

Local Housing Allowance Seminars

Questions from 22 May 2007 and 23 May 2007

Questions

1. **Where can you get information about LHA?**

The DWP website at -

www.dwp.gov.uk/housingbenefit/lha/

2. **Who is accountable for this change in legislation?**

It is part of Central Government's agenda for welfare reform.

3. **What is the main benefit of this change? Why has it been decided to take away the choice to pay Landlords?**

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.

4. **When does the new scheme start ?**

7 April 2008 - for all new claims

Current customers will continue to receive benefit under existing rules until a change occurs i.e. if they have a break in their claim or they move to a different address or room. Benefit will then be transferred to the new LHA scheme.

5. **What happens if the tenant changes room in the same property?**

This counts as a "change of address". If it occurs on or after 7 April 2008 the LHA scheme will be applied when deciding their award.

6. **If an existing tenant continues on HB without a break in entitlement and does not move will their HB level change?**

These tenants will not be subject to Local Housing Allowance. All private sector rents are referred to the Rent Service every 12 months for a new valuation. The rent figure used to calculate the award will remain at the same level until the customer's 12 month referral date. This is providing there are no other changes in the tenant's household or personal circumstances. The future level of benefit will depend on the level set by the Rent Service which may go up or down.

7. **What happens to payments for services included in the rent for LHA levels?**

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

8. **Where the LA manage the property and rent to tenant under a non-secure agreement will those tenancies be affected by LHA?**

Tenancies where the Local Authority is the landlord are excluded.

9. **What cases are exempt?**

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.

Calculation

10. **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. Different LHA rates will apply in different areas.

11. **What are the rates based on?**

Within those areas, LHA rates will be based on the median rent charged by landlords in the private sector for properties of various sizes. LHA rates will be broken down into 'Room Rates' that will apply depending on the size of the household, including any non-dependants.

The room rate categories are:

Room rate category	Size of accommodation
A	Shared accommodation
B	One bedroom self contained accommodation
C	Two bedroom property
D	Three bedroom property
E	Four bedroom property
F	Five bedroom property
G	Six bedroom property

12. **How is the size requirement calculated?**

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

13. **Will the LHA be per property or per person?**

It uses a flat rate allowance based on the size requirements 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 they are charged so the benefit received may be higher or lower than the contractual rent.

14. **How frequently will the LHA be reassessed?**

The rate of LHA is normally reviewed on an annual basis unless there is change in the customer's household or they change address.

15. **Once the LHA has been set can the landlord increase the rent?**

If the rent charged changes the tenant's LHA rate will not change until the annual review unless there is change in the customer's household.

16. **Can the landlord put the rent up to the LHA after 12 months?**

With de-regulated rents it is for the landlord to decide the amount they are charging for their property. The timing of a rent increase will depend on the contractual terms of the agreement with your tenant.

17. **What happens if a tenant who is eligible for 2 bedrooms takes a 3 bedroom property?**

The rate of LHA they receive is based on the size requirements of their household; HB will be calculated using the 2 room rate of LHA. If this is less than their contractual rent the customer is responsible for any shortfall.

18. **Are the rules the same for under 25 year old tenants?**

A “young individual” aged under 25 will receive the shared room rate, unless they are exempt from single room rent restriction or not a “young individual”.

Some single claimants under 25 are not included in the definition of ‘young individual’.

These are

- tenants of an RSL (Registered Social Landlord)
- young people under 22 years old and previously subject to a care order under Section 31(1)(a) of the Children Act 1989 made either after they were 16 years old, or before they were 16 years old and which remains in force once they reach age 16. Note: This exclusion does not apply to a young person who was subject to a supervision order under Section 31(1)(b)
- accommodated by an authority under Section 20 of the Children Act 1989. The young person does not have to have been housed in LA owned or run property – they only need to have been provided with their accommodation by the LA under this section of the Children Act
- subject to a supervision requirement ended by a children’s hearing under Section 70 of the Children (Scotland) Act 1995 which was made in respect of them and which continues after reaching 16 years old. **Note:** This exemption does not apply where the sole condition for the need for compulsory measures of supervision was that the child had committed an offence or the supervision requirement meant that they had to reside with a parent or guardian, or with a friend or relative of their parent or guardian
- accommodated by an LA under Section 25 of the 1995 Act when they were 16 or 17 years old, or
- under 22 years old and in respect of whom a parental responsibilities order was made under Section 86 of the 1995 Act which continued after they had reached 16 years old

19. **What are the under 25 exemptions?**

Three groups of young individuals are exempt from the restriction. These are:

- those who have their benefit assessed using rules that applied before Jan 1996
- the severely disabled, and
- those with non-dependants living with them

20. **If you rent out 1 room and 6 people who are under 25 decide to move into that room do they all get the same rate?**

Potentially if each person has a liability to make payments to occupy the dwelling. However other housing regulations impact on the maximum number of occupiers allowed in a property.

