



**Learning Disability
Alliance Scotland**

A Guide To The Bedroom Tax



Members of the Learning Disability Alliance Scotland pictured after giving evidence to the Scottish Parliament's Welfare Reform Committee about the Bedroom Tax in April 2013.

What is the Bedroom Tax?

The Bedroom Tax is the name given to a reduction in Housing Benefit to people who have one or more “spare” bedrooms in their property.

It applies to both people in work who are able to claim housing benefit and to those who are fully reliant on state welfare benefits

It applies to people who are tenants in social housing. This usually means local authorities and housing associations.

This guide will tell you more about how it works and what you can do about it.

Many people will need more advice on what they can do about this. Many advice agencies are seeing many new people come to them for help. This guide will introduce to the basics of what you can do.

Some addresses you can go for further information are included at the end.



Andrew and his partner live in a two bedroom house since they were married 7 years ago. Both of them have learning disabilities and receive support from a voluntary organisation.

Their housing benefit has been reduced by £12.85 per week.

Andrew was originally given the house as supported accommodation because there were no one bedroom properties available. He cannot benefit from the Support Exempt Accommodation clause because their support agency does not own their property.

How does the Bedroom Tax work?

In the social housing sector from April 2013 in calculating payable Housing Benefit one bedroom will be allowed for each person or couple living as part of the household with the following exceptions:

- a child of 15 or under will be expected to share with another child of the same gender; and
- a child of 9 or under will be expected to share with one other child aged 9 or under, regardless of gender.
- Where a child of any age is disabled and unable to share with a sibling then they will not be expected to share and each child will be allowed a single bedroom.



No exemption or account will be taken of children whose main residence is elsewhere.

A bedroom will be allowed for a non-resident carer where they provide overnight care for the Housing Benefit claimant or their partner (also see section 3.4 below).

How Much Is The Reduction?

The reduction applies to eligible rent and to eligible service charges.

- 14% reduction for one extra bedroom
- 25% reduction for two or more extra bedrooms

Eligible service charges are those service charges which have been covered in full by Housing Benefit, such as garden maintenance, lifts and communal laundry facilities.

Matt is single, aged 35 and lives in a two bedroomed flat where the rent is £75 a week. He lost his job recently and gets £75 a week Housing Benefit to cover his rent. He has access to his daughter at weekends.

Matt will, from April 2013, be deemed to be living in a property larger than he needs – he will only be deemed to need one bedroom as his daughter does not live with him full time. So his Housing Benefit award will be reduced by £10.50 a week and he will have to pay this to his landlord out of his Jobseekers Allowance.

Exemptions from the Bedroom Tax

Full Exemptions

There will be no reduction in housing benefit payment for tenants in the following cases.

1. Where the claimant or the claimant's partner has attained the qualifying age for state Pension Credit or where both have attained that age (currently between 61 & 62 and gradually rising)
2. Where the property is supported 'exempt' accommodation – this is where the landlord directly provide care and support to the tenant or commissions a third party to do so on their behalf. [It does not apply where the person has an tenancy with a housing association and receives care and support from a separate organisation.]
3. The tenancy is an excluded tenancy defined in paragraphs 4-12 of Schedule 2 to the Housing Benefit Regulations 2006; (tenancies that started before 1989, tenancies in probation hostels, properties linked to agricultural land, housing action trust tenants and some other specific cases.)
4. The charge is for a mooring charge for houseboats or a pitch fee for a mobile home
5. Where the dwelling is temporary accommodation
6. Where the property is in shared ownership with a social landlord.

Partial Exemptions

A partial exemption of one extra bedroom will apply to:

- Approved foster carers (or kinship carers in Scotland) who have a child placed with them
- Approved foster carers who are between placements but only for a period of up to 52 consecutive weeks from the date of the last placement
- Newly approved foster carers but only for a period of up to 52 consecutive weeks from the date of the approval, if no child is placed with them during that period.

Foster parents who need more than one extra bedroom will be able to apply for Discretionary Housing Payments

Temporary Exemptions

Temporary Exemptions apply for the following

- Members of the armed forces who are on training or deployment but intend to return to the family home.
- Students and other on training courses for up to 13 weeks who intend to return during holiday breaks
- Bereaved families will be exempt for up to 52 weeks.

How Many Bedrooms Do You Have?

This is specified on your tenancy agreement. In most cases councils have applied a “blanket” policy in deciding how many bedrooms that an individual tenant has by taking a statement from the landlord as to how many bedrooms are present in each property. Many social landlords depend on the number of bedrooms in each property for rental income and some existing loan agreements are tied to the number of bedrooms the landlord has in its stock.

The Designation of What is a Bedroom

There is no standard definition of what constitutes a bedroom and the government accepts that it is up to landlords to take the decision over the number of bedrooms. The government accepts that there will be individual properties where it makes sense for landlords to redesignate bedrooms as not being appropriate.

