

Information for Landlords and Agents

Local
Housing
Allowance



City of
Plymouth

www.plymouth.gov.uk

Revenues and Benefits
Corporate Resources Department

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What is Local Housing Allowance?

The Government has introduced a new form of Housing Benefit called Local Housing Allowance (LHA) which comes into force nationally from 07 April 2008. LHA in Plymouth will apply to all new Housing Benefit (HB) claims from tenants who rent accommodation from private landlords. LHA does not affect council or housing association tenants.

The new LHA rules also apply if a tenant is already claiming Housing Benefit but changes address (even if this is to a different accommodation in the same building) or if they have a break in their claim of at least one week.

With Local Housing Allowance, Housing 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 (for LHA purposes Plymouth is one Broad Rental Market Area)
- how much money the tenant has coming in
- what savings the tenant has

In some cases the amount of Housing Benefit your tenant is entitled to will be affected by other things.

Under the existing Housing Benefit scheme the Rent Service decides whether the rent on a property is fair or too high. The maximum Housing Benefit is based on this Rent Officer decision. LHA is the new way of working out the maximum Housing Benefit your tenant could get and will replace Rent Officer decisions for anyone affected by the new rules. It is based on the number of bedrooms a person or household are allowed, not how much the rent is. The number of bedrooms allowed depends on who lives with the tenant.

Why is Local Housing Allowance being introduced?

Local Housing Allowance is part of the Government's agenda to modernise public services. The fundamental objectives of LHA are:

- **Fairness** – the scheme has been designed to pay the same amounts to tenants with similar circumstances living in the same area.
- **Choice** – tenants will be able to choose between paying more to occupy 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 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** – paying the allowance to tenants hands back responsibility to them for budgeting and paying their rent themselves. Accepting this responsibility while on benefit should help make it easier to manage the move into work.
- **Financial inclusion** – to encourage tenants to have their Housing Benefit 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 Benefit payments. This gives tenants more confidence when starting a job that any in-work benefit will be paid quickly.

Which landlords are affected by LHA?

Anyone making a claim for Housing Benefit on or after 07 April 2008 in respect of a tenancy with a private landlord, will be paid Housing Benefit under the LHA rules. This also applies where a tenant is already receiving Housing Benefit but has a relevant change in their circumstances which requires a new claim to be made.

There are exceptions to this and the following will continue to be paid under the existing Housing Benefit scheme:

- Local authority landlords who let to ‘council tenants’
- Registered social landlord tenancies e.g. housing associations
- Protected cases, such as supported housing provided by local authorities, social landlords, charities and voluntary organisations
- Tenancies which are excluded from the existing rent restrictions, such as pre-1989 tenancies
- Tenancies of caravans, houseboats, mobile homes and hostels
- Tenancies where the Rent Service has decided that a substantial part of the rent is for board and lodge, such as bed and breakfast accommodation

What changes will there be for affected landlords?

The only change for most landlords is that payment of Housing Benefit paid using LHA rates will normally be paid direct to the tenant. The tenant will be responsible for paying their rent to the landlord.

How will Local Housing Allowance work?

The maximum amount of Housing Benefit your tenant could receive will be set in advance by the Rent Service. It will not depend on the amount of rent you charge. The maximum amount they could receive will be the same for every same size household in the area in which they live, regardless of differences in actual rent.

The Rent Service has divided the country into Broad Rental Market Areas (BRMA's). Plymouth, and some of the surrounding area, will have one BRMA within which a set of Local Housing Allowance rates will apply.

The Rent Service will continually monitor the local rental market and update the LHA figures for each BRMA every month. BRMA rates will be published by us, before the end of each month for the preceding month. For example, the May rates will be made available before the end of April.

This does not mean that the LHA rate applied to a persons claim will change monthly. A rate will be applied for the month in which the claim is made or treated as being made, and will be reviewed annually.

As there will be one BRMA in the local authority area of Plymouth, this means that if the Rent Service decide the LHA rate for a 2 bedroom dwelling is for example £115.00 per week; this figure applies to privately rented accommodation throughout the whole of the BRMA. There will be a set of rates ranging from a shared or 1 bedroom rate up to a 5 bedroom rate. If a claimant is entitled to 6 or more bedrooms we will ask the Rent Service for a LHA rate for that number of rooms.

Entitlement to LHA is worked out based on the BRMA, the number of people in the household, and the income and savings of the claimant and their partner (if applicable). If there are non-dependants living with the claimant a non-dependant deduction may apply.

