

## LIVING TOGETHER AS PARTNERS (COHABITATION)

COUPLES WHO LIVE TOGETHER MAY FIND THAT THEIR BENEFITS ARE REDUCED, OR STOPPED ALTOGETHER.

Note: same-sex couples are treated the same as opposite-sex couples.

### **WHICH BENEFITS MAY BE AFFECTED?**

- ◆ Income Support / income-related ESA / Pension Credit
- ◆ Income-based Jobseekers Allowance
- ◆ Housing Benefit / Council Tax Benefit

All of the above can only be claimed by one member of a couple. The couple rate for these benefits is less than the amounts for two single people.

- ◆ Tax Credits (Child and Working)  
Co-habiting couples must make a joint claim
- ◆ Bereavement Allowance will be suspended while you are cohabiting.
- ◆ Bereavement Payment cannot be claimed if at the time of your spouse's death, you were cohabiting (with a partner other than your spouse).
- ◆ Widowed Parent's Allowance will be suspended while you are cohabiting.

If you are a widow whose widow's/bereavement benefits were suspended before you reached pension age\* [i.e. because you were cohabiting] you are entitled to have any Category B pension, - if eligible - paid from your pension age. But you must make a claim. Unless you claim, the DWP will continue to treat you as entitled to widow's/bereavement benefits only (and therefore continue to suspend payment during cohabitation) until you are 65.

- \* Between April 2010 and March 2018 the pension age for women will be gradually increased from 60 to 65, then to 66 for both men and women by 2020. During this period, other benefits previously available from the age of 60 (such as Pension Credit) will also see the qualifying age gradually increased. You will, therefore, need to check what “pension age” means at different times.

Child Benefit may be affected.

Child Benefit for the eldest child is paid at a slightly higher rate than that for subsequent children. If you live with your partner, and both of you have children from an earlier relationship for whom you get separate Child Benefit, you will not get the higher rate for both. Instead the higher rate is paid to the person who has the elder child

With cohabiting couples the mother’s claim for Child Benefit has priority over the father’s. Child Tax Credit is claimed by whoever takes responsibility for the child.

## **WHAT COUNTS AS COHABITATION?**

In considering whether or not a couple are cohabiting a number of factors are considered. No one factor need in itself be conclusive. It is the general relationship as a whole which is important.

These rules apply to both same-sex and heterosexual relationships.

The factors considered are:

### **1. Do you live in the same household?**

A “Household” is not defined in the regulations.

If you are maintaining separate households you can argue that you are not cohabiting. A separate household exists if there are:

- independent arrangements for storage and cooking of food
- independent financial arrangements
- separate eating arrangements
- no evidence of family life
- separate commitments for housing costs.

But if you do share a household it is necessary to look at why this is so. Separated couples living under the same roof should not be treated as couples if they maintain separate households. Also couples who live in the same household for reasons of care or mutual convenience should not be considered to be cohabiting.

*For Example:*

*Lesley has known Ryan for 10 years and they have had 2 children between them. They separated 2 years ago.*

*Lesley is now very ill and needs help with the children, as well as herself. Ryan stops-over most nights to help care for her, and the children.*

*They are not cohabiting as Ryan lives there for that specific reason.*

**2. Do you have a sexual relationship?**

You are unlikely to be asked this question by the Department for Work and Pensions (DWP). If you do not have such a relationship you should make this known. A sexual relationship is not sufficient in itself to show cohabitation (although the *absence* of a sexual relationship does not mean you aren't a couple) Although the DWP may not ask this question, a tribunal considering an appeal will ask this question.

**3. Do you have children?**

If you have a child and live in the same household as the other parent, there is a strong presumption of cohabitation.

**4. Do you have a stable relationship?**

A stable relationship like that in marriage or civil partnership implies cohabitation. However, many stable relationships are not necessarily relationships which could be considered as cohabitation - for example, housemates, landlords and lodgers. It is the nature of the time spent together that is relevant, such as going on holidays, shopping together etc.

