



# Local Housing Allowance



## Information for landlords

# Local Housing Allowance - Information for landlords

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# Foreword

This document has been produced in partnership between the Councils shown at the end of this booklet. It is designed to:

- Give landlords a broad overview of the way in which the Local Housing Allowance system works; and,
- Show what the Benefit Regulations require in order for the Council to be able to pay Local Housing Allowance.

It aims to give Landlords a greater understanding of their obligations to the Council administering the scheme in respect of tenants for whom Benefit or Local Housing Allowance is paid, as well as explaining what the Council can and cannot provide.

The booklet gives a summary of the features of the new scheme and also, includes a question and answer section, which gives useful detailed information.

If you have any enquiries concerning Local Housing Allowance, please contact the relevant Council for the area concerned. Contact details for each Council working in partnership in connection with the introduction of this scheme are included at the end of the booklet.

## 1. Local Housing Allowance - what is it?



The Local Housing Allowance is a new way of deciding rent payments for people receiving Housing Benefit. It does not replace Housing Benefit.

The Local Housing Allowance takes effect from 7th April 2008, having undergone pilot (pathfinder) schemes in some areas of the country, which have proven to be successful.

Local Housing Allowance will apply to all new claims made on or after 7th April 2008. Housing Benefit claims existing on that date will not be automatically transferred to Local Housing Allowance, but will remain under the existing Housing Benefit scheme until there is either a break in the claim of at least one week or the claimant changes address and continues to rent a property.

It uses a flat rate allowance based on the size of the tenant's household and the area in which they rent property to decide the amount of benefit they will receive.



This amount is not directly related to the rent that you charge so the benefit that your tenants receive may be higher or lower than the contractual rent.

The rate of Local Housing Allowance that customers receive will be reviewed on an annual basis.

Other circumstances, such as the money that the tenant has coming in or other people living in the household, will still affect the amount of benefit paid so the tenant may not always receive the full rate of Local Housing Allowance.

A tenant or partner who is liable to pay rent can claim Local Housing Allowance. The process for making a claim is the same as has been in operation for Housing Benefit and the tenant must complete a Housing Benefit application form.

## 2. How is the Allowance calculated?



### **The Rent Officer sets the Local Housing Allowance Rates for each Broad Rental Market Area.**

Different Local Housing Allowance rates will apply in different areas. Within those areas, they will be based on the median rent charged by landlords in the private sector for properties of various sizes. A Council may have multiple Broad Rental Market Areas within its area. Local Housing Allowance rates will be further broken down into 'Room Rates' that will apply depending on the size of the household, including any non-dependants.

### **Size criteria will be based on allowing one bedroom for:**

- a)** Every adult couple
- b)** Every other adult who is not part of a couple
- c)** Any other adult aged 16 or over
- d)** Any two children of the same sex
- e)** Any two children regardless of sex under age 10
- f)** Any other child.

The Rent Officer then confirms what the Local Housing Allowance Rate is for each category of bedroom allowance. The number of living rooms, kitchens and bathrooms is ignored for the purpose of the size criteria.



A single person aged under 25 will be entitled to a standard room rate, where the tenant has exclusive use of a bedroom within shared accommodation.

The Rent Officer reviews the Local Housing Allowance room rates each month and each Council will publish the relevant room rates (up to the five bedroom rate) in order that Landlords and prospective tenants are aware of the maximum rent that Local Housing Allowance will cover.

Entitlement to the allowance is calculated in the same way as existing Housing Benefit claims, using the room entitlement applicable to the household, based on the size criteria.

The allowance will be granted for a period of one calendar year, after which time, the claim will be reviewed and the room entitlement will be revised to the room rate at that time.

### 3. Payment of Local Housing Allowance?



**Payment of Local Housing Allowance will be paid to the tenant in the vast majority of cases.**

There are specific exceptions, where the Council has discretion to make payment direct to the landlord and this is where there is evidence that the tenant would be unlikely to pay their rent and making direct payments would be in the interests of the customer.

These exceptions are;

- a)** If 8 weeks rent arrears have built up, the Council will arrange to make payments direct to the landlord unless it is not in the customer's overriding interests to do so.
- b)** As a safeguard: The tenant meets the vulnerability criteria as set out in the Council Safeguard policy for Local Housing Allowance. Written evidence will be required in support of any claim for vulnerability.