21. **Does the single room rent apply to lone parents under 25?**
No – where a person is responsible for a child the LHA room rate will be based on the size of their household including any dependants and non-dependents.
22. **What happens with joint tenants – what will the LHA level be in that circumstance?**
Joint tenants will receive a rate of LHA based solely on each customer's family plus any non-dependants, sub tenants or boarders that each customer has.
23. **What happens if there are 4 joint tenants in a property and one leaves?**
The remaining tenants will already be receiving the LHA room rate that applies to their household. A joint tenant leaving is not a change in circumstance for their award. However the level of LHA will be capped to no more than £15.00 a week above the contractual rent.
24. **If the tenant stays in the same house and an additional person joins the household will the LHA go up even though the size of the accommodation has not changed?**
The LHA room rate relates to the customer's household size not the property size. If person joining is treated as part of their household the level of LHA room rate will be reviewed. However the level of LHA will be capped to no more than £15.00 a week above the contractual rent.
25. **Does the same LHA level apply to different addresses if the tenant moves again?**
No – if a tenant moves in April the calculation will be based on the LHA for that month. If they move to a new property in July then the calculation will be based on the level of LHA in July.
26. **Will the LHA have an inflation rise each 12 months?**
All LHA levels are reviewed every month.
The levels reflect the local housing market. These can vary, going up or down

Administration

27. **Does the tenant still have to provide evidence of their rent if the LHA is based on household size?**
Yes
28. **Where the tenant has debts and previous overpayments will these still be recovered from the on-going weekly benefit?**
Yes
29. **Can tenants still apply for Discretionary Housing Payments (DHP)?**
Yes
30. **What are the conditions of entitlement for Discretionary Housing Payments (DHP)?**
Each case will be considered on an individual basis. Whilst the customer must meet the following minimum criteria each Local Authority (LA) has a Discretionary Housing Payment policy regarding the administration of the scheme. Check their web site or contact the individual organisation to make an application.

Minimum criteria:

- The customer must be entitled to some housing benefit if they want a DHP towards their rent payments
- The customer must be entitled to some council tax benefit if they want a DHP towards their council tax payments.
- The Local Authority is satisfied the customer requires further help with housing costs.

DHP's cannot be awarded to meet the services included in the rent which are ineligible for normal HB.

31. **What happens if the landlord changes and I stay in the same address?**
The LHA level will stay the same
32. **Are the exclusions for landlords being relatives still there?**
Yes
33. **Can a tenant opt out of the old system and choose to go onto LHA levels?**
They will continue to be paid under the existing system until they move or have a break in an award of housing benefit .
34. **Will you still include the option to give permission to discuss with the landlord on the application form?**
Yes
35. **When there is a “relevant” change in circumstances which LHA level will be used, the level relevant at the date when the decision is made or the relevant level when the change of circumstance occurred?**
This will be dependent on the type of change and how promptly the customer notifies the changes.
36. **Can I get round direct payment to tenants by asking the tenant to fill in the landlord’s bank account details instead of their own bank account?**
No and there are measures in place to detect this
37. **When the 13 week or 52 week protection applies, will a tenant in a higher rental market area get the full rent even if it is £2000 a month?**
There are regulations that allow a restriction on the the eligible rent when it would be higher than would be reasonable to be met from benefit. The point where the LA considers this option will depend on the rental market for that authority.
38. **Can the landlord help the tenant fill in the form?**
Yes a tenant can receive support to fill in a form. However please make sure your tenant understands and agrees all entries on the form when they sign the declaration. Some LA claim forms do ask for the third party to confirm they have assisted the claimant to fill the form and where those questions appear they should be completed.
39. **If the LHA level is based on the size requirements of the household, is the condition of the property being taken into account?**
No- other legislation regarding the rental market will cover property standards.

