

Housing Benefit Claims Processing Guidance

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The claims process

Claims for Housing Benefit (HB) are generally made to the local authority in writing. Local authorities (LAs) also have the option to allow claims to be made electronically or verbally over the telephone if they have decided to offer those specific services.

Claimants can also apply for HB via the DWP through a combined claims process where they are also claiming Income Support (IS), Jobseekers Allowance (JSA), or Employment and Support Allowance (ESA) from Jobcentre Plus, or when applying for Pension Credit (PC) from the Pension, Disability and Carers Service.

Making a claim for HB

There are various methods of making a claim for HB directly to the LA depending on what claims processes the local authority have chosen to offer. One of the methods they offer is a clerical claim form which is issued to the claimant for completion and return to the LA.

The LA may offer a variety of services to assist the claimant in this area including home visits, interviews or completion of the form over the telephone to be issued for checking, signing and return by the customer.

The LA may also offer electronic methods of claiming such as a web-based form on their website, or telephone claims to a designated telephone number. In both cases the claimant may be required to provide evidence and sign a statement confirming the facts provided to make this an effective claim.

Previously where a claimant makes a claim and wishes to correct a mistake that they have made before an authority makes its decision on that claim, such a correction must be made in writing where the claim was made in writing.

Where the claim has been taken via the telephone, then a telephone correction can be accepted, but for a written claim, whilst a member of LA staff may telephone the claimant to query an apparent error, the claimant could only correct it in writing.

From 29 October 2013 claimants can make alterations to their claim via the telephone regardless of how the claim was made.

For claims made via the DWP the customer may choose to use the clerical forms process in completing one of the HCTB1 range of forms. In most cases, claimants would take up the combined claims service offered by the DWP.

For IS/JSA/ESA claims this involves claimants answering questions over the telephone so that a customer statement (being the written claim for benefit) can be issued to be checked, signed and returned to Jobcentre Plus with the evidence requested on that form. The relevant HB details would then be

forwarded on to the LA so that they can take action on the HB part of the claim.

For pensioners, the current process involves The Pension Service pre-populating an HB claim form and issuing this with any supplementary forms needed to be returned to the LA direct. Since October 2008, the claim has been taken over the telephone by Pension, Disability and Carers Service, and the relevant HB information passed directly to the LA with no need for any signature from the claimant. A supplementary form for rent/tenancy details will be issued to the claimant when required for completion and return directly to the LA.

How to make an effective claim

Usually a claim for HB is effective where the LA receive a fully completed claim form (or relevant information from the DWP) as well as all the information and evidence requested on that form. Where this is not the case, the claim would be defective (unless the LA consider the information to be sufficient in the circumstances of that particular case) and they would need to ask the claimant to take action to provide the missing information.

Where the LA receive another local authority's claim form, which contains all the information they would normally request on their own form, they may accept the claim as being an effective claim. The LA has the choice to ask the claimant to complete one of its own forms either in paper or electronically.

The local authority can use different types of forms for different people. In considering a claim the local authority will collect all the information and evidence it needs to decide that particular claim which will vary from case to case. Where a particular client group usually needs to supply less information, the LA may use shortened claim forms such as those the department issues for pensioners and Rapid Reclaims.

In designing any claims process it is important for LAs to consider the balance between the complexity for claimants and staff, the length of time for the completion of any claim form and associated processes and the need to gather all the information needed to decide the claim. While any claims process should cater for the majority of claimants and circumstances, there will always be occasions where trigger questions within the process lead to further information being needed before a decision can be made. In these cases the claimant may be asked to provide the further information.

Times when the claimant fails to supply information requested

In those cases, the LA should make a decision on the claim, based on a negative inference from the information not supplied. Any such negative inference must be reasonable and based on the information already available to the LA. For example: if the claimant had £10,000 in their bank account which they stated was not theirs, but failed to supply proof to back this up, the LA could infer that the £10,000 was available to them and decide the case

accordingly. The LA should not, however, automatically infer that the claimant has over £16,000 based on this information alone and close the claim.

A claim is actually made from the date that a local authority receives a fully completed claim form - however provisions throughout the regulations provide that a claim can be treated as made from another date. For example: from the date an associated IS claim was awarded, where a claimant has rectified a defective claim within a month of being asked to do so or from the date the claimant requested the claim form. Details of these rules can be found in the [Housing Benefit Guidance Manual](#)

Claiming Council Services other than HB

The local authority can allow other council services to be claimed in a generic claim form. However, those services must be clearly optional for the claimant to choose to take-up. The receipt of and application to other LA services are not a condition of entitlement for receiving HB so there cannot be a claims process that implies that a claimant must take up these other services to receive HB. If the LA undertakes this type of combined claim, it must also ensure that only information included on the form relevant to the other services is passed to the delivery arm, and that it does not retain information which is not relevant to HB administration.