Which rate applies to my tenant?

The rates are based on how many bedrooms they and their household need. They are allowed one bedroom for:

- An adult over 16
- A couple
- A child under 16
- Any two children of the same sex under the age of 16
- Any two children under the age of 10

There is also a shared room rate which applies to under 25's and may also apply to certain joint-tenants and people living in bed-sits or studio accommodation, depending on the household set up and use of other facilities in the property.

Your Questions Answered

Q How can I tell what the LHA rate will be for my property before my tenant claims Housing Benefit?

A The LHA rates for Plymouth will be published every month. You can also check the rates on the Plymouth City Council homepage www.plymouth.gov.uk However the actual rate your tenant's Housing Benefit will be based on will also depend on the size of their household. The number of bedrooms they need may not necessarily be the same as the number of bedrooms there actually are in the property.

Q I don't agree with the Local Housing Allowance rate that will apply to my property, can I or my tenant appeal?

A No, it is not possible to appeal against the LHA level. This is because the level is set for the whole BRMA and any appeal would affect all the other properties in that level. However, the claimant can appeal if they think we have used the wrong LHA rate for their household.

Q My tenant already receives Housing Benefit. Will they now come under the LHA scheme?

A No, anybody already receiving Housing Benefit will not be affected by the changes. Their Housing Benefit will continue under the existing rules and you as the landlord can continue to receive the payments if this is what your tenant has chosen. If your tenant changes address (even if this is to different accommodation in the same building, for example they move from Flat 1 to Flat 2) they will then come under the new LHA rules. Or if they have a break in their claim, for at least one week, their new claim will be calculated using the LHA regulations. A break in claim is when a claimant ceases to be entitled to Housing Benefit due to a change in circumstances and has to re-apply for benefit.

Q The rent I am charging the tenant is higher than the Local Housing Allowance. What amount will they get?

A The maximum benefit your tenant will receive is the LHA rate for their household size, for the month in which they claim. If their rent is more than the LHA figure or they choose to rent a property that has more bedrooms than the LHA regulations allow, they will be expected to pay any shortfall out of their own income.

Q Will my tenant's Housing Benefit always be the full LHA rate?

A No, the way Housing Benefit is calculated using the tenant's savings and income is not changing. The LHA rules will be used to work out the maximum Housing Benefit the person would be entitled to. However, they may only receive part of this amount depending on the level of their income and savings, and any non-dependants in the household.

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

A No. Any tenant who is already getting Housing Benefit on 07 April 2008, will continue to be paid the existing rules. If you are receiving Housing Benefit payments direct on behalf of your tenant(s), these will continue to be paid to you unless we are told otherwise.

The LHA rules will only affect any tenants who make a new claim, move address to new private rented accommodation (even if to different accommodation within the same building) or have a break in their claim, on or after 07 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 LHA rates paid directly to the tenant.

Why are you stopping direct payment to landlords?

A Personal responsibility and financial inclusion are two key aims of the LHA. In the vast majority of cases, benefit will be paid to the **tenant** who will be responsible for making their own payments of rent to their landlord.

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

What protection exists for landlords?

A Local authorities will have the discretion to pay rent direct to the landlord where there is evidence that the tenant would be unlikely to pay their rent AND making direct payments would be in the best interests of the tenant.

In all cases evidence will be required to support a request for payments direct to the landlord.

The following factors which are not exhaustive may be considered when deciding:

- **As a safeguard** - The tenant 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 or agent.

- **People who are unlikely to pay their rent** - Tenants may have demonstrated, through their past behavior, that it is improbable that they will pay their rent. In these cases, a local authority may make payments direct to the landlord or agent.
- **If 8 weeks rent arrears have built up** – If we are advised that 8 weeks or more rent arrears are owed, we will arrange to make payments direct to the landlord or agent unless it is not in the tenant's overriding interests to do so. We recommend that, if a tenant is starting to build up rent arrears, you get in touch with us before it gets to 8 weeks. This will allow us to investigate whether there is a problem that needs addressing.
You, as a landlord or agent, 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. In all cases, irrespective of the source of the vulnerability 'referral', evidence to support the request, within the constraints of confidentiality, will be required.

Why is 8 weeks arrears significant?