40. **Are the exempt cases permanently exempt from LHA?**
Under current legislation – yes
41. **If the LHA is set by the average rent can landlords charge higher rents and raise the LHA?**
Landlords decide the level of rents which may or may not affect the median rent levels.
42. **Is there a contractual liability to pay the difference between the LHA and the rent ?**
Any contractual liability is between the tenant and landlord.
43. **What if the tenant fails to sign on for a week?**
Any circumstance that results in a break in entitlement to HB will then be assessed under the LHA regulations.
44. **Does the funding for LHA come from Council Tax payers?**
HB payments and the administration of the scheme is mainly subsidised by Central Government.
45. **I am concerned that LHA will create more homelessness. Is there any evidence of this from the Pathfinder sites?**
No
46. **What happens if there is a review of the benefit claim by the LA?**
The LHA rate applies for 12 months and will be reviewed annually. Any other changes in circumstances will be reviewed under the regulations that apply to those changes.
47. **Will landlords continue to get payments after 7 April 2008 for any tenants on the existing scheme?**
Yes
48. **Can the landlord help the tenant set up the bank account so that withdrawals can only be made with two signatures, one of which is the landlords?**
This is the tenant's decision.
49. **Will there be anything that governs people who turn a dining room into a bedroom?**
The size requirements of the household determines the LHA level, not the size of the property.
50. **If the landlord provides heating and services in the rent will this information still be needed on the application forms?**
Yes
51. **Where the rent is less, do the tenants have to notify the £15 income to the DWP if they are on Income Support or JSA etc ?**
No

52. **If the BRMA cannot be appealed against does this fit European Human Right Regulations?**
Yes
53. **Is there any change in circumstance that the landlord will get told about?**
No, unless they are paid direct
54. **What can the landlord do if a large family move into a 1 bed house?**
It is the landlord's choice who he/she lets their property to.
55. **Will Housing Benefit payments continue to be paid in arrears?**
Yes – either two weekly or four weekly.
56. **Tenants are often charged monthly and Housing Benefit is paid 4 weekly. There is a risk that the tenant will not pay the rent. Can the LA's pay monthly?**
Not currently
57. **How can it be guaranteed that the tenant will pay their last weeks rent when they leave the property if the LA pays in arrears?**
This is a matter between the tenant and landlord.
58. **HB is currently being paid direct to the landlord. If the tenant moves from Property A to Property B and they are with the same landlord what payment will be made direct to the landlord?**
Property A will be paid under existing rules and the final payment will go to the landlord. When the tenant moves to Property B the payments will be sent direct to the tenant unless the "safeguard policy" applies.
59. **How will the landlord know how much rent to collect if the person is on benefit?**
The tenant normally has a contractual agreement with the landlord to pay the full rent.
60. **If the tenant does not want the payments to be sent to them do they have the choice to pick payments to go direct to the landlord?**
No
61. **If the tenant is being paid direct to landlord and then asks for the payments to be changed back to themselves, will the landlord be informed?**
Yes
62. **If the landlord disputes the tenant being paid direct what action can be taken and how long will it take to decide?**
Both the landlord and 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 made under the "safeguard" policy.
63. **How long will an unlikely payer decision take?**
This will depend on how quickly all required information is made available to the LA to make the decision. The regulations do allow a payment to go to the landlord for a maximum period of 8 weeks while a decision is being made. LA's will commit to resolving the issue within that timescale.

64. **While the LA are deciding who to pay will the payments be suspended?**
While the decision is being made the regulations allow the LA to pay the landlord for a maximum period of 8 weeks. Regulations do not allow the LA to suspend a payment in this circumstance. The LA must decide who should receive the payment.
65. **What happens to the payments of HB if the tenant's account is overdrawn?**
The tenant will need to contact their bank. It is possible for financial organisations to “ring fence” housing benefit payments so they are not absorbed into any existing overdraft. .
66. **Who decides if the tenant is an unlikely payer?**
The Local Authority (LA)
67. **Can the tenants use the “Benefit” Post Office account for payments?**
No
68. **Does the tenant have any other options regarding payments apart from BACS?**
All customers will be encouraged to take up payment by BACS. Special arrangements will be made in exceptional circumstances.
69. **Is the LA legally obliged to ensure payment of LHA is used to pay rent?**
No, though if rent is not paid Local authorities will have discretion to pay rent direct to the landlord.
70. **Due to the time it takes for a customer to complete the claim process will the first payment be made to landlord?**
The first payment can be sent to the claimant and be made payable to the landlord.
71. **What happens if the landlord puts the requirement for direct payments in the tenancy agreement?**
The decision to whom to pay benefit is made by the LA and cannot be overridden by a tenancy or legal agreement.
72. **When writing to the tenant about their benefit could the LA's put a reminder in the letter to pay the landlord?**
Yes
73. **Will LA publicise payment cycles?**
The LA's are only able to publish the main payment cycles, other payments may be made outside these cycles.
74. **Can tenants be paid at different times to fit with their rent payments?**
No
75. **Do the Payment on Account rules still apply under LHA scheme?**
Yes – although the need for these will be greatly reduced
76. **If the decision was wrong to pay the tenant will the landlord be repaid?**
No – the LA cannot make duplicate payments for the same period. If the decision is changed to pay the landlord, this will be from the next payment due.