Additionally if the LA intends for any further data sharing to occur between HB and other council/authority departments, it must include a section in its form allowing the claimant the choice about whether they agree to the data sharing taking place. This should note what information will be shared, why it will be shared and when it will be shared.

Accepting claim forms and information supplied by the DWP.

Local authorities have the responsibility for administering HB on behalf of the DWP. The claimant has undertaken a lawful process in which to make their claim for HB and legislation requires LAs to accept evidence and information verified and used by the DWP.

Since October 2008, customers who claim Pension Credit have also been able to claim for HB in one telephone call and do not have to complete or sign a claim form. This information is forwarded directly to the LA via a Local Authority Claim Information (LACI) document after the Pension Credit application has been assessed. LAs must accept the information on the LACI and will only need to verify additional information not used or verified by The Pension Service. Where Pension Credit is disallowed the LACI will display which pieces of financial information have been verified by The Pension Service. The HB information captured during the telephone call will be sent to the claimant on a Statement of Details. The claimant will be instructed to report any errors or omissions direct to their local authority. The LA will then be able to amend the HB assessment accordingly.

Steps the local authority can take where information is received from the DWP but the original claim form is needed for a court/appeal case.

Where the LA needs the original claim details (whether a CMS statement or a record of the telephone call with the Pension Credit claimant from October 2008), it can ask the DWP to provide this information, As this information contains details which are not needed for HB, the LA should only request it when the full original claim is needed. In all other cases, the LA should only request the relevant pieces of information that are required.

Transfer of Housing Stock

Where the local authority transfers some housing stock to the private sector consideration will have to be given to the payment frequency of housing benefit. At the point the stock is transferred, any payments the council makes will become rent allowance rather than rent rebate. Each case will need to be considered with regard to Reg 92 of the HB Regulations 2006 which provides for the frequency of payments of rent allowance. Local authorities are required to pay HB in arrears to private sector tenants who claim on or after 7 October 1996. If the payments are made directly to the claimant they would usually be paid two weekly in arrears. If payments are made to the landlord then payment must be made four weekly or monthly in arrears.

Claimants not covered by the transitional provisions (i.e.) who first occupied their dwelling on or after 7.10.96 or have had a break in entitlement since then, will therefore be subject to the provisions of regulation 92 – i.e. the rent allowance will be paid in arrears.

Deciding who to pay following a housing stock transfer to the private sector.

In rent rebate cases, payment of HB is simply credited against the claimant's rent account. However, when housing stock is transferred to the private sector, HB is paid as rent allowance. Generally rent allowance payments should be made direct to the person entitled, the claimant (Reg 94 of the HB Regulations 2006.)

In some circumstances, it will be appropriate to pay rent allowance directly to the landlord under Reg 95/96. Local authorities will need to look at each case individually and consider whether the provisions of Regs 95/96 apply. It is important that claimants are not put under pressure to have their rent paid to the landlord – there must be a genuine choice presented.

Circumstances where the LAs **must** make direct payment (Reg 95):

- the tenant is in receipt of an income-related benefit e.g. IS and has deductions from it for rent arrears
- the tenant is eight weeks or more in arrears with their rent

Circumstances where the LAs have **discretion** to make direct payments (Reg 96):

- the tenant consents, or requests this
- the LA are satisfied it is in the tenants best interest to make direct payments – if for example they have a history of rent arrears or due to drug problems indicating that help with budgeting is needed.
- where the claimant has left the dwelling leaving rent arrears. Any payments made under this provision shall be limited to an amount equal to the outstanding rent

Additionally, in deciding whether to make payments to the landlord, local authorities should give consideration as to whether a landlord is a fit and proper person to receive such payments.

Telephone and electronic claims


Things a local authority should consider if offering telephone claiming facility

The local authority (LA) must first design a process that allows them to gather and record all the information they need while identifying for the claimant what evidence they need to supply to support that claim.

The LA must then decide whether or not they will issue a statement to the claimant to sign and return to them, or whether they simply wish them to confirm the information they have supplied so that they can correct any mistakes. Once the LA has designed this process they must publish a telephone number which the claimant can call to access this service.

Things a LA should consider if offering electronic methods of claiming

Again, the LA must design a process that gathers all the information they need, inform the customer of what evidence they need to supply and issue a statement for signature if needed. They should also allow the claimant to print out the details they have submitted for their future use.