Some examples of situations where this could be considered are:

- A medical condition (dementia or terminal illness)
- Addiction to drugs, alcohol or gambling
- Leaving prison
- Fleeing domestic violence
- A single person who has recently left Social Services care



- Severe debt problems
- Un-discharged bankruptcy
- In receipt of help from a Homeless charity
- Unable to open a bank account (due to poor credit only)

There is a common agreed Safeguard policy, which has been adopted by all of the Councils involved in the partnership, which produced this booklet. If you have any queries regarding the Safeguard policy you should contact the relevant Council for the area concerned. The contact details of all Council's covered by the policy are supplied at the end of this booklet.

## 4. Questions and Answers

Below is a list of questions and answers, which gives you more practical information about Local Housing Allowance, how it may affect you, as a Landlord and background to the Local Housing Allowance.

### 1. When are the changes being introduced?

Local Housing Allowance will be introduced from April 7th 2008.

### 2. What does the Local Housing Allowance scheme cover?

The new scheme will apply to Housing Benefit customers in the deregulated private sector and mainstream private tenancies only.

If you are a landlord providing accommodation in one of the following types of tenancy, your tenants will be exempt from receiving the Local Housing Allowance:

- Registered Social Landlord tenancies;
- Protected cases, such as supported housing provided by certain local authorities, social landlords, charities and voluntary organisations;
- Tenancies that are excluded from current rent restrictions (such as pre-1989 tenancies);
- Exceptional cases such as caravans, houseboats and hostels; and
- Cases where the rent officer judges that a substantial part of the rent is attributable to board and attendance (e.g. hostel accommodation which already exists in the private sector).

Customers renting within these sectors will continue to receive Housing Benefit calculated under existing rules.



### 3. What do you define as the mainstream private sector?

If you are a landlord who lets accommodation in the sector deregulated by the Housing Act 1988, then we consider this as the mainstream private sector.

### 4. Will benefit claims be transferred to Local Housing Allowance rates right away?

Not straight away. Tenants will continue to receive benefit under existing rules until a change occurs i.e. if they have a break in their claim of one week or more or they move to a different address. Benefit will then be transferred to the new Local Housing Allowance scheme. However, if there is a death in the household, and the change would result in a reduced Local Housing Allowance, the authority will protect the tenant for 52 weeks from the date of death at their current rate.

### 5. What are the rates based on?

Different Local Housing Allowance rates will apply in different areas. Within those areas, they will be based on the median rent charged by landlords in the private sector for properties of various sizes. Local Housing Allowance rates will be further broken down into 'Room Rates' that will apply depending on the size of the household, including any non-dependants. Size criteria will be based on allowing one bedroom for:

- a)** Every adult couple
- b)** Every other adult who is not part of a couple
- c)** Any other adult aged 16 or over
- d)** Any two children of the same sex
- e)** Any two children regardless of sex under age 10
- f)** Any other child

The number of living rooms, kitchens and bathrooms is ignored for the purpose of the size criteria.

### 6. Why are the changes being made?

The Local Housing Allowance is part of the Government's agenda to modernize public services and is designed to help to give everyone access to decent housing. The fundamental objectives of the Local Housing Allowance are to promote:



- **Fairness:** The new scheme will generally pay the same amount to tenants with similar circumstances living in the same area.
- **Choice:** Tenants will be able to choose between paying more to stay in a property that is larger or keeping the difference if they move to a cheaper property (to a maximum of £15 per week).
- **Transparency:** It will be easier for tenants and landlords to know in advance how much rent could be paid through the Housing Benefits scheme.
- **Personal responsibility:** Paying the allowance to customers hands back responsibility to them for budgeting and paying their rent themselves. Accepting this responsibility while on benefit will make it easier to manage the move into work.
- **Financial inclusion:** Most people will have their housing payments paid into a bank account and set up a standing order to pay the rent to their landlord.
- **Increased work incentives:** Greater certainty about what in-work benefit you could receive will remove barriers to take the step from welfare into work.
- **Simplicity:** There will no longer be a need for complex rent determinations and restrictions that contribute to the delay in processing claims.

## 7. How is the Local Housing Allowance calculated?

The Rent Service calculates Local Housing Allowance for individual areas, (known as Broad Rental Market Areas), each month. It is based on the median rental figure for that particular area depending on the size of the property.

