

# Bedroom Tax

Public Affairs briefing sheet



## WHAT IS SIA?

SIA is the national charity for people with spinal cord injuries and their families. If you, a relative or friend is paraplegic or tetraplegic, or you are interested in our work, why not join us? Membership is free of charge and all new UK members will receive a year's free subscription to SIA's bi-monthly magazine *Forward*. An annual subscription to *Forward* is £20.00.

We also circulate a bi-monthly email newsletter, 'e-clips' to all who subscribe while our popular interactive website offers Chat Rooms and a Message Board as well as hundreds of pages of useful information.

We produce a wide range of publications (available to purchase) which deal with all aspects of living with spinal cord injury, e.g. books on bowel and bladder management, sexuality, publications for health care professionals, as well as sports opportunities. We also have an extensive series of Factsheets on a wide range of topics, and, for those pursuing a compensation claim; we publish a Directory of Personal Injury Solicitors.

Our Freephone Advice Line is accessible by e-mail, fax, post and telephone and provides accurate and up-to-date information on subjects including welfare advice, specialist equipment, legal rights etc as well as health related topics. We run a Vocational Support service for those wishing to return to employment, retrain or take up volunteering. Our Health and Ageing projects both work to improve the quality of life of spinal cord injured people and can be accessed via the Advice Line. Externally, our Outreach Service, staffed by spinal cord injured people, operates at all ten Spinal Injuries Centres in England, Wales and Northern Ireland, as well as out in the community, on a regional basis.

SIA also actively campaigns on vital issues affecting the everyday lives of disabled people, as set out in our campaigns manifesto. We are represented on major voluntary and statutory bodies and our own Governing Board is composed of spinal cord injured people. We have our own state-of-the-art premises, SIA House, which combines the twin principles of inclusive design and accessibility and from here we run the only specialist spinal cord injury Library in the country.

To find out more, or join us, please write to us at:

Spinal Injuries Association, SIA House, 2 Trueman Place, Oldbrook, Milton Keynes MK6 2HH or contact us on:

Tel: 0845 678 6633 (General Office – 9-5)  
0800 980 0501 (Freephone Advice Line (9.30-1pm&2pm– 4.30pm))  
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SIA Registered Charity Number: 1054097

## **SIA Briefing Paper - Bedroom Tax (2013 changes to Housing Benefit)**

From April 2013, new rules will apply for people receiving housing benefit widely known as the 'Bedroom Tax'.

### **How will people be affected?**

The new limit on the number of rooms housing benefit claimants can claim for will be based on the number of people living in their home. If a claimant has more bedrooms than the new rules say they need, they will be treated as 'under-occupying' their home and get less of their rent paid for by housing benefit.

### **Who will be affected?**

Council or Housing Association tenants of working age receiving housing benefit and renting a home having what are considered to be 'spare' bedrooms (more bedrooms than allowed under the new rules) are likely to see their housing benefit reduced.

### **Who won't be affected?**

- Tenants that have continuously claimed Housing Benefit since at least 1<sup>st</sup> January 1996 and who have occupied the same dwelling since that date (save for any period where a fire, flood, explosion or natural catastrophe has rendered the property uninhabitable)
- People (or couples with at least one partner) who have reached state pension credit age by/on 1 April 2013 (61 years and 5 months)
- People living in shared ownership properties
- People living in caravans, mobile homes and houseboats
- People living in some types of supported accommodation
- Homeless people housed in temporary accommodation provided by the council (unless it is owned by the council)
- Rooms allocated to people away serving in the armed forces and students studying away from home
- Foster families waiting for a new foster child to arrive
- Rooms for disabled children who cannot share with a sibling

*NB - A room is counted for a member of the armed forces who is serving away, providing they intend to return to your home.*

*For students away from home, a room will be counted providing they are only away temporarily (less than 52 weeks) and intend to return home.*

### **What bedrooms can housing benefit be claimed for?**

- One bedroom for a couple (married or un-married)
- One bedroom for a person aged 16 or over
- One bedroom for two children aged under 16 of the same sex
- One bedroom for two children aged under 10 (boys and girls are expected to share a room)
- One bedroom for any other child
- One extra bedroom if a person or their partner needs an overnight carer to stay