The LA Chief Executive then has to issue a direction which sets out the areas of Housing Benefit administration that may use electronic methods. Further details are available in [Circular A18/2006 \(50KB\)](#) .

Calculating Housing Benefit

Income

For working age people, all income is included unless it is specifically disregarded in the regulations. For pension age people, all income is disregarded, unless it is specifically included in the regulations.

Earnings and Earnings Disregards

The earnings disregards are designed to achieve a balance between providing an encouragement to undertake part-time work and remain in touch with the labour market, without creating disincentives to full-time work and independence.

Earnings (for employed earners) are defined in Housing Benefit Regulation 35 and include:

- bonus or commission
- holiday pay (except any payable more than four weeks after termination of employment)
- compensation payments (payments made in respect of the termination of employment)
- retainers
- expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment (e.g. childcare costs and travelling expenses to work)
- certain employment rights payments
- certain non-cash vouchers

People in full-time work normally have to meet their own employment expenses, such as fares to work. There is no allowance for such expenses generally, ensuring standard treatment and removing possible disincentives to take up full-time work. As a special measure there is a childcare disregard in Housing Benefit to help those with childcare responsibilities to move into full-time work.

The standard disregard for single people is £5 a week.

The standard disregard for couples is £10 a week.

There is a higher disregard of £20 a week for certain groups¹.

The standard disregard for lone parents is £25 a week.

¹ People in certain groups, such as lone parents, carers and people with disabilities are eligible for the higher disregard. In addition, people in certain special occupations are also eligible for the higher disregard e.g. coastguards and fire-fighters in recognition of the services they provide and the potential hazards they face in undertaking these duties.

Additional earnings disregard

The additional earnings disregard applies where the claimant or their partner is aged 25 or over and works 30 hours or more.

The disregard can also be applied where the claimant, or their partner, works 16 hours or more, is entitled to Working Tax Credit (or would be if they claimed) and is either:

- a lone parent
- a couple with children
- disabled
- aged 50 or over

In the last two categories, if the claimant has a partner, the member of the couple who is disabled or aged 50 or over must be working 16 hours or more.

For the purpose of the additional earnings disregard the claimant or partner (whichever one gives rise to the disregard) is not considered to be in remunerative work during any periods of sickness, maternity leave, paternity leave or adoption leave.

Childcare charges

The Childcare Charges Disregard offers extra financial help to those people who are on a low income, work over 16 hours and incur childcare costs. Provision for the Childcare Charges Disregard is made through Housing Benefit and Working Families' Tax Credit.

For those people whose childcare costs are more than their earnings, reductions in Housing Benefit largely offset the gains through the Childcare Charges Disregard.

In Housing Benefit and the childcare elements of Working Tax Credit, the register of approved child-minders is used to determine what childcare costs shall be deducted or allowable, as the case may be.

Until recently, the registration of childcare providers was the responsibility of local authorities. Recent changes to the law in England, Wales and Scotland require matching changes to Housing Benefit regulations.

England and Wales introduced changes to childcare registration (Care Standards Act, 2000). These changes made OFSTED the regulatory authority for childcare in England and the National Assembly for Wales the regulatory authority in Wales.

Scotland has introduced parallel changes through the Regulation of Care (Scotland) Act 2001 which establishes the Scottish Commission for the Regulation of Care as being the regulatory authority for childcare in Scotland.

Capital

There is no upper capital limit for the Guarantee Credit element of Pension Credit. As Guarantee Credit is a passport benefit for Housing Benefit, it would be unfair and confusing to have an upper capital limit for Housing Benefit for people getting Guarantee Credit.

Any income or capital from equity release is fully taken into account in Housing Benefit.

Extended payments of Housing Benefit

The 26-week qualifying period for extended payments of Housing Benefit can be made up of combinations of either Income Support/income-based Jobseeker's Allowance/income-related Employment and Support Allowance or Incapacity Benefit/Severe Disablement Allowance/contribution-based Employment and Support Allowance.

Backdating

How a claim for backdating is made

A claim for backdating can be made at any time, and simply involves the claimant asking for their claim to be made for a past period, this has to be done in writing. To enable the LA to consider entitlement, they would firstly need to consider if continuous 'good cause' has existed from the date the claimant wishes to claim to date and establish their income levels and liability throughout the period being asked for.

The period of the backdated claim is counted from the date the backdate request was made and not from when the Housing Benefit claim was made.

Maximum period of backdate for working age claimants is 6 months and maximum period for claimants of pension credit age is 3 months.