Basing the Local Housing Allowance on the median of rents for a certain property size means that exactly half of the rental properties of that size in the area will be affordable within the Local Housing Allowance amount that the customer receives.

## 8. Who decides Local Housing Allowance rates?

Having set the Broad Rental Market Areas, Rent Officers are responsible for calculating the Local Housing Allowance rates for different sizes of property in that area. Once the Rent Service has determined the Local Housing Allowance rates for an area, an individual customer's benefit



will depend on their age and the size of their household. For example, a person aged less than 25 will receive the shared room rate whilst a couple with one child will receive the two-room rate.

### **9. When will Local Housing Allowance rates be published?**

Rates will be published at the end of the month before the month that they come into force. For example, the April rates will be made available at the end of March.

### **10. Where will Local Housing Allowance rates be published?**

Each local authority will publish the monthly rates in their own area. To check on how your Council advertises the rates please use the contact details shown at the end of this document.

### **11. What will rates look like?**

An example of what Local Housing Allowance rates might look like for a particular area is shown below. *(These are provided for illustration purposes only and are not for use for any real entitlement calculation purposes.)*

Shared room rate.. £43.50

2 Bedroom rate..... £62.50

3 Bedroom rate..... £80.00

4 Bedroom rate..... £87.50

5 Bedroom rate..... £90.00

6 Bedroom rate..... £97.50

### **12. How will Local Housing Allowance areas be decided?**

Each local authority area will have at least one Broad Rental Market Area (BRMA) within which a set of Local Housing Allowance rates will apply. Each BRMA will include a mix of accommodation as well as facilities such as shops, hospitals and schools.

### **13. Will there be any right of appeal against the levels of allowances for each Broad Rental Market Area determined by the Rent Officer?**

No, because the BRMA covers an area that includes other tenants, any appeal received could ultimately change the Local Housing Allowance rate for tenants who have not appealed and are content with their allowance. This is because any decision would have to be implemented to all tenants receiving that BRMA/ Local Housing Allowance rate.



#### **14. What if the customer's benefit is higher than their rent?**

They may keep any of the excess that they are paid up to a maximum of £15 per week. This excess will not normally be taken into account when deciding other benefits.

#### **15. Will this excess be capped?**

Yes, the maximum excess permitted will be £15.

#### **16. What if the customer's benefit is lower than their rent?**

You may ask them to make up any shortfall out of their other income. Alternatively, the customer may also choose to move to cheaper accommodation.

However, if the customer previously paid their rent without any support from HB in the past year they will be entitled to an initial 13 weeks of benefit that will cover the full rent, without any restrictions.

#### **17. Will new customers be assessed under the old rules and paid the higher amount if they would be better off?**

No. When a new claim is made, there is no 'better off' calculation. The Local Housing Allowance will apply to all new private sector claims from the date it is introduced.

#### **18. Will mid-year rent increases be taken into account?**

No. The Local Housing Allowance rate in payment will be reviewed on an annual basis. The anniversary review date will be the earlier of the effective date of the claim or the effective date of a backdated award if there was one.

## **Service charges, boarders, joint tenants and crown tenants**

#### **19. How will service charges be handled?**

Under the Local Housing Allowance no consideration will have to be made of service charges. Tenants will simply receive up to the maximum applicable Local Housing Allowance rate, and will then be able to exercise their discretion about whether or not they would prefer to pay a higher rate for accommodation that includes additional services.



## 20. Can my payment, up to the amount of the contractual rent, include service charges?

Yes, if the services charges are included in the contractual rent and are a condition of occupancy. If, however, the service charges are not a condition of occupation of the dwelling, e.g. optional laundry charge:

- deduct these from Local Housing Allowance amount and
- pay the difference to the landlord and
- pay any excess to the tenant.

## 21. Are Crown Tenancies excluded from Local Housing Allowance?

Yes. As they are excluded from current rent restrictions they are also excluded from Local Housing Allowance.

## 22. How will board and lodgings cases be assessed?

In general claims from boarders will continue to be assessed under current rules; that is, they will not be subject to the Local Housing Allowance. However if the Rent Officer decides that the accommodation that you let does not fit the board and lodging criteria, your tenant's claims will be subject to Local Housing Allowance rates.

## 23. How will joint tenants be treated?

Joint tenants will receive a rate of Local Housing Allowance based solely on the customer's family plus any non-dependants, sub tenants or boarders that the customer has.

