



## **Citizens Advice Scotland response Social Security Advisory Committee consultation - The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016**

### **February 2016**

*Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Adviceguide provides information on rights and helps people solve their problems.*

*In 2014/15 the Citizens Advice Service network helped over 323,000 clients in Scotland alone and dealt with over one million advice issues. With support from the network clients had financial gains of over £124 million and the Scottish zone of our self-help website Adviceguide received approximately 5.4 million unique page views.*

### **Summary**

**Citizens Advice Scotland recommends that the period of allowable absence:**

- **To Northern Ireland, the Republic of Ireland, the Isle of Man and the Channel Islands remain at 13 weeks.**
- **Where a person has left their dwelling through fear of violence in that dwelling should remain up to 52 weeks.**
- **For people detained in custody on remand or prevented from returning home due to bail requirements outside Great Britain remain up to 52 weeks.**
- **For people who are outside Great Britain in connection with the death of a relative, or to be with a relative who is terminally ill, should remain up to 13 weeks for both Housing Benefit and Pension Credit.**

### **Introduction**

Citizens Advice Scotland (CAS) welcomes the opportunity to give evidence to the Committee on the UK Government's proposed changes to the length of time a person can be absent from Great Britain without losing entitlement to Housing Benefit and Pension Credit. Housing Benefit is the second largest single area of advice provided by citizens advice bureaux in Scotland, with 24,347 new issues brought by clients in 2014/15. Scottish bureaux also advised clients on 5,703 new issues related to the Guaranteed element of Pension Credit, and 2,191 on the Savings element.

CAS also notes that some of the proposed changes are intended to bring the rules in line with those for Universal Credit (UC). Given that the situations outlined below are

also likely to occur for UC claimants, we would recommend that consideration is given to revising the relevant Universal Credit absence rules to prevent claimants experiencing hardship, rent arrears or homelessness as a result of these scenarios.

## **Travelling to Northern Ireland and the Republic of Ireland**

The draft regulations propose to reduce the length of time that residents of Great Britain can spend in Northern Ireland, the Isle of Man and the Channel Islands without losing their Housing Benefit entitlement from 13 weeks to 4 weeks. The Republic of Ireland is also similarly reduced, along with the rest of the world.

Scotland and Ireland are geographically close and there is a long history of migration between the two. According to the most recent Census, 37,000 people living in Scotland were born in Northern Ireland, more than double the number of residents born in Wales. 54,000 Scottish residents are of Irish ethnicity<sup>1</sup>.

Whilst the rationale for maintaining the 13 week absence rule for absences within Great Britain is set out in the Explanatory Memorandum, including allowing flexibility for Housing Benefit claimants to leave home for work, or to look for work, there is no justification provided for reducing this period for absences to Northern Ireland, which is also part of the UK. The Republic of Ireland is also part of the Common Travel Area.

It would appear strange that residents of Scotland could travel to parts of the UK for more than four weeks to look for work without fear of losing Housing Benefit entitlement, but not to Northern Ireland or the Republic of Ireland which are geographically closer than many other areas, and where a significant number of Scottish residents will have familial ties. On the same basis, there also appears to be no justification for reducing the allowable absence to the Isle of Man or the Channel Islands.

**CAS recommends that the period of allowable absence to Northern Ireland, the Republic of Ireland, the Isle of Man and the Channel Islands remain at 13 weeks.**

## **Leaving home due to fear of violence**

Currently, a person who has left their home through fear of domestic violence is entitled to claim Housing Benefit for up to 52 weeks. The draft regulations propose reducing this to four weeks.

This proposal leads to concerns that this could lead to people being deterred from leaving an abusive situation due to concerns about losing support to pay housing costs after a month. It could also lead to vulnerable people feeling forced to choose between returning to an abusive household within a month or risking rent arrears or homelessness.

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<sup>1</sup> 2011 Census: Key results on Population, Ethnicity, Identity, Language, Religion, Health, Housing and Accommodation in Scotland – National Records of Scotland Statistical Bulletin, September 2013 <http://www.scotlandscensus.gov.uk/documents/censusresults/release2a/StatsBulletin2A.pdf>

Citizens advice bureaux advise a number of clients who have been forced to flee domestic violence. This includes situations where clients have fled a violent partner and been in refuge accommodation for longer than four weeks, encountered difficulty proving they were habitually resident, or were intimidated into returning to a violent partner.