Some issues to consider are

Size Of Bedroom

There is no minimum size for bedrooms but some guidance exists.

In 2004, The Scottish Government published guidance for Houses In Multiple Occupation which specified that bedrooms for a single adult should be at least 6.5 m² (or 70 square feet). Where a spare bedroom is less than this, it may be argued that it is too small for a bedroom.

A number of Fife Housing Benefit Tribunals have now accepted the argument, that it is ‘relevant to have regard to statutory space standards’.. when assessing the number of rooms.



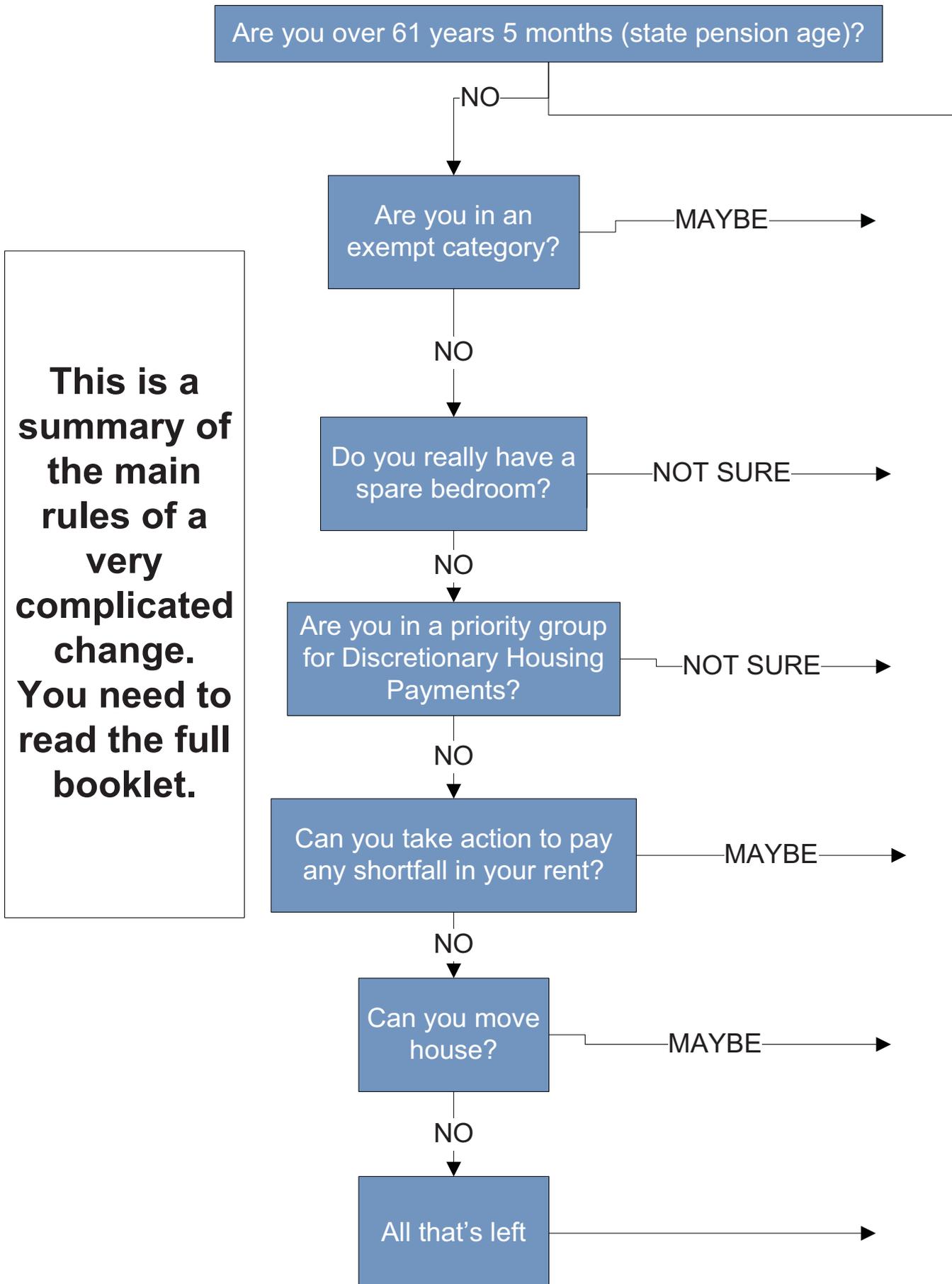
Other Rooms

A number of arguments have been developing over the use and size of the rooms in the property. For example, if there is only a small galley style kitchen without space to sit and eat, then it could be argued that a spare room should be classed as a Dining Room.

