st April 2016. The rules will work the same as current LHA rules for private rented sector. All case studies live in an area with the following LHA rates: SAR= £60; One Bed = £85; Two Bed = £115; Three Bed = £135; Four Bed = £160.

LHA = Local Housing Allowance SAR = Shared Accommodation Rate

#For more information see website: www.housingsystems.co.uk

NOTE: Universal Credit – using weekly figure here so that an easier comparison can be made, DWP will use monthly figures.

SINGLES	Gross Rent less ineligibles	Current Max HB	LHA 'Cap' rate	Max Housing Benefit from 2019	Current Max HCE in UC	LHA 'Cap rate	Max Universal Credit from 2019
Single, age 40, living in a one bedroom flat.	£82	£82	£85 ie one bed	£82	£82	£85 ie one bed	£82
Single, age 61, living in a one bedroom flat.	£89	£89	£85 ie one bed	£85	£89	£85 ie one bed	£85
Single, age 56, living in a two bedroom house.	£110	£94.60 After Bed Tax	£85 ie one bed	£85	£94.60 After Bed Tax	£85 ie one bed	£85
Single, age 66, living in a two bedroom house.	£105	£105	£85 ie one bed	£85	Pension Credit age so cannot claim Universal Credit#		
Single, age 22, living in a one bedroom flat. <i>Does not meet any of the conditions to be excluded from SAR*.</i>	£87	£87	£60 SAR	£60	£87	£60 SAR	£60
Single, age 19, living in a one bedroom flat. <i>Does not meet any of the conditions to be excluded from SAR*.</i>	£79	£79	£60 SAR	£60	£79	£60 SAR	If able to get a HCE~ - £60 ~NOTE: Extra rules for 18-21 year olds from April 2017#.
Single, age 32, living in a two bedroom flat. <i>Is excluded from SAR* as gets a Severe Disability Premium included when IR-ESA is assessed.</i>	£120	£103.20 After Bed Tax	£85 ie one bed	£85	£103.20 After Bed Tax	£85 ie one bed	£85
Single, age 30, living in a two bedroom house. Needs extra bedroom for non-household carer – gets PIP daily living.	£113	£113	£115 ie two bed	£113	£113	£115 ie two bed	£113
Single, age 33, living in a two bedroom flat with daughter age 8.	£108	£108	£115 ie two bed	£108	£108	£115 ie two bed	£108
Single, age 28, living in a two bedroom house with sister age 25 who is a non-dependant.	£125	£125	£115 ie two bed	£115	£125	£115 ie two bed	£115

	Gross Rent less ineligible	Current Max HB	LHA 'Cap' rate	Max Housing Benefit from 2019	Current Max HCE in UC	LHA 'Cap rate	Max Universal Credit from 2019
Single, age 56, tenant of three bedroom house with non-dependant son and daughter-in-law	£130	£111.80 After Bed Tax	£115 ie two bed	£111.80	£130 no Bed Tax [^]	£135 ie three bed [^]	£130
Single, age 56, living with son who is joint tenant as a 'common household'# in a two bedroom house. <i>Does not meet any of the conditions to be excluded from SAR*.</i>	£110	£55 ie 50% of rent	£57.50 ie 50% of two bed	£55	£55 ie 50% of rent	£85 ie one bed	£55
Single, age 56, joint tenant with his ex-wife of a two bedroom house where they both live (so counts as shared accommodation). <i>Does not meet any of the conditions to be excluded from SAR*.</i>	£130	£65 ie 50% of rent	£60 SAR applies as 'chosen' to live in shared accommodation	£60	£65 ie 50% of rent	£85 ie one bed. SAR does not apply to the over 35's under UC	£65
Single, age 39, joint tenant with his ex-partner of a three bedroom house where they both live (so counts as shared accommodation). His ex-partner gets Child Benefit for their child age 12 who lives with her.	£140	£70 ie 50% of rent	£60 SAR applies as 'chosen' to live in shared accommodation	£60 Could request different split of rent.	£70 ie 50% of rent	£85 ie one bed. SAR does not apply to the over 35's under UC	£70
<i>* For who is excluded from the SAR please see Appendix A.</i>					^each member of couple non-dep given bedroom in UC		
COUPLES							
Couple, age 40 & 42, living in a one bedroom flat.	£82	£82	£85 ie one bed	£82	£82	£85 ie one bed	£82
Couple, age 58 & 61, living in a one bedroom flat	£89	£89	£85 ie one bed	£85	£89	£85 ie one bed	£85
Couple, age 76 & 79, living in a one bedroom sheltered flat	£120	£120	£85 ie one bed	£85	Both Pension Credit age so cannot claim Universal Credit#		
Couple, age 56 & 66, living in a one bedroom sheltered flat	£120	£120	£85 ie one bed	£85	£120	£85 ie one bed	£85
Couple, aged 59 & 69, living in a two bedroom house ie mixed age couple#	£95	£95	£85 ie one bed	£85	£81.70 After Bed Tax#	£85 ie one bed	£81.70
Couple, age 56 & 49, living in a two bedroom house.	£110	£94.60 After Bed Tax	£85 ie one bed	£85	£94.60 After Bed Tax	£85 ie one bed	£85