Good causes

To allow an award for a backdated period, claimants must be able to show that they have continuous 'good cause' for their failure to make a claim at the correct time to allow the award for that period to be made. This 'good cause' must exist from the date they wish to claim from up to the date the claim for backdating was actually made. If a period exists where 'good cause' cannot be shown, the claim cannot be backdated before that period.

'Good cause' cannot be defined in a simple list. Each case has to be considered on its individual merits and must take into account the claimant's (or their representatives) ability to make that claim. As this is a claimant specific consideration, no list of examples would be accurate, as what is 'good cause' for one claimant may not be considered 'good cause' for another.

In every case the LA must consider the information the claimant has provided to make a reasonable decision on whether 'good cause' for failing to make a claim exists.

Types of things taken into account when considering 'good cause'

Again there is no complete list of what an LA should consider and this will vary from case to case. Amongst other things, the claimant's health condition (both physical and mental), household emergencies (such as bereavement), language needs, support available to them and any incorrect advice they have received should all be taken into account in making their decision in this area. Generally a major consideration to establish "good cause" is whether another person of similar age and experience would have acted or failed to act as the claimant did.

Ignorance of the benefit system is not good cause. In this the LA must consider whether it is reasonable to have expected the claimant to be aware

that benefits existed at all, and make contact with one of the various agencies who could sign-post them to Housing Benefit.

Further information needed to decide a backdating claim

As with any claim the LA have the right to request further information they need to decide the claim. Once requested, the claimant has one month to supply that data. If they fail to do this the LA may make a decision based on a negative inference as set out in the [claims process](#) section of this document. However, where all the information needed to calculate the current period has been provided, the local authority should not delay processing the claim for the current period.

Change of Circumstances

Late notification – beneficial and disadvantageous changes reported together

A local authority decision maker should identify each change and decide the date from which each change of circumstance occurs.

Decision makers should form a view as to whether the change in question is advantageous or disadvantageous. This is because a judgement is needed on whether to apply the Reg 8(3) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations ("HB/CTB (D&A) Regulations") exception (1) to Reg 79 of the HB Regulations to decide the date the change occurred. Namely, either treating the change as having occurred on the date it was notified or when it factually occurred.

Having determined the dates on which the changes occurred, the decision maker can then decide in which order to conduct any necessary superseding decisions.

A decision maker should apply the provisions of regulation 79 of the HB Regulations and regulation 8(2) & (3) of the HB/CTB (D&A) Regulations to determine the effective date of the superseding decisions.

Example

Three changes of circumstance were notified together on 19 October 2012:

- Change 1 occurred on 6 July 2012 and was a decrease in the claimant's wife's part time income
- Change 2 occurred on 6 August 2012 and was an increase in the claimant's earnings
- Change 3 occurred on 6 September 2012 when a non dependant left the household

There was no good reason for any of the changes to be notified late.

The result was:

- Change 1 as an advantageous change was treated as having occurred on 19 October 2012, the date on which it was notified
- Change 2 a disadvantageous change occurred on 6 July 2012, this in effect became the first superseding decision
- Change 3 as an advantageous change was treated as having occurred on 19 October 2012, the date it was notified.
- Change 1 and Change 3 are reflected in the same superseding decision

Whilst this is the procedure which should be applied to the order of superseding decisions, the obligation remains to consider underlying

entitlement where an overpayment has arisen and whether any late notified beneficial change should be used to either partially or fully offset that overpayment where there is overlap between the changes.

Late notification – award of Disability Living Allowance

Where someone is in receipt of HB and is subsequently awarded DLA (or any other relevant benefit) the decision awarding HB can be superseded effective from the date from which DLA (or other relevant benefit) entitlement began, even though the claimant may not have provided notification of it being awarded. This provision reflects the fact that DWP and local authorities share certain information and the claimant might reasonably presume that details of relevant benefit awards would be passed on, even if they are in fact not at the time the award is made.

HB/CTB (D&A) Reg 7(2)(i) and 8 (14)

Where an award of DLA is made, and the claimant becomes entitled to a disability premium (or Enhanced or Severe Disability Premium as the case may be), the award of the premium is not a change of circumstances in itself (the award of DLA is), and the disability premium(s) are paid from the same effective date as above.

Late notification – award of Child Benefit

Unlike the award of DLA, where there is only one change of circumstances, where Child Benefit is awarded there are two separate changes.