## Direct payments to the landlord

### 24. Who will benefit be paid to?

Personal responsibility and financial inclusion are two key aims of the Local Housing Allowance. In the vast majority of cases, benefit will be paid to the customer who will be responsible for making their own payments of rent to their landlord. In certain circumstances, benefit can be paid directly to the landlord.

### 25. What are these circumstances?

Local authorities will have discretion to pay rent direct to the landlord where there is evidence that the customer would be unlikely to pay their



rent and making direct payments would be in the interests of the customer. The following factors, which are not exhaustive, may be considered when deciding on whether direct payments should be made:

- **As a safeguard.** The customer may have learning difficulties, a medical condition or educational needs that suggest that they may have difficulty in handling their own financial affairs; they may not be able to read or have language difficulties; they may suffer from drug or alcohol addiction; or have debt problems. It should be noted that the existence of any of these factors does not necessarily mean that rent should be paid directly to the landlord.
- **People who are unlikely to pay their rent.** Customers may have demonstrated, through their past behaviour, that it is improbable that they will pay their rent. In these cases, a local authority may make payments direct to the landlord.
- **If 8 weeks rent arrears have built up.** If rent arrears are owed, the local authority will arrange to make payments direct to the landlord unless it is not in the customer's overriding interests to do so. However landlords are encouraged not to wait for the 8-week period to be reached before contacting the local authority.

## 26. Why is eight weeks arrears significant?

Under Schedule 2 of the Housing Act 1988 (as amended by the Housing Act 1996) a landlord may be able to terminate an Assured Shorthold Tenancy Agreement when at least eight weeks rent is unpaid and the rent is payable weekly or fortnightly.

## 27. What if I, as a landlord, just prefer to have the rent paid direct to me?

The choice of having the payment made directly to the landlord will not exist under Local Housing Allowance. This is linked to the objective of handing to the customer, the personal responsibility for the payment of essential items such as accommodation as it is an important aspect of helping customers with the move into work. Most customers will be paid their benefit into a bank account and then will be free to set up a Standing Order to pay you, just as they would if they were in work.



**28. If I ask for 8 weeks rent in advance, so that the tenant is 'in arrears' after one day of the tenancy, is the local authority obliged to pay me directly?**

Direct payments should be made to a landlord where “the person is in arrears of an amount equivalent to 8 weeks or more of the amount he is liable to pay his landlord as rent”. The Department for Work and Pensions' takes the view that a person cannot be in rent arrears in respect of a period that has not yet been served.

Additionally, the requirement to pay directly is intended as a safeguard to protect vulnerable tenants as well as legitimate landlords and remedial action may be taken if there is evidence that this safeguard is being abused.

**29. If I do receive the payment of rent direct to me, will I be paid any of the customer's excess as well?**

Not normally. Where a payment is made direct to you, it must not include any amount above which the tenant is liable to pay in rent. If there are rent arrears, any excess may be paid to you at the Council's discretion, but only until the arrears are paid off.

**30. What if the tenant is withholding rent due to a dispute?**

Once arrears of rent, whatever the cause, have reached 8 weeks then it is mandatory for the local authority to make payment direct to the landlord provided that there has been no finding that the landlord is not a 'fit and proper' person or that it is not in the customer's overriding interests to make direct payments.

This can include where the tenant is in dispute with the landlord, but they must provide evidence of this.

**31. What is the 'fit and proper' test?**

A landlord may not be a 'fit and proper person' where it is proven that they have engaged in financial impropriety. This should normally include an element of Housing Benefits impropriety, such as fraud or a knowing failure to declare changes in circumstances affecting the payment of benefit. Councils may choose to consider other areas, such as failure to pay Council Tax or NNDR (Business Rates), but generally the lesser connection that the offence or impropriety has with Housing Benefit, the less relevant it will be.



## Recovery of overpayments

### 32. How will overpayments be recovered?

The rules on the recovery of overpayments are not being changed. Currently:

- Benefit overpaid to a landlord can be recovered from either the landlord or customer, at the discretion of the Council; and
- Benefit overpaid to a customer can be recovered only from the customer.

As most customers will receive the benefit themselves under the Local Housing Allowance, most overpayments will, therefore, be recovered from the customer and not the landlord.

