

## Housing Benefit

### Urgent Bulletin

Department for Work and Pensions, Caxton House, Tothill Street, London, SW1H 9NA

<http://www.dwp.gov.uk/local-authority-staff/housing-benefit/>

**HB U6/2013**

**23 September 2013**

<b>Contact</b>	Queries about the <ul style="list-style-type: none"><li>• <b>bulletin in general</b>, contact <a href="mailto:housing.benefitenquiries@dwp.gsi.gov.uk">housing.benefitenquiries@dwp.gsi.gov.uk</a></li><li>• <b>distribution of this bulletin</b>, contact <a href="mailto:housing.correspondenceandPQs@dwp.gsi.gov.uk">housing.correspondenceandPQs@dwp.gsi.gov.uk</a></li></ul>
<b>Who should read</b>	All Housing Benefit (HB) staff
<b>Action</b>	For information

## Removal of the spare room subsidy

### Background

1. It has recently been reported that two First-tier Tribunal cases resulted in findings that rooms designated by the landlord as bedrooms were not capable of being such for the purposes of the Removal of the Spare Room Subsidy (RSRS) regulations. This is because the judge determined that the rooms did not satisfy the "space standard" as set out in section 326 of the Housing Act 1985 and section 137 of the Housing (Scotland) Act 1987 which is used to assess statutory overcrowding.
2. The Department for Work and Pensions will seek permission to appeal against the decisions given in these particular cases as space standards do not relate to the Removal of the Spare Room Subsidy, nor should a dining or living room be classified as a bedroom notwithstanding that the relevant Housing Act provisions would class them as such (see paragraph 3 below).

## **A summary of space standard rules**

3. Section 326 of the Housing Act 1985 and the equivalent Scottish provision, among other things, prescribe what local authorities (LAs) must consider when allocating social housing to tenants. This includes the minimum space standard used to determine overcrowding and which would be contravened if the number of persons sleeping in a dwelling is in excess of the permitted number (having regard to both the number and floor area of rooms available as sleeping accommodation). For this purpose a living room is classed as a room that is available to sleep in.

## **Removal of the Spare Room Subsidy**

4. This bulletin is to inform LAs that when applying the size criteria and determining whether or not a property is under-occupied, the only consideration should be the composition of the household and the number of bedrooms as designated by the landlord, but not by measuring rooms.
5. In determining whether or not a room is a bedroom the landlord may consider a number of factors, but one of these must be whether or not a room is large enough to accommodate at least a single bed. Where this is not the case, the landlord should reassess whether or not that room should be classified as a bedroom and ensure that the rent correctly reflects the size of the property.
6. Where rooms are designated as bedrooms landlords should classify it as such notwithstanding that the tenant may argue that it has been habitually used for something else (such as storage).

**Crown Copyright 2013**

Recipients may freely reproduce this bulletin.