

# Local Housing Allowance

Questions and Answers



## What is Local Housing Allowance?

Local Housing Allowance (LHA) is a new way of deciding rent payments for people receiving Housing Benefit (HB). It uses a flat rate allowance based on the size of the tenant's household and the area in which the property is rented to help determine the amount of benefit they will receive. This amount is not directly related to the rent that is charged, so the benefit that tenants receive may be higher or lower than the contractual rent. The rate of LHA that tenants receive will be looked at each year.

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.

## When are the changes being introduced?

We will introduce LHA from 7 April 2008.

## What does the LHA scheme cover?

The new scheme will apply to Housing Benefit claimants in the deregulated private sector.

Landlords providing accommodation in one of the following types of tenancy, will be exempt from receiving 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-15 January 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 due to board and attendance (such as hotel accommodation).

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

### When will benefit claims be transferred to LHA rates?

Tenants will continue to receive benefit under existing rules until, 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 rate of benefit, the authority will protect the tenant for 52 weeks from the date of death at their current rate.

### What are the rates based on?

Different LHA rates will apply in different areas. They will be based on the average rent charged by landlords in the private sector for properties of different sizes. LHA rates will be further broken down into 'room rates' that will apply to the size of the household, including any non-dependants. Size criteria will be based on allowing one bedroom for:

- every adult couple (married, Civil Partnership or unmarried)
- any other adult aged 16 years or over
- any two children aged under 10 years
- any two children of the same sex aged under 16 years
- any other child.

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

### Why are these changes being made?

The LHA scheme is part of the Government's agenda to modernise public services and will help to give everyone access to decent housing. The main objectives of 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 (up 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 LHA.
- **Personal responsibility:** paying the allowance to claimants hands back responsibility to them for budgeting and paying their own rent.
- **Financial inclusion:** most claimants will have their housing payments paid into a bank account and have a standing order to pay the rent to their landlord.
- **Improved administration and reduce barriers to work:** greater certainty about what 'in-work' benefit you could receive will remove barriers to take the step from welfare into work. There will no longer be a need for complex rent determinations and restrictions that contribute to the delay in processing claims.

## How is LHA calculated?

LHA is calculated by the Rent Service for individual areas, known as Broad Rental Market Areas (BRMAs), each month. It is based on the median rental figure for each size determination for that particular area.

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.

## Who decides LHA rates?

Having set the BRMAs, Rent Officers are responsible for calculating LHA for different sizes of property in each area.

## When will LHA rates be published?

Rates will be published the month before they become effective. For example, the April rates will be made available at the end of March.

## Where will LHA rates be published?

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

## What will LHA 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
one Bedroom rate	£62.50
two Bedroom rate	£80.00
three Bedroom rate	£87.50
four Bedroom rate	£90.00
five Bedroom rate	£97.50

## How will LHA areas be decided?

Each local authority area will have at least one BRMA within which a set of LHA rates will apply. Each BRMA will include a mix of accommodation as well as facilities such as shops, hospitals and schools.

### **Will there be any right of appeal against the levels of allowances for each BRMA determined by the Rent Officer?**

No, because the BRMA covers an area which includes other tenants, any appeal received could change the LHA rate for tenants who have not appealed and are satisfied with their allowance.

### **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.

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

They will have to make up any shortfall out of their other income or they may choose to move to cheaper accommodation.

### **Will new claimants be assessed under the old rules and paid the higher amount if they are likely to be better off?**

No. When a new claim is made, there is no 'better off' calculation. LHA will apply to all new claims from the date it is introduced.

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

The rate of benefit that the tenant receives is based on the current LHA rate for the area, rather than the rent that is actually charged. This means that the tenant's LHA rate will not change even if the rent charged changes. However, their LHA rate will be reviewed each year.

## Are Crown Tenancies excluded from LHA?

Yes. As they are excluded from current Housing Benefit regulations, they are also excluded from LHA.

## How will board and lodgings cases be assessed?

In general, claims from boarders will continue to be assessed under current rules, so they will not be subject to LHA. However, if the Rent Officer decides that the accommodation that they let does not fit the board and lodging criteria, then their claim will be subject to LHA rates.

