

Local Housing Allowance: information for private landlords



ORKNEY
ISLANDS COUNCIL

What is Local Housing Allowance?

Local Housing Allowance is a way of working out new claims for Housing Benefit for tenants renting accommodation from a private landlord.

It also affects tenants already getting Housing Benefit who move into accommodation rented from a private landlord.

Local Housing Allowance was introduced on 7 April, 2008. Local Housing Allowance will not affect people living in Council accommodation or rented from the Orkney Housing Association.

With Local Housing Allowance, benefit is not usually based on the property in which the tenant lives. It is based on:

- who lives with the tenant;
- which area the property is in;
- how much money the tenant has coming in;
- what savings the tenant has.

In some cases the amount of benefit will be affected by other things. These can include:

- how much the rent is;
- whether anyone living with the tenant is expected to contribute to their rent.

There is no change to the entitlement rules for Housing Benefit – these will still be based on a person's income, savings and proof of rent etc.

For more details about this, please see our leaflet **HB(LHA)1** *Local Housing Allowance: an introduction*. You can get this from us at the address below.

How do I find out what the Local Housing Allowance rates for my property will be?

We will publish the Local Housing Allowance rates every month. You can check the rates for your area in leaflet **HB(LHA)5**. You can get this from us at the address below, or visit the Council's website at www.orkney.gov.uk

How does Local Housing Allowance affect landlords?

The only change for most landlords is that payment of benefit worked out using the Local Housing Allowance rates will normally be made direct to the tenant. The tenant will be responsible for paying their rent to the landlord.

Which landlords does Local Housing Allowance affect?

Local Housing Allowance affects any landlord who enters into a deregulated private tenancy agreement with a person awarded Housing Benefit. By deregulated, we mean a tenancy that has been entered into since 1989 and is not covered by one of the exceptions listed below.

Who is not affected by Local Housing Allowance?

Local Housing Allowance does not affect:

- local authority landlords who let to 'Council tenants';
- tenancies with registered social landlords, such as the Orkney Housing Association;
- some supported housing;
- tenancies which started before 2 January 1989;
- tenancies in caravans, houseboats or hostels;
- tenancies where the Rent Officer has decided that a substantial part of the rent is for board and attendance

Why is Local Housing Allowance being introduced?

Local Housing Allowance was introduced to increase responsibility, place choice firmly in the hands of tenants and help develop the skills to make the transition into work. The objectives of introducing Local Housing Allowance are:

- **Fairness** – to pay similar amounts to tenants with similar circumstances;
- **Choice** – to allow tenants to choose between price and quality of accommodation;
- **Transparency** – it is easier for tenants (before they commit themselves to a property) and landlords to find out how much rent could be covered by Housing Benefit;
- **Personal responsibility** – making tenants take responsibility for budgeting for, and paying, their own rent;
- **Financial inclusion** – to encourage tenants to have their housing payments paid into a bank account and set up a standing order to pay the rent to their landlord;
- **Improved administration and reduced barriers to work** – a simpler system helps to speed up the administration of housing payments giving tenants more confidence when starting a job that any in-work benefit will be paid quickly.

Why are we stopping direct payment to landlords?

Tenants who get benefit calculated using the Local Housing Allowance rates should be able to take greater responsibility for managing their financial affairs and paying their rent to their landlords, in the same way as other tenants do. This is why any benefit will usually be paid to the tenant and not to the landlord.

In the past, there has never been a right for a landlord to receive Housing Benefit payments direct. However, there is a right for tenants to ask for this arrangement, and it is this right that is changing.

I already receive direct payment for some of my tenants. Will these payments stop?

No. Any tenant who was getting Housing Benefit on 7 April 2008, will continue to be paid the old way. If you are receiving Housing Benefit payments direct on behalf of your tenant(s), these will continue to be paid to you.

The Local Housing Allowance rules will only affect any tenants who make a new claim, move address to new private rented accommodation or have a break in their claim, on or after 7 April 2008.

If you are a landlord who owns or manages a number of properties, you may find that you have tenants who claim Housing Benefit under the two different schemes. This will mean that you may have tenants getting Housing Benefit that the local authority pays to you, and other tenants getting Housing Benefit calculated using the Local Housing Allowance rates who will pay you themselves.

What protection exists for landlords?

There are a range of safeguards to protect the interests of landlords. Some of these already exist. For example, a local authority must usually pay the benefit to the landlord if the tenant is eight weeks or more in arrears with their rent.

Payment may be made direct to the landlord where we decide that the tenant is:

- likely to have difficulty in managing their financial affairs;
- unlikely to pay their rent.

We can also decide to pay benefit to the landlord if, during the current claim to benefit, we have had to pay the landlord because the tenant was eight weeks or more in arrears with their rent.