	Gross Rent less ineligible	Current Max HB	LHA 'Cap' rate	Max Housing Benefit from 2019	Current Max HCE in UC	LHA 'Cap rate	Max Universal Credit from 2019
Couple, age 72 & 66, living in a two bedroom house.	£105	£105	£85 ie one bed	£85	Both Pension Credit age so cannot claim Universal Credit#		
Couple, age 25 & 22, living in a one bedroom flat.	£86	£86	£85 ie one bed	£85	£86	£85 ie one bed	£85
Couple, age 20 & 19, living in a one bedroom flat.	£79	£79	£85 ie one bed	£79	£79	£85 ie one bed	If able to get a HCE~ - £79 ~NOTE: Extra rules for 18-21 year olds from April 2017#.
Couple, age 40 & 30, living in a two bedroom house. Need extra bedroom for non-household carer – one of the couple gets PIP daily living.	£113	£113	£115 ie two bed	£113	£113	£115 ie two bed	£113
Couple, age 33 & 31, living in a two bedroom flat with daughter age 8.	£108	£108	£115 ie two bed	£108	£108	£115 ie two bed	£108
Couple, age 56 and 55, living in a five bedroom house with their three non-dependant children and two dependent daughters, one age 17 and one age 14.	£165	£165	£160 ie four bed	£160 May be reduced due to Benefit Cap	£165	£160 ie four bed	£160 May be reduced due to Benefit Cap
Couple, age 28 & 27, living in a two bedroom house with sister age 25 who is a non-dependant.	£125	£125	£115 ie two bed	£115	£125	£115 ie two bed	£115
Couple, age 56 & 55, living with son who is joint tenant as a 'common household#' in a two bedroom house. <i>Not excluded from the SAR*.</i>	£110	£55	£57.50 ie 50% of two bed	£55	£73.33 ie 2/3rds of rent	£85 ie one bed	£73.33
Couple, age 56 & 55 living with son who is joint tenant as a 'common household#' in a three bedroom house. <i>Not excluded from the SAR*.</i>	£140	£65.10 After Bed Tax	£57.50 ie 50% of two bed	£57.50	£93.33 ie 2/3rds of rent Non-couple jt tenants excluded from Bed Tax	£85 ie one bed	£70
<i>* For who is excluded from the SAR please see Appendix A.</i>							

Appendix C: Social Housing LHA 'Cap' Supported Housing 2019/2020 – examples

The case studies below are for illustrative purposes only, please note LHA rates vary across the country.

Assumptions: All case studies are classed as living in Supported Housing. The rules will work the same as current LHA rules for private rented sector. All case studies live in an area with the following LHA rates: **One Bed = £85; Two Bed = £115; Three Bed = £135; Four Bed = £160.**

LHA = Local Housing Allowance

#For more information see website: www.housingsystems.co.uk

NOTE: Universal Credit – using weekly figure here so that an easier comparison can be made, DWP will use monthly figures.

SITUATION	Gross Rent less ineligible	Current Max HB	LHA 'Cap' rate	Max Housing Benefit from 2019/2020	Current Max HCE in UC	LHA 'Cap rate	Max Universal Credit from 2019/20
Single, age 76, living in a one bedroom sheltered flat.	£110	£110	£85 ie one bed	£85	PC age so cannot claim UC		
Single, age 29, living in one bedroom supported housing self-contained flat.	£190	£190	£85	£85	£190 Might be seen as excessive	£85	£85 If able to get HCE ie not 'specified accommodation'
Single, age 49, living in a room in a supported housing scheme - shares the kitchen and bathroom with 3 other residents.	£140	£140	£85	£85	£140 Might be seen as excessive	£85	£85. If able to get HCE ie not 'specified accommodation'
Single, age 28, living in a room in a shared house – a supported housing scheme – which has an extra bedroom for a paid overnight carer who cares for all the residents.	£220	£220	£115 ie two bed	£115	No HCE – 'Specified accommodation' #		
Couple, age 34 & 29, living in one bedroom supported housing self-contained flat.	£190	£190	£85	£85	£190	£85 ie one bed	£85 If able to get HCE ie not 'specified accommodation'
Couple, age 49 & 27, living in a room in a supported housing scheme - share kitchen and bathroom.	£140	£140	£85	£85	£140	£85	£85 If able to get HCE ie not 'specified accommodation'

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