The first change is the increase in the size of the claimant's family because of the birth of the child and the second is the payment of Child Benefit. The applicable amount or premium in respect of the child is normally awarded to the person who is treated as being responsible for the child, and it is the fact that a person has responsibility for a child, not the fact that Child Benefit is in payment, that brings entitlement to any premiums. Normally the Child Benefit recipient and the person responsible for the child are one and the same, but as this is not always the case and as becoming responsible for a child is a distinct change of circumstances from being awarded Child Benefit, a claimant is still under a duty to report the birth of a child and the late notification of beneficial change provisions would apply as usual (although some leeway may be allowed in appropriate cases under HB/CTB (D&A) Reg 9 where a birth of a child is reported later than a month as dealing with housing benefit is unlikely to be a new parent's highest priority).

As Child Benefit has been fully disregarded as income for HB purposes since 2 November 2009, the HB entitlement of a person who is awarded Child Benefit but is not treated as having responsibility for a child will remain unchanged, as will the entitlement of a claimant who has unreasonably delayed in reporting that they are responsible for a child, up until that change is reported.

The decision maker must establish the facts of the situation before making the appropriate superseding decisions.

Late notification – rent increase

Provided that the claimant notifies the increase in their rent within one month of having been notified of the increase by their landlord then the rent increase will be taken into account from the date of the increase. This is because it is not possible for the claimant to notify the change in their rent before they know what it actually is and they should not be penalised for their landlord's delay.

(HB Regulations, Reg 79(2))

If the claimant notifies outside the one month time limit the decision maker will have to consider whether the late application provisions are appropriate in deciding the effective date of the increase in rent.

Late notification – underlying entitlement

Where an overpayment is calculated the provisions of Regulation 104 must be applied to that calculation and the amount of the overpayment should reflect the circumstances of the person as they would have been if the change had been notified timeously.

This means that the person is penalised for the late notification in that they will not receive the additional benefit which would have been due had they notified at the correct time. However, they are not penalised twice by the change not being offset against an overpayment.

Non-dependant deductions

26 week deferral of non-dependant deductions

Regulation 59 of the HB (Persons who have attained the qualifying age for state pension credit) Regulations, SI 2006/214 provides that when:

- there is an existing HB award
- the claimant or the claimant's partner has attained the age of 65
- a non-dependant moves into the claimant's home or an existing non-dependant has an increase in income, that would increase the non-dependant deduction

the deduction or increase in the existing deduction will not take effect until 26 weeks after the change happened.

Claimants should be notified of the decision and given full appeal rights at the same time as the decision is made.

The 26 week deferral period does not apply when a dependant child already who is already part of the household becomes a non-dependant.

Example 1

Non-dependant moves in on 12 October 2012. The claimant tells the LA on 13 October 2012. The LA processes the change on 20 October 2012.

- The date of change is 12 October 2012.
- The date that the decision is made and the notification issued to the claimant is 20 October 2012.
- The notification tells the claimant that HB will reduce because of the change; how much the reduction will be; and the date the reduction will be implemented. The claimant should also be reminded that they must let the LA know if there are any other changes in respect of the non-dependant before the reduction takes effect
- The date the reduction takes effect is 12 April 2013, ie 26 weeks after the date of change, not the date of the decision

In the above example, a change of circumstances for MIS purposes should be logged as being notified on 12 October and cleared on 20 October 2012. The time taken to make the decision should be shown as 8 days that is 13 - 20 October 2012.

When the 26 week point is reached, and assuming there have been no other relevant changes since the non-dependant moved in, the HB should be reduced. There will be no need to count this as a change of circumstances as the decision was made on 20 October 2012.

26 week deferral – increase in income during deferral period

Regulation 59 also provides that any further changes in respect of the non-dependant, that happen in the 26 week deferral period and would also reduce HB, shall not be effective until the end of the 26 week period, already set for the first change. However, exactly the same principles would apply to processing the second change.

Example 2

The non-dependant in Example 1 has an increase in income on 9 January 2013, the claimant tells the LA on 12 January 2013. The LA processes the change on 16 January 2013.

- The date of change is 9 January 2013
- The date that the decision is made and the notification issued to the claimant is 16 January
- The notification tells the claimant that HB will reduce because of the change; how much the reduction will be; and the date the reduction will be implemented. The claimant should also be reminded that they must

let the LA know if there are any other changes in respect of the non-dependant before the reduction takes effect

- The date the reduction takes effect is 12 April 2013, ie the date set when the first change happened

In this example, a change of circumstances for MIS purposes should be logged as being notified on 12 January 2009 and cleared on 16 January 2009. The time taken to make the decision should be shown as 5 days that is 12-16 January 2013.

When the 26 week point is reached the HB should be reduced. There will be no need to count this as a change of circumstances as the decision was made on 16 January 2013.

26 week deferral – decrease in income during referral period

If the **same** non-dependant's income had reduced on 9 January 2013 rather than increased, the same dates and principles for processing the change, as set out in Example 2, would apply, but the reduced amount of the deduction will be taken into account from 12 April 2013.

