

Overpayments

Changes which may exclude the Landlord from the Recovery of an overpayment of Housing Benefit

As from 10th April 2006 there were changes to calculating and recovering overpayments and appeals. The changes regulate decisions about from whom the Housing Benefit overpayment should be recovered, and amend criteria which must be satisfied for landlords to be excluded from recovery of Housing Benefit Overpayments.

The main consideration when deciding who to recover from should be who misrepresented or failed to disclose information and, for cases with official error, the person who could reasonably have been expected to realise that there had been an overpayment. This means overpayments caused by a change in the claimants personal circumstances, which the landlord could not possibly know about, should be recovered from the claimant rather than the landlord.

Please remember to report any changes of circumstances that you may become aware of. A tenant vacating your property is an example of when recovery may be sought from you.

North Derbyshire Landlords Forum

The annual meeting of the North Derbyshire Landlords Forum was held on the evening of 9th May 2006 at the Agricultural Centre, Bakewell. The event was well attended by landlords from all districts. Presentations were given on the Local Housing Allowance and Current Topical Issues within Housing Benefits. A general discussion then took place and various issues were raised.

The next landlord forum will be held between 6pm and 8.30pm on Tuesday 22nd May 2007 at The Agricultural Centre, in Bakewell.

Refreshments will be available from 5.45pm

Tenancy Deposit Scheme

The Government has announced that the **Tenancy Deposit Scheme** will come into force on the 6th April 2007. This means that if you receive a deposit after this date you must deal with it in accordance with the Scheme, otherwise penalties can be imposed.

The **Tenancy Deposit Scheme** will apply to all assured shorthold tenancies; but not other kinds of tenancies. Alongside the **Tenancy Deposit Scheme** there will be alternative dispute resolution (ADR) to resolve disputes.

Landlords will be obliged to join a statutory tenancy deposit scheme, if they take deposits from their tenants. The idea is that this will safeguard deposits.

For further information please go to:

<http://www.communities.gov.uk/index.asp?id=1152035>

Change of address within a local authority area

If a customer changes address within the Local Authority, the effective date of the change is the first day the claimant occupies the new property. So, there will sometimes be part payments of Housing Benefit at the start of a tenancy.

This means, if the tenant takes a tenancy on Monday but doesn't move in until Thursday, they will only get Housing Benefit for 4 days of that week in respect of their new address. They'll get 3 days for their old address.

If the rent liability continues at their old property after they have left, and they are now liable at their new property, and the overlap of rents was unavoidable, we may pay overlapping benefit.

Changes in Circumstances

The majority will still take effect from the Monday following the change.

However, a rent increase will take effect from the actual date it occurs. This is classed as a beneficial change, because the Housing Benefit award increases, and this means that we must be informed within ONE MONTH of the increase. If it is notified late the effective date will be the Monday following the date of notification. Notification by the landlord is acceptable.

New claimants in a local authority area

Claims, new to the local authority, will start on the date of occupation. The regulatory exceptions to this are unchanged and include if the property needs adapting for disablement needs, if a Social Fund payment is awaited and if the claimant is leaving hospital or residential accommodation.

Your Housing Benefit section can tell you more about these exceptions.





Local Housing Allowance



The Government has announced that the Local Housing Allowance in the Private Deregulated sector will be implemented nationally from April 2008

Local Housing Allowance (LHA) is the cornerstone of the Governments HB reform programme which aims to simplify Housing Benefit and ensure it supports the wider objectives for welfare reform.

The fundamental aims of the LHA scheme are to promote:

- **Fairness:** LHA bases the maximum amount paid to tenants on the size, composition and location of the household. Therefore, two households in similar circumstances in the same area will be entitled to similar amount of benefits.
- **Choice:** Tenants are able to take on greater responsibility and choose how to spend their income in a similar way to tenants who are not in receipt of benefits. Like other tenants they are able to choose whether to rent a larger property, or spend less on housing and increase their available income.
- **Transparency:** The current link between Housing Benefit and individual rents is complex and does not set out clearly what level of state support is available for people on low incomes. A clear and transparent set of allowance rates helps tenants (and landlords) know how much financial help is available from the state. Tenants are able to compare how much support is available towards their housing costs in different areas and for different property sizes.
- **Personal responsibility:** Empowering people to budget for and to pay their rent themselves, rather than having it paid for them, helps develop the skills unemployed tenants will need as they move back into work. Currently around 40% of Housing Benefit payments in the private rented sector are made to tenants, with the remainder paid straight to landlords. The Government believes that, where possible, local housing allowance should be paid to tenants, as are most other benefits and tax credits.
- **Financial inclusion:** Ideally, we want people to have their housing payments paid into a bank account and to set up a standing order to pay the rent to their landlord. This has the advantage of being a safe and secure method of payment and provides certainty for landlords that rent will be paid.
- **Improved administration and reduced barriers to work:** For working age tenants, LHA provides a greater certainty about what help is available in and out of work. A simpler system also helps speed up administration of housing benefit, giving tenants more confidence when starting a job that any in-work benefit will be paid quickly. A more transparent system may also improve the ability of individuals to move between areas and to take advantage of employment opportunities.