A tribunal in Westminster has upheld an appeal against the bedroom tax on the grounds after claiming the room was used for storage of medical equipment not as a bedroom. The judge ruled ‘I have found the room in question was never intended to be a bedroom and has never been used as a bedroom.’

Tribunals do not form legal precedents but do give guidance to future decisions.

Are you affected by



the Bedroom Tax?

YES

You are not affected

Does someone in your family get high rate DLA?
Do you have child with a disability?
Have you a child in the armed forces?
Has someone died in the last 52 weeks?
Are you a foster carer?

YES

You should not be affected.
Ask for a review of the
decision in your case.

Is your bedroom less than 70 ft²?
Do you have a small galley style kitchen?
Is your spare room used for something other than a
bedroom?
Are you unable to share a room with a disabled
partner?
Are you separated from your children?

YES

You need to appeal the
decision to cut your
Housing Benefit.

Has your house been adapted because of physical
disability?
Are you a foster carer who takes more than one
child?

YES

You need to apply for a
Discretionary Housing
Payment

Can you pay out of "spare" income?
Can you take in a lodger?
Can you earn some extra money?

YES

Take appropriate action

Are you eligible for an internal transfer?
Are you in one of you landlord's priority
groups?

YES

Apply for a transfer
Visit a home exchange
website

Apply for Discretionary Housing Benefits
Seek help to avoid eviction
Speak to a Bedroom Tax Support Group



Discretionary Housing Payments

Individuals who have their Housing Benefit reduced can apply to the local authority for a Discretionary Housing Payment (DHP). The DHP is limited and once it is spent it cannot be renewed until the next financial year. Local authorities can only add 2.5 times what the government contributes.

To qualify for a DHP the only requirement is that there must be a shortfall between benefit being paid and the rent, but the council will usually take into account special circumstances that contribute to financial difficulties.

Local authorities are not under any duty to make a discretionary housing payment. They are generally time limited. Payments are generally for no longer than 52 weeks and can be subject to renewal after 13 weeks. Due to increased funding from the Scottish Government those who have been turned down before should reapply.

Priority Groups for DHP are

1. Disabled people who live in significantly adapted accommodation who need help to enable them to remain in their existing homes
2. Foster carers who need to keep a second or more additional rooms for when they are in between fostering.
3. Those adults with long term medical condition or disability that create difficulties in sharing a bedroom.

Applications for DHPs

You will normally need to complete an application form for a Discretionary Housing Payment. It is both a social and financial means test that aims to assess what resources you have to meet any shortfall in Housing Benefit.

You will need to identify all the special circumstances that apply to your tenancy.

- Why you moved to this house
- Why the property is suitable for you
- Any health problems you or your family have
- Do you have any other sources of help, friends or family
- Any special circumstances such as periods of homelessness or nearing pension age.

Include as much detail as you can so the people assessing your form will know your need for help. Make sure you get supporting letter from GPs, CPNs and other medical specialists

You will also have to give a full breakdown of your weekly income and expenditure. Answer this carefully and with as much detail as possible. If you have higher costs because of a disability make sure that this is clear. Be aware some payment such as bank loans are seen

as essential and others such as spending on holidays may be treated as less of a priority in assessing whether you will get help. You may be asked to provide evidence of expenditure.

Appealing A Reduction In Housing Benefit

Time Limits

You have one month from the date of the letter telling you about the original decision to reduce your Housing Benefit, or the outcome of the reconsideration, to submit your appeal. A late appeal may be accepted if you have special circumstances, such as a death or serious illness, that prevented you appealing in time, but not if more than 13 months have passed.

For most people who were subject to reduction of Housing Benefit on April 1st 2013, this deadline will now have passed unless you are in special circumstances.

You will be able to appeal any future decision on awarding Housing Benefit for example if you have a change of circumstances.

New tenants of social housing, those whose temporary exemptions have ended and those whose circumstances have changed will be able to make an appeal after they have received notification of their new reduced housing benefit award.

What To Do

If a straightforward mistake has been made and you should be covered by one of the exemptions above that write with full details of your claim and a short summary about what mistake you believe has been made.

In your appeal letter you ask for three things.

1. A statement of reasons
2. For the decision to be reviewed
3. To appeal the decision.

Including all 3 in a single letter will save you time but they are three different processes.

A statement of reasons will be a detailed explanation of how the council arrived at your housing benefit decision. You will be able to use this in your appeal

The review will be carried out by the council and they will look at the basis of their decision and see if there was some information that they overlooked.

Tahir and Raheema, both aged 55, live in a three bedroomed house. Their children have all grown up and left the family home. Their rent is £110 a week. Tahir has worked all his life but recently due to ill health had to give up work and now claims disability benefits.

Their Housing Benefit award has been reduced by £27.50 a week and they will have to pay this to their landlord in addition to the rent already due.