## How will joint tenants be treated?

Joint tenants will receive a rate of LHA based only on their own household.

## Who will LHA be paid to?

Personal responsibility and financial inclusion are two main aims of the LHA scheme. In the majority of cases, LHA will be paid to the customer who will be responsible for making their own rent payments to their landlord. In some circumstances, benefit can be paid directly to the landlord.

## What are these exceptions?

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 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 will be paid directly to the landlord.

**People who are unlikely to pay their rent.** Claimants may have shown, through their past behaviour, that it is unlikely that they will pay their rent. In these cases, the council may make payments direct to the landlord.

**If eight weeks rent arrears have built up.** If rent arrears are owed, The council will arrange to make payments direct to the landlord, unless it is not in the customer's best interests to do so.

**What if the landlord prefers to have the rent paid directly to them?**

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 part of helping claimants with the move into work. Most claimants will be paid their LHA directly into a bank account and will then need to set up a standing order to pay their landlord, just as they would if they were in work.

**If the landlord asks for eight weeks rent in advance, so that the tenant is 'in arrears' after one day of the tenancy, is the local authority obliged to pay the landlord directly?**

Direct payments should be made to a landlord where the person is in arrears of an amount equivalent to eight weeks or more of the amount he/she is liable to pay his landlord as rent.

The Department for Work and Pensions' (DWP) takes the view that a person cannot be in rent arrears for a period that has not yet been served.

**If the landlord receives the rent payment directly, will they be paid any of the claimants excess as well?**

Not usually. Where a payment is made directly to the landlord,

it will not include any amount above what the tenant must pay in rent. If there are rent arrears, any excess may be paid to the landlord but only until the arrears are paid off.

### **What if the tenant is withholding rent because of a dispute?**

Once rent arrears, whatever the cause, have reached eight weeks, then the Council must make payments direct to the landlord on request. This will only be done if, the landlord is a “fit and proper” person and it is not in the customer’s best interests to make payments direct to them.

### **What is the “fit and proper” test?**

The council is not obliged to make direct payments when they are not satisfied that the landlord is a “fit and proper person” to receive 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 shown that they have been involved in financial impropriety. This would normally include an element of benefit impropriety, such as fraud or a knowing failure to declare changes in circumstances affecting the payment of benefit. The council 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.

### **How will overpayments be recovered?**

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

At the moment:

- benefit which is overpaid to a landlord can be recovered from either the landlord or the customer, whoever the Council chooses; and

- benefit which is overpaid to a customer can be recovered only from the customer.

As most claimants will receive their LHA directly, most overpayments will be recovered from the customer and not the landlord.

### **What if benefit payments are split?**

Split liability for overpayments can already happen when an overpayment builds up 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 Council can recover the overpayment from either/both the landlord and tenant. If the Council decides to recover the payment from the landlord, it can be taken from future payments of LHA or by invoice.

### **Will appeals against direct payment decisions be allowed?**

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

### **If the landlord won an appeal obliging the council to make direct them , would they pay all the arrears that are due, even though they had already paid benefit to the tenant?**

No. Even if the landlord won an appeal, the Council would not make duplicate payment of benefit. Direct payments would be made from an acceptable date to make sure that no overpayment occurs.

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

No. This decision cannot be appealed.

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

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

## For more information and advice

You can contact our Benefit's team on **01228 817201**, visit our website at **[www.carlisle.gov.uk](http://www.carlisle.gov.uk)** or write to us at:

Carlisle City Council  
Civic Centre  
Carlisle  
CA3 8QG

Or visit our Contact Centre

### Opening hours

9am to 5pm, Monday to Thursday  
9am to 4pm on Fridays

This leaflet is one of a series produced by the Cumbria District Councils to help you understand Local Housing Allowance.

You can also get information from the Department for Work and Pensions at **[www.dwp.gov.uk](http://www.dwp.gov.uk)** or write to:

Housing Support Division  
Department for Work and Pensions  
5th Floor Adelphi Buildings  
1-11 John Adam Street  
London  
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