26 week deferral – non-dependant vacates

If the **same** non-dependant had left the household on 9 January 2013 the deduction, due to be made on 12 April 2013, would no longer be appropriate. Again, the same dates and principles for processing the change, as set out in Example 2, would apply. However, in this situation the decision will be that the change will mean that the deduction, due to be made on 12 April 2009, will no longer apply.

Non-dependant deductions – ESA(IR) in payment

Normally in HB, a non-dependant deduction does not apply where a non-dependant is under age 25 and in receipt of Income Support or income-based Jobseeker's Allowance. Once the non-dependant reaches age 25 or over, the lowest rate of deduction applies.

However, the situation with non-dependants in receipt of income-based Employment & Support Allowance (ESA (IR)) is different.

If the non-dependant is in receipt of ESA (IR), and completes the work capability assessment and becomes entitled to **the 25 plus rate** of ESA (IR), the lowest rate of deduction will apply irrespective of the non-dependant's age. This can happen even if the non-dependant is aged under 25.

Extended Payments

[See – The Housing Benefit and Council Tax Benefit \(Extended Payments\) Amendment Regulations 2008 S.I.2008/959](#)

Extended Payments - pensioners

Pensioners cannot qualify for an Extended Payment (EP). In State Pension Credit there are no restrictions on the number of hours that can be worked. Claimants could continue to receive State Pension Credit up to the time they receive their first wages therefore removing the need for an EP.

Income Support, income-based Jobseekers Allowance and Employment and Support Allowance are different. Here, the “remunerative work” rule determines the access to those benefits.

Extended payments – combination of qualifying benefits

A claimant must fulfil the relevant qualifying conditions for an EP for each Scheme.

Historically, where for example a claimant was getting IS and IB (or SDA) together, and then moved onto IB (or SDA) only, the IB (or SDA) could be counted towards the 26 week qualifying period for the EP (qualifying contribution benefits) Scheme, irrespective of the fact that it was paid alongside IS at an earlier stage.

However, if the claimant was in receipt of IB (or SDA) only then went onto IB (or SDA) and IS, then the only way they could get an EP would be under the EP (qualifying income-related benefits) Scheme provided they completed 26 weeks on IS. It was impermissible to add together the IS and IB/SDA periods.

ESA operates in a similar way, for example if a claimant was in receipt of:

- ESA (IR) and ESA(C) together and then moves onto ESA(C) only. In these cases, the ESA(C) can be counted towards the 26 week qualifying period for the EP (qualifying contributory benefits) Scheme, irrespective of the fact that it was paid alongside ESA (IR) at an earlier stage
- ESA(C) only, then went onto ESA (C) and ESA (IR), then the only way they could get an EP would be under the EP (qualifying income-related benefits) Scheme provided they completed 26 weeks on ESA(IR). In these circumstances, you cannot add together the ESA (IR) and ESA(C) periods

Whilst JSA(C) is not a qualifying benefit, it can count towards the 26 week qualifying period for an EP where a claimant moves straight from JSA(C) to JSA(IB) and is in receipt of JSA(IB) immediately before starting work.

Extended payments – treatment as change of circumstances

Since 6 October 2008 a local authority has been required to consider whether the claimant is entitled to an EP when the claimant starts work as part of a normal change of circumstance. The LA should also check whether there is any entitlement to “in work” HB.

Since 6 October 2008 claimants have not been required to make a new claim for HB at the end of the EP. At the end the EP period, the claimant can move into “in-work” HB provided they are entitled to it.

Extended payments – assessment

Jobcentre Plus no longer certifies to the LA that the 26 week qualifying period has been completed. The LA should obtain the necessary details from the Customer Information System (CIS).

Where the claimant changes address during the EP period, it will be the responsibility of the original LA to calculate and pay the EP even if the claimant has moved to another area. Where a claimant is liable to make payments to another authority at the new address, payment may either be made to the new authority or directly to the claimant.

Extended payments – commencement date

Provided all the relevant criteria for an EP have been fulfilled EP is awarded when HB ends.

HB would be paid up to the last day of the benefit week in which the qualifying benefit ceases:

Example

If IS ends on a Monday 20 May 2013 (that is to say the last day of entitlement is Sunday 19 May 2013) then HB should be paid up to and including the end of benefit week Sunday 26 May 2009. The EP would start from 27 May 2013.

If IS ends on a Sunday 19 May 2013 (that is to say the last day of entitlement is Saturday 18 May 2013) then HB should be paid up to and including the end of benefit week Sunday 19 May 2009. The EP would start from 20 May 2013.