77. **If Landlord does not know the tenant is on HB then aren't they likely to take more action in county court to recover arrears?**

The LA's encourage all landlords to make contact with them before taking any court action.

Implementation

78. **How will RSL's be affected by LHA?**

The Department of Work and Pensions state they will not be introducing LHA for tenants in social housing. However, they will develop proposals for using Housing Benefit to help address the high levels of unemployed in social housing. This will include encouraging tenants to take greater personal responsibility for managing their own rent payments. The details of any proposed scheme are not known at this stage.

79. **How has LHA been received by Pathfinder landlords?**

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

80. **Are the Pathfinders finding that private landlords come out of the private sector housing ?**

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.

81. **It is possible for a tenant to set up a standing order to the landlord every 4 weeks. What is the Pathfinder experience of BACS payments from tenants to landlords?**

Yes, it should be possible for the tenant to set up a standing order. In Pathfinder areas evidence indicated landlords moved to this automated process of collection. Up to 84% of the tenants on LHA were paid direct in Pathfinder areas.

82. **Does the LA have a duty to help people set up bank accounts?**

As part of the implementation the LA will begin to provide access to information regarding basic bank accounts. Customers will be directed to the appropriate agencies for additional support.

83. **Will the LA promote BACS?**

Yes

84. **How does this change cut the benefit bill if the tenant is allowed to keep £15?**

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

Within the operation of the scheme it is expected there will be efficiencies from an improvement of processing times, reduction in complex rent restrictions; and reduced

administration costs as more tenants are paid by BACS. In addition 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 can contribute to the delay in processing claims.

85. **Will the information about LHA rates be available on the websites?**
Yes – the rates and information about LHA will be on the local websites and offices. 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 by the end of March 2008.
86. **Will funding be provided to help resource the work needed to support tenants managing their finances when paid HB direct to themselves?**
LA's have not been granted additional long term funding to support this.
87. **Do the LA think that people will move to areas where they will get more benefit?**
The scheme is different to the Pathfinder areas. It is also unlikely that there will be enough variations in rent between the BRMA's to make the expense of moving justifiable.
88. **What about the potential for overcrowding?**
It is the landlord's responsibility to ensure their accommodation is not overcrowded in accordance with planning and environmental health regulations.
89. **Will the LHA information be kept available over time and not just current month data?**
Yes
90. **If the tenant is allowed £100 LHA and they are only renting a place for £60 at the moment won't it encourage the tenant to move?**
Whilst this may occur the tenant will need to consider whether they can afford that level of rent should they find work and come off HB.
91. **What advertising campaign do you intend to have?**
Targeted campaigns will take place at appropriate times
92. **Can LA's take forward Landlord representations about the LHA scheme?**
Landlord's are encouraged to talk to their local MP

Information not available at this stage (1st Oct 2007)

93. **What will be the new Broad Market Rental Area for calculating the LHA levels?**
As at 1 October the BRMA's have not been finalised. Once known the information will be publicised.
94. **What percentage of the LHA will be the same as the old scheme amounts?**

This is still to be determined
95. **Are the Government reviewing the size criteria?**
There is no plan to do so as far as LA's are currently aware
96. **Will the large number of new flats affect the LHA levels?**
The median will be recalculated regularly based on local evidence –
97. **After the national launch will the nationwide scheme be reviewed?**
Yes

The Dorset Local Authorities are currently working together drafting a "safeguard" policy for vulnerable tenants. Questions and comments that relate to the implementation of payments direct to tenants are being considered as part of that process and this information will be published in due course.