How Local Housing Allowance works

LHA is a flat rate allowance based on the size of household and the area in which a person lives. There are no changes to the entitlement rules – this will be based on a person's income and savings and proof of a valid tenancy. Payment will normally be to the tenant, who will then pay the landlord.

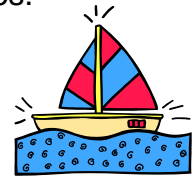
Each local authority will be divided into Broad Rental Market Areas (BRMA). Rent Officers will set individual LHA rates for each BRMA. These will be published by the local authority so that landlords and prospective LHA customers can be clear about the amount of rent that LHA will cover.

Prospective tenants will be able to shop around with their allowance. If they find a property they like with a rent that exceeds their LHA they will need, as they do now, to make up the difference themselves. But if they find somewhere with a rent below their allowance, they will be able to keep the difference up to a maximum £15.00.



Pathfinder Authorities

Since November 2003 / February 2004 the DWP have been testing LHA in nine local authorities across the country. These local authorities were called the Pathfinder Authorities. The LHA Pathfinders were subject to a detailed and independent evaluation.



2WG Authorities

In the March 2004 Budget the Government announced that DWP would invite a second group of local authorities to join the LHA scheme, starting from April 2005. Nine authorities were selected from the 70 that applied. These authorities are called the Second Wave Group (2WG).

The 2WG authorities would enable the DWP to:

- Provide further information on the best way of implementing LHA more widely
- Make sure they took account of any issues that arise
- Further test out the practical and operational implications for local authorities.

This information helped to develop “best practice” guidance for when DWP extended the scheme across the country.

The authorities were chosen to:

- Best enable the DWP to test out operational issues, include a good geographical spread
- Involve one of the major software suppliers not previously involved in LHA
- Include some smaller and more rural authorities who did not have large enough HB private sector caseloads to be selected as a Pathfinder.

The rules and regulations for the 2WG authorities were exactly the same as for the nine Pathfinders.

What's new to LHA?

On 24 January 2006 the Government published the welfare reform green paper:

- A New Deal for Welfare: Empowering People to Work,

which outlined proposals for reforming the welfare system. Chapter 6, 'A radical new approach to Housing Benefit', set out our proposals for the rollout of the LHA across the private rented sector. While the implementation of the LHA in the pathfinders and 2WG has been largely successful, there are a number of areas that the DWP feel can be improved. Following the green paper consultation exercise the Government confirmed in June 2006 the following changes to the LHA scheme for national rollout:

- capping the amount of LHA that a tenant can receive over and above their contractual rent to a maximum of £15 – this is to prevent work incentives being eroded
- adjusting the size criteria so that it is based on bedrooms, rather than bedrooms and living rooms – this is to simplify the size criteria rules and ensure LHA reflects the way in which property is advertised and let.
- change the way in which the LHA rates are set by basing them on the median of local rents, rather than the midpoint – this will accurately reflect the distribution of rents in an area.
- roll out LHA to new claims only – this is to prevent the need for complex transitional protection scheme and to ensure no existing tenants will face a drop in their benefit level at the point of change

These changes are now being taken forward as part of the Welfare Reform Bill, which was introduced into Parliament on 4 July 2006. Further details can be found at:

<http://www.dwp.gov.uk/welfarereform>



Please remember LHA is paid to the tenant, rather than the landlord, except where tenants are unlikely to be able to manage their financial affairs, or have fallen into arrears.

Chesterfield Borough Council, High Peak Borough Council and Derbyshire Dales District Council will all be introducing the new scheme in April 2008 we will consult with you nearer the time in preparation for the changes.