*NB - Children who don't normally live with you are not included in the calculation of the number of bedrooms. If you share the care of a child, the child is counted as living in the home of the person who gets child benefit for them.*

### **How much will Housing Benefit be reduced?**

- If a claimant has one extra bedroom than the new 'bedroom tax' rules say they need, then their benefit will be cut by 14% of their total eligible rent
- If they are deemed to have more than one extra bedroom it will be reduced by 25%

*NB - 'Eligible rent' covers total rent charges but not other charges such as heating that you may also pay to your council or housing association landlord. So, if you have one 'spare bedroom' and your eligible rent is £100 per week, only £86 will count when your housing benefit is assessed. You will have to pay at least £14 to your landlord yourself. Similarly, if you have two or more 'spare bedrooms', and your rent is £100 per week, only £75 will count when your housing benefit is assessed. You will have to pay at least £25 to your landlord yourself. You may have to pay more - this will depend on your circumstances, income, savings and contributions from adults who live with you.*

### **How could SCI people be affected because of extra needs re their SCI?**

- Couples who use separate bedrooms because of illness or disability can not claim for an extra room under the new rules nor can;
- Disabled adults who require an extra room to store medical equipment
- Some disabled adults living in adapted or specially designed properties will face cuts to their housing benefit, but it will not be practical or affordable for them to move

### **What happens if a person with a SCI requires an extra room (not covered in the new rules) because of special circumstances relating to their SCI?**

If housing benefit no longer covers the full cost of their rent, they will have to pay the rest of the rent themselves. However if they have special circumstances or requirements relating to a disability or long term condition they may be entitled to help via the Discretionary Housing Payment scheme via their local council, which are limited extra funds which have been set aside for people in this situation. For Example a person may be in a property that has had major adaptations to allow them to live there (see Appendix 1 – 'If you live in an adapted property').

### **What are Discretionary Housing Payments?**

Discretionary Housing Payments provide people with financial assistance when help with housing costs is needed. It is a Grant and must be applied for every year. It is allocated according to priorities set by local councils.

The Government is expecting local councils to use discretionary housing payment schemes to prioritise help for disabled people affected by the bedroom tax. However, there are no guarantees that there will be enough monies in the pot for everyone or how long the fund will last. In many cases it will be up to individual claimants to make their case to their local council (For Examples see Appendix 2 – 'If you have a disabled person living in the household then you might be able to say')

### **What about delays to claiming?**

Housing benefit delays occur all too frequently. (see Appendix 3 – 'What to expect while you wait for a decision and what you can do if you haven't heard anything')

### **What if Housing Benefit doesn't cover the rent and/or I'm in arrears?**

(See Appendix 4 – 'Advice and information on what you can do if you are facing a housing benefit shortfall or have rent arrears')

### **How do you appeal against decisions you don't agree with?**

(See Appendix 5 – 'If you don't agree with a council's decision on your housing benefit')

## **Appendix 1 - If you live in an adapted property**

In a recent article, Iain Duncan Smith said he had issued guidance to local authorities emphasising that discretionary payments would be available to support "other priority groups" affected, including "people whose homes have had significant disability adaptations and those with long-term medical conditions that create difficulties in sharing a bedroom.

If your property has been adapted in any way, for a disabled person and their family to live in, i.e. wider doors, lower units, wet room with rails and seat, ramps, toilet rails, ceiling hoists etc. it would be more cost effective to keep the disabled person and their family in their current property than move them to a smaller accessible property that has to be fully adapted.

So please write to your local council, listing all the adaptations that have been done and ask them to reconsider reducing your Housing Benefit, as it would cost the council a lot more money to rehouse the disabled person and their family.

You could also advise your local council that if the disabled person and their family had to move out of their current property, not only would they have to fully adapt another property, the council would have had to remove the adaptations or make different adaptations to the current property for another family to move in, costing even more to the council.

**But please be aware if you follow the above route**, your local council may have a smaller adapted property available that you can move into, so, to avoid receiving a reduction in Housing Benefit, you may need to contemplate moving to a smaller adapted property.

