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Background to the Local Housing Allowance

1. What is the Local Housing Allowance?

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

2. When are the changes being introduced?

We will introduce the new LHA from April 7th 2008.

3. What does the LHA 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 LHA:

- Registered social landlord tenancies;
- Protected cases, such as supported housing provided by certain local authorities, social landlords, charities and voluntary organisations;
- Tenancies which 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. hotel accommodation which already exists in the private sector).

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

4. 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.

5. Will benefit claims be transferred to LHA rates right away?

Not straight away. Tenants will continue to receive benefit under existing rules until a change occurs that affects either the number of occupants in the household, 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 LHA scheme. However, if there is a death in the household, and the change would result in a reduced LHA, the authority will protect the tenant for 52 weeks from the date of death at their current rate.

6. What are the rates based on?

Different LHA 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. LHA 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.

7. Why are the changes being made?

The LHA is part of the Government's agenda to modernise public services and will help to give everyone access to decent housing. The fundamental objectives of the LHA 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 covered by HB.

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.

8. Will you be introducing LHA into the social sector?

We will not be introducing LHA for tenants in social housing. However, we will develop proposals for using Housing Benefit to help address the high levels of worklessness in social housing. This will include encouraging tenants to take greater personal responsibility for managing their own rent payments.

LHA Rates

9. How is the LHA calculated?

The LHA is calculated by the Rent Service for individual areas, known as Broad Market Rental Areas (BRMAs), each month. It is based on the median rental figure for that particular area depending on the size of the property. Basing the LHA 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 LHA amount that the customer receives.

10. Who decides LHA rates?

Having set the BRMAs, Rent Officers are responsible for calculating the LHAs for different sizes of property in that area. Once the Rent Service has determined the LHA 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 under 25 will receive the shared room rate whilst a couple with one child will receive the two-room rate.

11. When will LHA 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.

12. Where will LHA rates be published?

Each local authority will publish the monthly rates in their own area. In addition, we encourage Jobcentre Plus offices and local support groups such as Citizens Advice Bureau to publish LHA rates locally.

13. What will rates look like?

An example of what LHA rates might look like for a particular area is shown below. (These are provided for illustration purposes only.)

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

14. How will LHA areas be decided?

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

15. 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 which includes other tenants, any appeal received could ultimately change the LHA 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 / LHA rate.

16. 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.

17. Will this excess be capped?

Yes, the maximum excess permitted will be £15.

18. 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.

19. 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 LHA will apply to all new claims from the date it is introduced.

20. What if there is provision for a contractual rent increase in the middle of the year?

The rate of benefit that your tenant receives is a flat rate allowance based on the LHA rate in effect for your area rather than the rent that you actually charge them. This means that your tenant's LHA rate will not change even if the rent you charge them changes. However, their LHA rate will be reviewed annually.

Service Charges, Boarders, Joint Tenants and Crown Tenants

21. How will service charges be handled?

Normally, customers will not be paid for service charges included in with the rent that you charge them.

22. Are Crown Tenancies excluded from LHA?

Yes. As they are excluded from current rent restrictions they are also excluded from LHA.

23. 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 LHA. 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 LHA rates.

24. How will joint tenants be treated?

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

Direct payments to the landlord

25. Who will benefit be paid to?

Personal responsibility and financial inclusion are two key aims of the LHA. 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.

26. What are these exceptions?

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.

27. 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.

28. 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 LHA. Taking responsibility for the payment of essential items such as accommodation 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.

29. If I ask 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.

30. 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 but only until the arrears are paid off.

31. 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.

32. What is the “fit and proper” test?

Local authorities are not obliged to make direct payments where they are not satisfied that the landlord is a “fit and proper person to be the recipient of a payment of rent allowance”. This will apply even when the criteria for a direct payment would otherwise have been met.

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 HB impropriety, such as fraud or a knowing failure to declare changes in circumstances affecting the payment of benefit. Authorities may choose to consider other areas, such as failure to pay Council Tax or 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

33. 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 the customer, as the local authority chooses; and
- Benefit overpaid to a customer can be recovered only from the customer.

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

34. 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

35. 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.

36. 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.

37. 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 appealable.

38. Will there be any right of appeal about the application of an LHA in an individual case?

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

LHA and landlords

39. What have been the experiences of landlords in the LHA pilot areas?

DWP has commissioned independent social research to assess the impact of the LHA 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/lha/evaluation

40. Has the introduction of LHA resulted in landlords exiting the HB market?

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

41. What is the position regarding the number of tenants receiving their LHA direct?

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

42. What other information is available for me?

DWP and local authorities 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. Your local authority will be able to provide you with more information about the LHA and how it will operate in your area.

Alternatively you can visit the DWP website:

www.dwp.gov.uk/housingbenefit/lha