**5. How do you appear in public?**

Do you appear on the electoral role as a couple? Do you claim anything as a couple? Although you may retain a separate identity, in public you may be regarded as cohabiting.

## 6. What are your financial arrangements?

If one partner is supported by the other, or household expenses are shared, this is likely to be treated as cohabitation. However sharing bills on an equal basis or paying a fixed weekly contribution as, for example, flatmates would do, would not imply cohabitation.

All of these factors are taken into account, before deciding whether two people are considered to be a couple with the decision based on balance of probabilities. Sometimes other relationships are wrongly caught by this decision e.g. landlords and lodgers or flatsharers.

*For Example:*

*Frank (50), a coach driver, has been living in the same house as Joan (72), for over twenty years. They often socialise together, in the pub or social club. He pays her regularly and she feeds him and does his laundry. They occasionally go on coach trips together. Joan is in receipt of Housing Benefit and successfully challenges a cohabitation decision as she is and always has been, in fact, Frank's landlady.*

## **CHALLENGING A DECISION**

You can appeal a 'living together' decision (see below). You should also make a fresh claim for benefit pending the appeal hearing.

The DWP or HM Revenue and Customs may try to persuade you to withdraw your claim, rather than put a stop to it themselves. You should resist this.

If they stop the claim on the grounds of cohabitation, you can re-apply immediately and appeal their decision.

### HOW TO APPEAL

If your benefit is suspended or stopped because the DWP say you are cohabiting you can appeal. You must appeal within one month of the decision. An appeal is made on the form GL24.

For further information contact any of the following agencies:

**Citizens Advice Bureaux**

1<sup>st</sup> Floor, Chestnut House  
North Street  
**Rugby**, CV21 2AQ

The Parish Rooms  
Welcome Street  
**Atherstone**, CV9 1DU

Old Market Tavern  
25 Congreve Walk  
**Bedworth**, CV12 8LX  
(To book appt in **Nuneaton**  
call 024 7635 1049)

10 Hamilton Terrace  
**Leamington Spa**, CV32 4LY

25 Meer Street  
**Stratford-upon-Avon**, CV37 6QB

Switchboard number for ALL CABx: 0844 855 2322

**For Disabled people.....**

**D.I.A.L.**

*(Nuneaton & Bedworth only)*  
New Ramsden Centre  
School Walk  
Attleborough  
Nuneaton  
CV11 4PJ  
Tel: 024 7634 9954

**The Rowan Organisation**

*(Whole County)*  
Eliot Park Innovation Centre  
Barling Way  
Nuneaton  
CV10 7RH  
Tel: 0800 783 1755

**For Carers Advice, Information and Support .....**

**Guideposts Carers Support Service**

*(Nuneaton, Bedworth, North  
Warwickshire and Rugby)*  
44-45 Church Street  
Nuneaton, CV11 4AD  
Tel: (024) 7638 5888  
e-mail: [carerssupport@guidepoststrust.org.uk](mailto:carerssupport@guidepoststrust.org.uk)  
[www.guidepoststrust.org.uk](http://www.guidepoststrust.org.uk)

**S. Warks Carers Support Service**

*(Leamington Spa, Warwick,  
Stratford and South Warwickshire)*  
8b Holly Court  
Holly Farm Business Park  
Honiley, Kenilworth, CV8 1NP  
Tel: 01926 485486  
e-mail: [info@swccs.f9.co.uk](mailto:info@swccs.f9.co.uk)

**Rethink Mental Health Carers Information & Support Service (CISS)**

76 Station Street, Atherstone, CV9 1BU  
Tel: (01827) 715730 e-mail: [ciss@rethink.org](mailto:ciss@rethink.org)

The information in this fact sheet is correct as of April 2011

**NB: This item may not be reproduced without prior agreement or acknowledgement**

**Produced by: Warwickshire Welfare Rights Advice Service**  
**Funded by: Warwickshire County Council**  
**Charity Registration No. 1113524 Company No. 5730678**