## **Appendix 2 - If you have a disabled person living in the household then you might be able to say:**

1 - A disabled person lives in my house and requires their own bedroom because of the needs of their disability. To ignore the needs of a disabled member of my household and treating them as not being entitled to their own room to sleep in is discriminatory and unlawful in relation to the Human Rights Act 1998.

2 - The disabled member of my household needs a bedroom for therapeutic/care purposes to store medical equipment in relation to their disability.

3 - My home has been specially adapted to meet the need of a disabled person.

### **If someone in the household has mental or physical health problems you might be able to say:**

A member of my household has mental or physical health problems which would make moving them from their home harmful. Such a move is discriminatory and unlawful in relation to the Human Rights Act 1998.

### **If you have children who had previously been in a household that experienced domestic violence you might be able to say:**

My children need a safe space because they previously lived in a household which experienced domestic violence and requiring such a move is unlawful in relation to the Human Rights Act 1998.

### **If you have a bedroom which is a small boxroom you may be able to say:**

I have a small boxroom which is not a bedroom and you have wrongly classified this as a spare bedroom.

### **If you are separated from a former partner and share child care on a part-time basis, you might be able to say:**

I am separated from my former partner and require the room you have wrongly classified as a spare room to meet my child care and parental duties. To ignore my duties as a parent and ignore the needs of my children to stay with me, is discriminatory and unlawful in relation to the Human Rights Act 1998 and contrary to the Children (Scotland) Act 1995.

### **Appendix 3 – What to expect while you wait for a decision and what you can do if you haven't heard anything**

Housing benefit delays happen for a number of reasons. Once you have sent in your claim for housing benefit you will have to wait for your claim to be processed.

If you have provided enough information, your claim will be assessed and you will receive a letter telling you if you are entitled to housing benefit. If there is not enough information, the council may write to you or phone you asking you to provide more details or documents.

#### **If the council asks for more information**

If the council asks you for more details, make sure you provide the information that they ask for within one month or the council may decide that you are not entitled to any benefit. If you are having difficulty providing the information, contact the council and explain the problem. They may be able to ask for information from the benefits agency, your employer or other relevant organisation, or some other information may be accepted as an alternative. If they do not help you, contact an adviser at a Shelter advice centre, Citizens Advice or another local advice agency.

#### **Getting a payment of housing benefit on account**

If the council has not made a decision about your entitlement within 14 days of receiving your form, you may be entitled to a stopgap payment until your claim is processed. This is called a payment on account.

You are entitled to a payment on account if you are a private or housing association tenant, but not if you are a council tenant. However, the council doesn't have to make a payment on account if you have failed (without a good reason) to supply all the information and evidence it has asked for. If you are eligible, you should get this payment automatically but often this does not happen. In which case, ask your council to make a payment on account. Do this as soon as possible after the 14 days to avoid building up rent arrears.

The amount you are paid in a payment on account may be less than the housing benefit you are entitled to. Once your claim is assessed, any difference between your housing benefit entitlement and the amount of housing benefit paid on account will either be refunded or reclaimed from you.

#### **How long does it take to get a decision?**

Once they have all the information from you, councils should try to make a decision within 14 days. In practice, it often takes longer for your claim to be processed. However, you may be able to get a payment on account.

#### **Monitoring the progress of a housing benefit claim**

It's always a good idea to monitor what's happening with your claim. Phone or visit the housing or council tax benefit department and check that they have got your form and all the information that they need to process your claim. Always ask for the name of the person that you are

speaking to. You should take a note of their name, the date that you spoke to them and what they said.

#### **Appendix 4 – Advice and information on what you can do if you have a housing benefit shortfall or rent arrears**

The difference between the amount of housing benefit you get and the amount of rent you have to pay is called a shortfall. You're expected to deal with any shortfall and pay the difference yourself - and you might not get any help from the council to do this.