### 33. What if benefit payments were split?

Split liability for overpayments can already arise where an overpayment accrues over a period, and the payment was made to the landlord for part of that period and to the tenant for the rest of it. In these cases, the local authority can recover from either or both of the landlord and tenant. If the local authority decides to recover from the landlord, the overpayment can be recovered from future payments, by invoice or other appropriate means.

## Appeal Rights

### 34. Will appeals against direct payment decisions be allowed?

Yes. Both you and your tenant, as persons affected by the decision, may appeal against any decision about whether or not to pay rent direct. Appeals can also be made against decisions on vulnerability.

### 35. If I won an appeal obliging the local authority to make direct payments to me, would the LA pay me all the arrears that are due, even though they had already paid benefit to the tenant?

No. Even if you win an appeal, the local authority will not make duplicate payment of benefit. Direct payments would be made from an acceptable date in order to ensure that no overpayment occurs.



**36. Can a tenant or landlord appeal against a decision that the landlord should not receive Housing Benefit on the customer's behalf as an agent?**

No. This decision is not one allowing appeal rights.

**37. Will there be any right of appeal about the application of a Local Housing Allowance in an individual case?**

There is no right of appeal or redetermination about the level of Local Housing Allowance or the BRMA on which those levels are based unless, for example, the rent officer has made an arithmetical error.

## **Pilot scheme and landlords**

**38. What have been the experiences of landlords in the Local Housing Allowance pilot areas?**

DWP has commissioned independent social research to assess the impact of the Local Housing Allowance on interested groups such as landlords. The latest evaluation has found that landlords are adapting to the new ways of assessing and paying benefits and continuing to let properties to Housing Benefit customers. There is also evidence of landlords moving towards automated rent collection, for example, standing order, as a method of collecting rent. The segment of the market available to benefit customers has remained relatively stable.

*All the published evaluation reports can be found at:  
[www.dwp.gov.uk/housingbenefit/Local Housing Allowance/evaluation](http://www.dwp.gov.uk/housingbenefit/Local%20Housing%20Allowance/evaluation)*

**39. Has the introduction of Local Housing Allowance resulted in landlords exiting the Housing Benefits market?**

There has been some turnover of landlords both entering and leaving the HB market. Overall the evaluation findings show there has been little impact on the supply of property to benefit customers.

**40. What is the position regarding the number of tenants receiving their Local Housing Allowance direct?**

Payments are being made to tenants in around of 84% of cases. This is an increase of approximately 48% prior to implementation of Local Housing Allowance.



## 41. What other information is available for me?

The Department for Works & Pensions and Councils are working together to ensure that landlords are kept informed of the changes being made to Housing Benefit and that they know where to obtain further advice and information. Each local authority will be able to provide you with more information about the Local Housing Allowance and how it will operate in your area.

*Alternatively you can visit the DWP website for further information:  
[www.dwp.gov.uk](http://www.dwp.gov.uk)*

## 5. Contact details

Leicester City Council, The Leicestershire District Councils,  
East Northamptonshire Council and Rutland County Council  
working in Partnership.

<b>Hinckley &amp; Bosworth Borough Council</b> <b>01455 238 141</b> benefits@hinckley-bosworth.gov.uk www.hinckley-bosworth.gov.uk	<b>Borough of Oadby &amp; Wigston</b> <b>0116 288 8961</b> benefits@oadby-wigston.gov.uk www.oadby-wigston.gov.uk
<b>Harborough District Council</b> <b>01858 828 282</b> benefits@harborough.gov.uk www.harborough.gov.uk	<b>Charnwood Borough Council</b> <b>01509 634 848</b> benefits@charnwood.gov.uk www.charnwood.gov.uk
<b>Leicester City Council</b> <b>0116 252 6944</b> housingbenefits@leicester.gov.uk www.leicester.gov.uk	<b>Melton Borough Council</b> <b>01664 502 502</b> customerservices@melton.gov.uk www.melton.gov.uk
<b>North West Leicestershire District Council</b> <b>01530 454 545</b> benefits@nwleicestershire.gov.uk www.nwleics.gov.uk	<b>Rutland County Council</b> <b>01572 722 577</b> enquiries@rutland.gov.uk www.rutland.gov.uk
<b>East Northamptonshire Council</b> <b>01832 742 000</b> www.east-northamptonshire.gov.uk	