- An East of Scotland CAB reports of a client who fled domestic violence from her partner in England eight weeks ago with “just the clothes on her back” and is now living with her daughter in Scotland. She has only just been successful in a bid for a property and is having difficulty meeting her JSA claimant commitment due to a lack of suitable vacancies.
- A West of Scotland CAB reports of a Romanian client who has lived in Scotland since 2012. Due to domestic violence she had to leave her partner and ended up in a women’s refuge with her mother. The client is pregnant and had been in receipt of Jobseekers Allowance for the past seven months, but was incorrectly advised by the Jobcentre to close her JSA claim and make a claim for Income Support. This was refused as she failed the Habitual Residence Test and she now has no income and is homeless.
- A West of Scotland CAB reports of a client who had been forced to move from another part of Scotland due to domestic violence. The client has received a citation to appear in court to give evidence against her ex-partner who threatened and assaulted her and wanted advice on whether she had to attend. She felt threatened the last time she was in court against him and eventually “lied to get him off”.

**CAS recommends that the period of allowable absence where a person has left their dwelling through fear of violence in that dwelling should remain up to 52 weeks.**

## **Detained in custody**

The draft regulations propose to reduce the length of time that Housing Benefit can be payable to people who are detained in custody outside Great Britain on remand, pending trial or sentence; or are prevented from returning due to bail conditions from one year to four weeks.

Citizens advice bureaux in Scotland have advised clients who have been held on remand in Scotland for significantly longer than four weeks and lost entitlement to benefits. This includes cases where people were eventually released without charge.

- An East of Scotland CAB reports of a client who had been released from prison after spending around three months on remand. All charges against him have been dropped. As he was a remand prisoner he was given no financial or practical assistance from the prison service. The client was seeking assistance to reclaim Employment and Support Allowance (ESA).

Reducing the allowable period for people held on remand or on bail presents the clear possibility that someone could lose entitlement to Housing Benefit despite being innocent of any crime, and are consequently faced with substantial rent arrears or homelessness upon release.

**CAS recommends that the period of allowable absence for people detained in custody on remand or prevented from returning home due to bail requirements outside Great Britain remain up to 52 weeks.**

## **Bereavements and illness**

Current regulations allow people to be absent from their homes for 13 weeks if they require to travel abroad in connection with the death of a partner or close relative. The draft regulations propose to reduce this to a maximum of eight weeks for both Housing Benefit and Pension Credit.

Cases from citizens advice bureaux in Scotland illustrate that it can be difficult for people to control how long they may be absent for when someone has passed away, due to the need to settle a relative's affairs, due to unexpected events occurring during the period away from home, or in the case of terminal illness due to their relative surviving for longer than expected.

- An East of Scotland CAB reports of a Polish client who has lived in Scotland for nine years and has a seven year old daughter. The client went to Poland for two weeks to look after her sick mother. However, when she was there another relative passed away, so she ended up staying for more than four weeks. When she returned to Scotland she reapplied for JSA, but received a letter to say she was no longer entitled to Housing Benefit, as she was classed as an EEA jobseeker and the 13 week absence rule did not apply.
- A West of Scotland CAB reports of a client who is currently homeless. She had arrived in the UK in 2012, but had to return to Nigeria for five months to care for her terminally ill father. When she returned to Scotland she worked as a cleaner, until she lost her job under strange circumstances (her employer told her she was being moved site and to await a call - she never heard from them again, despite trying to contact them). She had used up all her savings and was seeking advice on what benefits she might be entitled to.

Due to the complications involved and the sensitive nature of this situation it is entirely possible that people may be absent for longer than eight weeks, and face rent arrears and homelessness as a result of Housing Benefit payments stopping at a time when they are recently bereaved. Additionally, it is unclear whether someone who visits a terminally ill relative who survives longer than expected would lose entitlement to Housing Benefit or Pension Credit whilst they were abroad. The current regulations would appear more appropriate than the proposed draft in this circumstance.

**CAS recommends that the period of allowable absence for people who are outside Great Britain in connection with the death of a relative, or to be with a**

**relative who is terminally ill, should remain up to 13 weeks for both Housing Benefit and Pension Credit.**