Extended payments – changes during EP period

Reg 72D (1) helps to preserve the current HB claim in the background whilst the EP is in payment. The EP rate would be payable for the first week of the EP period, whilst entitlement to in-work HB is nil. The current HB claim still exists and allows a comparison to be made with the EP rate and in-work entitlement.

Example

Original HB rate is £60.00. Claimant moves into work and EP rate is £60.00 based on rate of HB paid in week before the qualifying benefit ends.

In-work HB entitlement for week 1 is nil. EP is payable at £60.00 for week 1.

In-work HB for weeks 2-4 is assessed at £50.00 (applying the normal change of circumstance rules under Reg 79). The EP rate is higher than in-work HB, so EP is payable at £60.00 for the rest of the EP period.

Extended payments – checking eligibility

Since 6 October 2008, Jobcentre Plus (JCP) has no longer been required to certify to the LA that the claimant was in receipt of an income-related benefit and that the benefit has ceased, or that the work is expected to last at least 5 weeks. In the IB/SDA EP scheme, the LA had already been responsible for checking whether the claimant fulfilled all the relevant conditions for the award for an EP, and did not rely on any confirmation from Jobcentre Plus.

The reform of the EP scheme took account of LAs' views about data confirmation from JCP. The IB/SDA EP scheme already took this into account and removed the confirmation requirements, so this scenario is nothing new. It is up to the LA to use whatever method it feels is appropriate to confirm that it is satisfied that the claimant has fulfilled all the conditions for an EP.

Extended payments – late notification

There is no longer a requirement for the claimant to notify the LA/DWP that they have started work within 4 weeks of doing so. The general rules on changes of circumstance apply. The move into work is a detrimental change of circumstance which would reduce the claimant's rate of HB. If s/he satisfies the conditions for an EP, this will be an advantageous change of circumstance, which means the EP is payable when there would otherwise be a reduced rate of benefit.

Reg 79(1) is also subject to DMA Reg 8(3) of the Decisions & Appeals Regulations. This provides that an advantageous change that is notified more than one month after it occurs, takes effect from the date of the notification (subject to there being no reason to extend this under DMA Reg 9).

Since the EP can only be paid for up to 4 weeks from the beginning of the benefit week after entitlement to the qualifying benefit ceased, this would mean there is no entitlement to an EP. However, as with general changes of circumstances, Reg 104 and underlying entitlement would apply to the extent that an overpayment caused by a disadvantageous change must be reduced by taking into account a late notified beneficial change during the same period.

Example

Mr A begins work and his entitlement to JSA (IB) ceases on 8 November 2012. He satisfies the conditions for an EP, which is payable from 12 November until 9 December. Mr A has one month to notify an advantageous change, so provided he does this anytime until 8 December, he can take advantage of the full 4 week EP because the change takes effect from the date of the notification.

Under DMA rules Mr A has one month to report the change of circumstances.

Extended payments – move outside LA area

Example 1

Claimant is entitled to an EP from 6/10 to 2/11 at £40.00 per week. He is not entitled to any in-work HB due to his earnings. During the EP period the claimant moves to a new LA on 18/10. His EP continues to the end of the EP period at £40.00 per week and is paid by the first LA. He is not entitled to in-work HB in the original LA at the end of the EP period.

Example 2

Claimant is entitled to an EP from 6/10 to 2/11 at a rate of £50.00. He would be entitled to in-work HB at £60.00 from 6/10 onwards. His EP is increased to the in-work rate of HB of £60.00. During the EP period he moves address on 18/10 to a new LA (LA (B)). Claimant notifies that he has moved on 18/10.

Under Reg 72C (movers) the amount of the EP would be the rate in payment in the week before the qualifying benefit ceased - here £50.00, paid by the original LA for the duration of the EP period even though the claimant moved to LA (B)'s area on 18/10.

Provided the claimant makes a new in-work claim for HB at LA (B), this will be calculated based on the new liability at the new address and the earnings. If LA (B) calculates the new claim for in-work HB at a lower rate than the EP e.g. £40.00, then there would be nothing for LA (B) to pay until the end of the EP period.

Extended payments – move within LA area

Example 1

EP is paid at £60.00 per week. Claimant moves to new property in same LA area effective from week 3 of the EP. Rate of in-work HB entitlement at that property is £80.00 per week. Therefore the EP rate is 2 weeks at £60.00, followed by 2 weeks at £80.00. At the end of week 4 of EP period, claimant moves onto in-work HB at £80.00 per week.