A Where a claimant has rent arrears equivalent to eight weeks or more and as within current Housing Benefit regulations payments should be made direct to the landlord, except where it is in the overriding interest of the claimant not to. (Housing Benefit Regulations 2006 reg 95)

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

A We 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.

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

A 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 Housing Benefit to the landlord or agent, is likely to be long-term.

In cases where the situation is likely to be temporary, or where rent arrears of more than 8 weeks have been repaid, the situation will be reviewed. If the tenant is in a better position to have their Housing Benefit paid to themselves, and to pay their rent in full and on time, direct payments to the landlord or agent will stop.

Q Can I make direct payment a condition of the tenancy?

A 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. We cannot pay Housing Benefit to a landlord or agent directly at the tenant's request – the rules about when we can pay the landlord or agent directly are outlined above. You cannot change this by making direct payment a condition of the tenancy.

Q Are there any benefits for the landlords or agent in having direct payments paid to tenants?

A The obvious benefit to landlords is that if they do not receive the payments they cannot be asked to repay any overpayments (unless they directly caused the overpayment and could therefore be considered liable).

Q Can we keep landlords or agents informed of the progress of their tenant's claim?

A Yes, if tenants give us authority to discuss details of their Housing Benefit claim with you as a landlord or agent. You can then enquire about the progress of a claim so that you will know whether or not your tenant's Housing Benefit has been paid. This should help to avoid any disagreement over whether the tenant is deliberately withholding rent payments or whether they have simply not received their Housing Benefit yet.

Q Will mid-year rent increases be taken into account?

A No, The LHA rate in payment will remain the same until the anniversary date is reached. The anniversary review date will be the earlier of: the effective date of the claim or the effective date of the backdated award.

Q Will a tenant/landlord be able to appeal against a local authority's decision that a tenant is/isn't vulnerable or unlikely to pay his rent?

A Yes. These decisions will be made under Regulations 95 and 96 of the HB Regulations 2006, which cover direct payment to landlords. Tenants and landlords are persons affected and may appeal against any decision made.

Q How will service charges be handled?

A It does not matter whether rent includes service charges as long as they are a condition of occupancy. The LHA rates are the absolute figures to use. Eligible rent will be based on the LHA rate and full entitlement will either be the LHA rate or their actual rent plus £15 – which ever is the lower.

Q How will joint tenants be treated?

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

E.g. Bill and Ben are joint tenants, but Ben's mother comes to live with them, Ben's LHA entitlement would be 2 rooms and Bill's LHA entitlement would be 1 room.

Q What has been the experience of landlords in the LHA pilot (pathfinder authority) schemes?

A From the evaluation of the Pathfinder authorities it was found that the initial fear that tenants would not pay their rent was unfounded. Tenants prioritised their rental payments to ensure that they have a roof over their head and a very small percentage of the Pathfinders have payments made to their landlord due to rent arrears. (See Local Housing Allowance Final Evaluation: the qualitative evidence of claimants' experience in the nine Pathfinders Areas:

■ www.dwp.gov.uk/housingbenefit/lha/evaluation/2006/lha-report-13

Where can I get more advice?

A DWP and all local authorities are working together to ensure that all stakeholders are kept informed of the changes being made to Housing Benefit. Most information is currently held on the DWP website, you can also get more help from the following:

- www.dwp.gov.uk – Department of Work and Pensions
- www.therentservice.gov.uk – The Rent Service
- www.adviceguide.org.uk – Citizens Advice Bureau

How to contact us for more information

If you have any further questions about the Local Housing Allowance scheme, you can contact us by:

■ **Visit at:** Civic Centre, Armada Way, Plymouth, PL1 2AA.

Our Tenant Services Counter is open from 8.30am to 5.00pm Monday to Friday.

■ **Telephone on:** 01752 304000

Our Tenant Services Telephone Lines are open from 8.30am to 5.30pm Monday to Friday.

■ **Fax on:** 01752 304278

■ **Email to:** lhabenefits@plymouth.gov.uk

■ **Visit our Website at:** www.plymouth.gov.uk

■ **Write to us at:**

Head of Revenues and Benefits
Corporate Resources Department

Plymouth City Council
Civic Centre
Armada Way
Plymouth
PL1 2AA

If you have any further comments or questions about our Local Housing Allowance booklets, or if you would like to receive further information about the new scheme, please email your request to lhabenefits@plymouth.gov.uk

If you require this information in another language, or would like it provided in brail please contact my office on the above number and substitute documentation will be provided.