An appeal goes to a tribunal which will provide an independent review of your application. Many of the grounds on your appeal will have been heard by the Tribunal in other cases by the time your appeal is heard and it will normally be your individual circumstances that are taken into account. It will take about 8 months for your appeal to be heard. You can choose to attend a hearing or to have the Tribunal decide without a personal appearance

Reasons For Appeal

A general appeal can be made on the grounds that there was a blanket policy applied and there was not an individual inspection of your home. Individual inspections are standard for rent assessments in private lets and many social landlords have avoided this to save money. This means that your property may have special circumstances that have been overlooked.

In addition there are a number of specific reasons that can possibly be used for appealing against the reduction in Housing Benefit. Some of these reasons have not yet been legally tested while others have. Possible reasons include:

- A disabled adult lives in the house and requires their own bedroom because of the needs of their disability. (Glasgow tribunal upheld Oct 2013)
- A disabled member of the household requires a bedroom for therapeutic or care purposes or to store medical equipment in relation to their disability. (Westminster tribunal upheld, Sept 2013)
- The home has been specially adapted to meet the needs of a disabled person.
- A member of the household has mental or physical health problems which would make moving from their home harmful.
- The children need a safe space because they previously lived in a household which experienced domestic violence.
- There is a small galley-style kitchen and the dining-room has been wrongly classified as a spare bedroom.
- There is a small box-type room which is not a bedroom, and this has been wrongly classified as a spare bedroom. (Fife tribunal upheld, August 2013)
- You are separated from your former partner and require the room as a spare room to meet child care and parental duties.
- The council have wrongly classified as a spare bedroom the room used as a family play room, a storage room or a games room.

The reduction in your Housing Benefit will continue during the review and appeal and you will remain liable for the payment of any shortfall in your rent. If you win, it will be backdated to the date of your claim.

These reasons are taken from a helpful toolkit on appealing the Bedroom Tax produced by Govan Law Centre, www.govanlc.com. You can get the latest news on tribunal wins from them as well.

Other Action You Can Take:

Earning Some Money

The Government is keen to create an incentive for benefit recipients to return to work or increase their working hours. They have suggested that people affected by the bedroom tax could take up a few hours' work. This may help some of those affected cover the shortfall.

The following earnings disregard [the amount that can be earned with a change in benefits] current apply:

- For single people is £5 a week.
- For couples is £10 a week.
- For carers, disabled people, fire fighters and coastguards £20 a week
- For lone parents is £25 a week.



When Universal Credit is brought in the amounts that you are able to earn will change and in most cases increase.

Taking In A Lodger

The government is keen that people affected by the Bedroom Tax will be able to offer spare rooms to lodgers. The room will no longer be considered to be a spare room

The first £20 of weekly income from a sub tenant will be disregarded when calculating benefit entitlement. A tenant is someone who pays for the right to use at least one room in the home, but not for meals.

The first £20 of weekly income from a lodger plus half of the remaining balance will be disregarded when calculating benefit entitlement. A lodger is someone who pays a charge for their accommodation and at least some cooked or prepared meals.

When Universal Credit is brought in the full income from a lodger will be disregarded from benefit claims.

Whether taking in a lodger is appropriate is up to each individual to decide for themselves. For people who are vulnerable this is likely to be inappropriate.

Moving House

The government is also keen to encourage people to move house.

Some social landlords have adjusted their policies to remove barriers to transfers. This includes

- Removing restrictions on those who have minor rent arrears
- Removing restrictions on those whose property need tenant responsible repairs
- Prioritising those in under occupation

Transferring house can be limited as an option as many social landlords have few one bedroom houses. Some landlords have been promoting house exchange websites such as

1. www.homeswapper.co.uk
2. www.houseexchange.org.uk
3. www.ukhomeswap.co.uk

There are other websites that you can use and we are unable to recommend any one. You may need to register on more than one to find an appropriate property.

All costs with moving house would need to be met by the individual although some charities and churches may provide some help.

Useful Addresses

Money Advice Scotland

Suite 410, Pentagon Centre,
36 Washington Street, Glasgow G3 8AZ
Tel: 0141 572 0237
Email: info@moneyadvicescotland.org.uk
Web: www.moneyadvicescotland.org.uk

Shelter Scotland Housing

Advice Helpline
Freephone Helpline: 0808 800 4444
Open: Monday - Friday 9am - 5pm
Email: via website
Web: www.shelter.org.uk

National Debtline

Tel: 0808 808 4000
Open: Monday - Friday 9am - 9pm
Saturday 9.30am - 1pm
Email: via website
Web: www.nationaldebtline.co.uk

Citizens Advice Direct

Freephone Helpline: 0808 800 9060
Open: Monday - Friday 9am - 8pm;
Saturday 10am - 2pm

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