We recommend that, if a tenant is starting to build up rent arrears, you should get in touch with us before it gets to eight weeks. This will allow us to investigate whether there is a problem that needs addressing.

For more details about this, please see **HB(LHA)3** *Local Housing Allowance: tenants who are likely to have difficulty paying their rent*. You can get this from us at the address below.

Who decides if a tenant is likely to have difficulty in paying their rent?

The local authority will decide whether a tenant is likely to have difficulty in paying their rent. Evidence will be required to support a request, which can be made by the tenant or other interested party.

You, as a landlord, can approach us if you think it likely that your tenant will have difficulty in paying or you feel they cannot deal with their financial affairs. We will contact your tenant for further information regarding this.

It is up to us to decide whether a tenant is unlikely to pay their rent. We can only do this if we have evidence of past, or likely, failure to pay rent. We will take into account all knowledge and evidence available to us at the time, including any known past history when making our decision.

It will also be important for the landlord to keep proper and adequate records of rent payments received and details of any contact made with the tenant.

Can the tenant ask for their benefit to be paid to their landlord?

As part of the Housing Benefit reforms, tenants will no longer be able to simply ask for their benefit to be paid direct to their landlords. If a tenant feels that they may have difficulty in managing their financial affairs and may be entitled to direct payment to their landlord, we will consider any request they make.

For more details about this, please see **HB(LHA)3** *Local Housing Allowance: tenants who are likely to have difficulty paying their rent*. You can get this from us at the address below.

Where direct payments are made to me, how long will they go on for?

Where a tenant is considered likely to have difficulty in paying their rent and there is little or no prospect of their situation changing, payment of benefit to the landlord is likely to be long-term.

In cases where the situation is likely to be temporary, or where rent arrears of more than eight weeks have been repaid, the situation will be reviewed. If the tenant is in a better position to have their benefit paid to themselves, and to pay their rent in full and on time, direct payments to the landlord will stop.

Won't tenants spend their Local Housing Allowance on other things?

Many tenants in the private rented sector get their Housing Benefit paid to them and regularly pay their rent on time. Where a tenant is moving to direct payment, we will make it clear to them what their responsibilities are and the consequences of not paying their rent.

There will be some customers who can't manage their own rent payments, so the comprehensive package of safeguards will stop these customers falling into unmanageable difficulties.

The Local Housing Allowance scheme has been operating in 18 local authorities across England, Scotland and Wales since October 2003. In these areas, 84% of tenants whose benefit is calculated using the Local Housing Allowance rules are successfully managing their own rent payments. Of the remainder, only a third are having their Housing Benefit paid to the landlord because they have fallen into arrears of 8 weeks or more. The rest are having their benefit paid to the landlords because the local authority identified that they might not be able manage their rent payments.

Won't this discourage landlords from letting their properties to claimants?

We believe the Local Housing Allowance scheme has positives for both landlords and tenants.

The reforms are intended to help landlords, as well as tenants, by creating a more transparent system that is simpler to understand and administer. Overall, it will support and clarify the relationships between the local authority, tenants and landlords.

Landlords will still be able to approach the local authority for help with rent arrears for tenants getting benefit calculated using the Local Housing Allowance rules. They cannot do this where they have a tenant in rent arrears who is not getting benefit.

Because payments are going to tenants in most cases, this removes the possibility of landlords being asked to repay large amounts in overpaid benefit. Under the Local Housing Allowance scheme it is unlikely that the local authority would ask you to repay any money that your tenant has paid directly to you.

We believe that the safeguards that exist regarding direct payment to landlords strike the right balance in protecting the interests of both landlord and tenant.

Can I make direct payment a condition of the tenancy?

A local authority is not party to the tenancy agreement between a landlord and tenant, and is not bound by any conditions in a tenancy agreement. The local authority cannot pay benefit to a landlord directly at the tenant's request – the rules about when we can pay the landlord directly are outlined above. You cannot change this by making direct payment a condition of the tenancy.

What appeal rights do I have against a payment decision?

Appeal rights are not changing as a result of the new scheme. You will still have the right to appeal against a decision by the authority not to make direct payments.

Where to get more information

If you want to know more about the changes and how they affect you:

- phone the Council's Housing Benefit Section on (01856) 873535 Ext 2116, or Direct Dial (01856) 886312
- visit, or write to, the Council's Housing Benefit Section at Orkney Islands Council, Council Offices, Kirkwall, Orkney, KW15 1NY
- look on our website on www.orkney.gov.uk
- email us at benefits@orkney.gov.uk
- visit www.direct.gov.uk

Remember that this leaflet is a guide only. It is not meant to say exactly what your legal rights are. While we have tried to make sure that the information in this leaflet is correct at the date shown below, it is possible that there may be incorrect information or some ideas may be oversimplified. Also, please remember that the information in this leaflet is likely to become less accurate over time because of changes to the law.

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