

March 2009

Advice for homeowners – sale and rent back

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Claiming Housing Benefit if you sell your home and rent it from the new owner

This leaflet explains whether you may be able to get Housing Benefit if you sell your home and then rent it from the new owner. The leaflet is only a guide and does not cover every circumstance. We recommend you get independent advice from your local council or the Citizens Advice Bureau before making any decisions based on this leaflet.

I won't be able to afford the rent if I sell my home – will I be entitled to Housing Benefit?

Possibly.

Housing Benefit can sometimes provide help with the rent in these circumstances. But certain conditions apply. We list them below.

Claiming Housing Benefit within five years of selling your home

Usually, you will **not** be entitled to Housing Benefit if:

- you rent the home you once owned as a freeholder or leaseholder, and
- you claim Housing Benefit within five years of selling that home.

This is called the 'former owner rule'. But the rule does not apply if you satisfy the local council dealing with your Housing Benefit claim that you could not have stayed in your home without selling it.

And, of course, the rule does not apply after five years have passed since you sold your home.

How to show the council that you had to sell your home

This can be difficult. You have to give the council good evidence showing why you had to sell your home. This may be:

- letters from your mortgage lender about action they would take to collect any debts
- proof of your income and outgoings at the time you decided to sell
- evidence of other factors involved in your decision to sell.

You don't need to show that keeping your home was completely impossible. But you do need to show that it was so difficult that you were forced to sell.

The local council will decide whether it is satisfied you had no option but to sell if you were to stay in your home, based on the facts of your case and the evidence you give. If you sell your home when you had other reasonable choices (see below), you won't be entitled to Housing Benefit.

When deciding whether you qualify for Housing Benefit, the local council may take into account things like:

- whether you could have claimed benefits to help with your home-ownership costs, such as Income Support, Jobseeker's Allowance, Employment and Support Allowance and State Pension Credit
- whether you had debts that were secured on your home and whether these debts were likely to lead to your mortgage lender taking back your home
- other assets you could have sold.

If you don't have to sell your home

If you sell your home and the local council decides you could have stayed in it without selling, then it will refuse your Housing Benefit claim. For example, the council may refuse your claim if you sold your home to:

- repay unsecured loans, such as for credit cards or hire-purchase agreements
- reduce your monthly outgoings so that you could follow an interest, such as being a student or setting up a new business.

If I decide to sell my home, will its value affect my claim for Housing Benefit?

It depends. The amount of your savings will affect your claim. By 'savings' we mean money and assets, for example money in a bank or building society account, Premium Bonds, National Savings Certificates, stocks and shares, and property. Depending on how much savings you have, Housing Benefit may be reduced or not paid at all. The value of most types of savings is counted when deciding Housing Benefit, but some types of savings are not counted.

When the value of your home is counted as 'savings'

If your local council decides the value of your home should be counted as savings, this will affect your claim for Housing Benefit. When deciding this, the council must consider the facts of your case, including your knowledge of the rules and why you are selling your home. If it decides that the reason you sold your home was to claim Housing Benefit, then it will count the value of your home as savings. Depending on the amount, this may reduce your Housing Benefit, or may mean you are not entitled to any. In most cases, the local council will decide whether you sold your home to get Housing Benefit based on things like:

- your knowledge of the rules
- why and when you sold
- why and when you claimed Housing Benefit
- whether it was reasonable for you to sell your home, considering all the circumstances and evidence.

Important information about this leaflet

This leaflet is only a guide and does not cover every circumstance. We have done our best to make sure the leaflet is correct as of March 2009. Some of the information may be oversimplified or may become inaccurate over time, for example because of changes to the law. We recommend that you get independent advice before making financial decisions based on this leaflet.

If you have any questions or need more information, contact your local council or the Citizens Advice Bureau.