It's important to act straightaway if you're facing a shortfall. If you don't, you could quickly get into rent arrears and risk losing your home. If you're having trouble paying the rent because of a housing benefit shortfall, there are a number of things you can do:

- Negotiate with your landlord to see if they will agree a cheaper rent or will accept delayed payment of any rent arrears you owe.
- Contact your local Council for advice
- Apply for a discretionary housing payment to make up the shortfall – but remember that not everyone gets these, and even if you do, it might only be for a few months.
- Look at your budget - can you find ways to increase your income or cut your costs?
- Get debt advice on how you could make up any shortfall – there may be other benefits, payments or tax credits you're entitled to.
- If you live with other people, ask them if they can increase their contribution to the household budget to help you pay the rent.
- Consider taking in a lodger - if your tenancy agreement with the council or housing association landlord allows this.

#### **Appendix 5 – If you don't agree with a council's decision on your housing benefit**

If you are unhappy with a decision the council has made about your housing benefit You can ask them to look at your case again. If the council doesn't change its mind, you can take your case to a tribunal.

##### **What sort of decisions can you ask the council to look at again?**

When the council makes a decision about your housing benefit, it should write to you to explain what it intends to do. This applies whether you're applying for housing benefit for the first time, or if you're already getting it. You can ask the council to take another look at its decision if it says:

- your application for housing benefit has been turned down
- you aren't entitled to housing benefit anymore
- you're entitled to less housing benefit than you think you should get
- it has paid you too much housing benefit, and wants you to pay some of it back
- it will start paying housing benefit from a certain date, but you think it should be sooner – for example, if you had asked for your claim to be backdated
- it is going to pay your housing benefit direct to your landlord in the future.

##### **How to ask the council to review a housing benefit decision**

You must write to the council within one calendar month of the date on the decision letter. If you leave it later than this, the council may say that it doesn't have to look at your case. If the council's letter doesn't explain why they've made the decision, you can ask them to write to you with a proper explanation. If this happens, you'll get extra time to appeal. The days between the council receiving your letter asking for reasons and replying to you don't count towards the one-month time limit. In your letter to the council, try to explain clearly why you think the decision is wrong. Include evidence if possible. For example:

- if the council is wrong about how many children you have, you could send them your child benefit award letter
- if it says that you're earning more than you actually do, send photocopies of your payslips.

It's best to hand the letter in to the council's offices. Make sure you get a receipt - including the date on which you handed over the letter - and keep it somewhere safe.

If you post the letter, get a certificate of posting, use recorded delivery or keep a note of the date of posting, along with a photocopy.

### **What happens when the council reviews a housing benefit decision?**

Your case will be looked at by a different person from the one who made the original decision. They will take into account at the reasons for the original decision, and any new information you've sent in. You might be asked for more information at this point. If so, the council will write to you again. You'll get a letter from the council telling you if the decision has been changed or not. The time it takes for the council to decide will depend on how complicated your situation is.

### **If you're still not happy with a decision on your housing benefit**

If you've asked the council to review its decision, but it doesn't change its mind, you may be able to appeal to a tribunal. This will involve a judge looking at your case, and making a decision on it. Tribunals are complicated, so you might need some help to make your appeal. Your adviser can help you write a letter or fill in a form to get things started. It maybe necessary for the claimant to seek a local advice service who could also attend any meeting/tribunal to and give them extra support.

### **Appealing to a tribunal when a council is still reviewing its original decision**

Making an appeal to a tribunal can take quite a long time. However, you have the option of starting the process at the same time you ask the council to review its original decision. That way, if the council sticks to its original decision, you can go ahead with the tribunal case straight away. But if the council changes its decision, you don't have to go ahead with it.

### **Complaining about a council's handling of your housing benefit claim**

If you're not happy with how your housing benefit claim has been handled, you can use the council's formal complaints process. For example, you may wish to complain if their staff have been rude or uncooperative, or it has taken too long to deal with your case. Your council's website will explain how to make a complaint.

### **The Local Government Ombudsman**

After your complaint has been dealt with by the council, you can complain to the Local Government Ombudsman if you're not satisfied with their response. The Ombudsman is a free and independent service that looks at how councils treat complaints. Most of the time councils will go along with the Ombudsman's decision. You can also complain to the Ombudsman if the council hasn't replied to your complaint after 12 weeks.

For more information on the Ombudsman re housing benefit go online to:

<http://www.lgo.org.uk/complaints-about-housing-benefit/>

*Spinal Injuries Association May 2013*

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