Example 2

EP is in payment at £60.00 per week. Claimant moved to new property in same LA effective from week 3. Rate of in-work HB entitlement at new property is £40.00 per week. Therefore EP rate remains at £60.00. At end of EP period, the claimant moves onto in-work HB at £40.00 per week.

Chapter C5 of the HB Guidance Manual also contains information on dealing with changes of address during an EP period.

Extended payments – changes of circumstances during EP period

The move into work is now treated as a change of circumstance on the existing award. Changes of circumstance are ignored for the EP payment for the duration of the EP period under Reg 72D (2).

However, the current HB award continues in the background, allowing a comparison of in-work entitlement with the EP entitlement.

Reg 72B deals with the amount of EP. When a claimant moves into work, the LA is required to consider not just whether the claimant has fulfilled the conditions for an EP, but also whether they are entitled to normal in-work HB (Reg 72B). Normal HB allows for changes of circumstance for example non-dependants leaving or arriving.

The EP rate is based on the amount of benefit in payment in the week before the qualifying benefit ceased and the claimant moved into work. If this rate included a non-dependant deduction this would be the rate that is used to set the EP. If the rate of in-work HB turns out to be higher than the EP rate, then the in-work HB rate is used as the EP rate.

Example

EP rate is £50.00 (which is net of 2 non-dependant deductions).

Claimant qualifies for in-work HB. In-work HB is calculated and includes non-dependant deductions. In-work HB is calculated at £30.00. So, EP rate is higher than in-work HB rate so for weeks 1 and 2 - EP is paid at £50.00 per week.

Non-dependant moves out of the household which affects level of in-work HB under normal change of circumstance provisions (Reg 79). The change does not affect EP rate of £50.00, but the in-work HB is reassessed to take account of the non-dependant moving out increasing it to £40.00. The existing EP rate is still higher, so EP is paid for week 3 at £50.00.

Second non-dependant leaves the household and in-work HB is reassessed and the new rate is £60.00. This is higher than the original EP rate of £50.00. Provided the change of circumstances has been notified within one month of it

occurring (i.e. under normal DMA rules), the EP rate would be adjusted from the Monday following the date of the change (Reg 79(1)).

So for week 4 the EP is paid at the in-work HB rate of £60.00. This is classed as an EP payment. The rate of the EP is increased to the level of the in-work HB.

At the end of the EP period, the claimant moves on to in-work HB at £60.00 with no need for any new claim to be made.

All payments made under Reg 72B(1) should be classified as an EP regardless of whether the EP is made under Reg 72B(1)(a), (b) or (c).

This is because Reg 72B (1) states that “the amount of the EP payable shall be the higher of (a), (b) or (c)”.

Extended payments – HB Regulations 72(4) and 73(2)

These are an easement which allows an EP to be paid where a change of address would affect the entitlement of HB before the qualifying benefit ends. For example new Reg 72(4)(b) refers to the circumstances where the claimant vacated the dwelling – either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week.

These provisions allow you to treat the claimant as entitled to HB under the normal rules, which then allow you to pay the EP. Reg 74B (4) then allows you use the last full week’s worth of HB at the old address to set the EP rate.

Extended payments – claimant notification

An EP can be paid without the need to end the current HB award. However, the claimant has an obligation to report changes of circumstance that would affect entitlement to in-work HB under Reg 88. The relevant changes would be those under identified under Reg 72(1)/Reg 73(1) in the normal course of events.

The LA must satisfy itself that the work is expected to last at least five weeks and all the other conditions for the EP have been satisfied.

Appeals and complaints

The determination of an application for late notification does not confer a right of appeal. This is because the determination of that question does not constitute a decision in its own right.

The determination is made for the purposes of a decision under paragraph 4 of Schedule 7 to the Child Support, Pensions and social Security Act 2000, in other words a supersession. The determination of the effective date constitutes a part of the outcome decision, and so could be considered by an appeal tribunal as part of an appeal against that supersession decision.

This is because in order to determine the correct effective date of the supersession the appeal tribunal would consider the issue of the late application.

Regulation 9(6) of the HB/CTB (D&A) Regulations prevents an application for late notification of change of circumstances being renewed once it has been refused. It is intended to stop repeat applications for late notification being made which would slow down the process of the matter being considered by an appeal tribunal on an appeal against the outcome decision.

Where a landlord has appealed against the recovery of an overpayment the landlord should be provided with a copy of the submission which is sent to the Appeals Service. All relevant factual information should be provided in that submission, because to do otherwise would prejudice a fair hearing by the appeal tribunal.

Local authorities should be aware that they need to consider each individual case on its merits in deciding the information which is necessary to include. Where elements of doubt exist about particular pieces of information the local authority should seek advice from its own legal department.