

**FIRST TIER TRIBUNAL**

**SOCIAL ENTITLEMENT CHAMBER**

Held in chambers at Bristol  
Before: Tribunal Judge A D Walker

On: 29 May 2014

Appellant: Mrs [REDACTED]

Tribunal Ref: SC904/13/[REDACTED]  
NI No: [REDACTED]

Respondent: Wiltshire Council

**DECISION NOTICE**

The appeal is allowed

The decision of the local authority dated 12 March 2013 is set aside

The appellant's rent is not to be reduced by 14% as the number of bedrooms in her property did not exceed the number of bedrooms to which she was entitled.

Summary reasons

The tribunal did not consider that an argument based on the Human Rights Act could succeed. The tribunal also decided that on the issue of size alone the room in question was not so small that it could not be classified as a bedroom. It had been described as a bedroom in housing benefit claims and had in fact been used as a bedroom.

A bedroom is not defined in the legislation. Whether a room is a bedroom is a question of fact. In this case the room had ceased to be used as a bedroom in 2011, well before the legislation came into force. It was used as an office by Mr [REDACTED] and contained office furniture and no bedroom furniture. It had an established use as an office and therefore at the time of the decision it was not being used as a bedroom. The fact that it had been a bedroom in the past and could in the future be used as bedroom did not mean that at the time in question it was a bedroom.

Although not exactly on all fours, in [2013] UKUT 0363 the Upper Tribunal had determined that a room used as an office in which no-one slept could not be a bedroom and in [2014]UKUT 48 it had been held that a lounge in which someone slept on the sofa could be classified as a bedroom

Signed: Tribunal Judge: A D Walker

Date: 29 May 2014

issued to Appellant on:

13-06-2014