Local Housing Allowance:

Information for Private Landlords

Birmingham City Council

From **7 April 2008**, we are introducing a new form of Housing Benefit called Local Housing Allowance. This is for tenants who rent properties from private landlords.

What is Local Housing Allowance?

Local Housing Allowance is a new way of working out Housing Benefit. It is for people who rent their homes from a private landlord and need help with paying their rent.

Local Housing Allowance is an allowance based on household size and location. Tenants living in similar circumstances will receive similar amounts. Local Housing Allowance makes it easier for tenants to find out in advance how much rent could be covered by the benefit.

There is no change to the entitlement rules; these will still be based on a person's income, savings and proof of rent etc.

How does Local Housing Allowance affect landlords?

The only change for most landlords is that payment of Local Housing Allowance will normally be made directly to their tenant. The tenant will be responsible for paying their rent to their landlord.

Which landlords does Local Housing Allowance affect?

Local Housing Allowance affects any landlord who enters into a deregulated private tenancy agreement with a person awarded Housing Benefit. By deregulated, we mean a tenancy that has been entered into since 1989 and is not covered by one of the exceptions listed below.

Who is not affected by Local Housing Allowance?

Local Housing Allowance does not affect:

- Local Authority tenants
- Registered Social Landlord and Housing Association tenants
- Tenants living in supported accommodation
- Tenancies which started before 15th January 1989
- Tenants living in caravans, houseboats or hostels
- Tenancies where the Rent Officer has decided that a substantial part of the rent is for board and attendance, such as hotel accommodation.

Why is Local Housing Allowance being introduced?

Local Housing Allowance is being introduced to increase responsibility, place choice in the hands of tenants and help develop the skills to make the transition into work. The objectives of Local Housing Allowance are:

Fairness – to pay similar amounts to tenants with similar circumstances.

Choice – to provide tenants the choice between cost and quality of accommodation.

Transparency – before they commit themselves to a property it will be easier for tenants and landlords to find out how much rent could be covered by Local Housing Allowance.

Personal responsibility – tenants take responsibility for budgeting for and paying their own rent.

Financial inclusion – to encourage tenants to have their housing 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 payments giving tenants more confidence when starting a job that any in-work benefit will be paid quickly.

Why are we stopping direct payment to landlords?

Tenants who get Local Housing Allowance should be able to take greater responsibility for managing their financial affairs and paying their rent to their landlords, in the same way as other tenants do. This is why Local Housing Allowance will usually be paid to the tenant and not to the landlord.
In the past, there has never been a right for a landlord to receive Housing Benefit payments direct. However, there is a right for tenants to request this arrangement, and it is that choice that is changing.

I already receive direct payment for some of my tenants, will these payments stop?

No. Any tenant who is in receipt of Housing Benefit on 7th April 2008 will continue to be paid the old way. If you are receiving Housing Benefit payments direct on behalf of your tenant(s), these will continue to be paid to you. Local Housing Allowance will only affect any tenants who make a new claim, move address or have a break in their claim, on or after 7th 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 receiving Housing Benefit that the local authority pays to you, and other tenants receiving Local Housing Allowance who will pay you themselves.

What protection exists for landlords?

There is a range of safeguards to protect the interests of landlords. Some of these already exist, for example, the Benefit Service must make payment direct to the landlord where a tenant is eight weeks or more in arrears with their rent.

The Benefit Service can also make the first payment payable to the landlord where appropriate. In addition, the Benefit Service can also make payment to the landlord where it may be considered that the tenant is unlikely to pay their rent, or where it is thought that the tenant will have difficulty managing their affairs.

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

The Benefit Service 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.

You, as a landlord, can approach the Benefit Service if you think it is likely that your tenant will have difficulty in paying their rent or you feel they cannot deal with their financial affairs. We will contact your tenant for further information regarding this.

It will ultimately be up to the Benefit Service to decide whether a claimant is unlikely to pay their rent. However, we can only do this once we have evidence of past, or likely, failure to pay rent. We will take into account all knowledge and evidence available to us at the time, including any known past history when making our decision.

It will also be important for the landlord to keep proper and adequate records of rent payments received and details of any contact made with the tenant.

If a tenant requests that payment be made to the landlord will the Benefit Service agree?

As part of the Housing Benefit reforms, tenants will no longer be able to simply request that their Local Housing Allowance be paid direct to their landlords. If, however, a tenant feels that they may have difficulty in managing their affairs and is therefore entitled to direct payment to their landlord, the Benefit Service will consider any request they make.

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

Where a claimant is considered likely to have difficulty in paying their rent and there is little or no prospect of their situation changing, landlords can expect long-term payment. In cases where the situation is likely to be short-term, or where rent arrears of more than eight weeks have been repaid, the situation will be reviewed. If the tenant is in a better position to receive the Local Housing Allowance themselves and to pay their rent in full and on time, direct payments to the landlord will cease.

What if tenants do not use their Local Housing Allowance to pay their rent?

Many tenants in the private rented sector already receive their Housing Benefit direct, and regularly pay their rent on time. Where a tenant is moving to direct payment, we will make it clear to them what their responsibilities are and the consequences of not paying their rent.

There may be examples of some tenants misusing their allowance. However, we do not think it is fair on the majority of responsible tenants to assume that they will all behave in this way. As a landlord, you will need to make sure you have made arrangements with your tenant to collect the rent.

The Government recognises that landlords may have concerns about the new arrangements. Local Housing Allowance has been successfully operating in 18 local authorities across England, Wales and Scotland since October 2003. Our evaluation shows that, on average, Local Housing Allowance is being paid direct to tenants in between 76% to 94% of cases.

There has been little or no evidence in the trial areas of any increases in evictions or homelessness directly attributable to Local Housing Allowance, or of private landlords no longer wanting to let to Local Housing Allowance claimants, as a result of direct payment to tenants.

What if landlords refuse to let their properties to Local Housing Allowance claimants?

We believe the Local Housing Allowance scheme has positives for both landlords and tenants.

The reforms are intended to help landlords, as well as tenants, by creating a more transparent system that is simpler to understand and administer. Overall, it will support and clarify the relationships between the local authority, tenants and landlords.

Landlords will still be able to approach the Benefit Service for help with rent arrears for tenants in receipt of Local Housing Allowance, in a way that they cannot do where they have a tenant in rent arrears who is not in receipt of benefit. Our safeguard policy provides you with more information on this.

Because payments are going to tenants in most cases, this removes the threat and uncertainty of landlords being asked to repay large amounts in overpaid benefit. Under Local Housing Allowance it is unlikely that the Benefit Service would ask you to repay any money that your tenant has paid directly to you.

We believe that the safeguards that exist regarding direct payment to landlords strike the right balance in protecting the interests of both landlord and tenant.

Can I make direct payment a condition of the tenancy?

The Benefit Service is not party to the tenancy agreement between a landlord and tenant, and is not bound by any conditions in a tenancy agreement. Any action taken by a landlord against a tenant who failed to secure direct payment would almost certainly be open to legal challenge on the grounds that it is a condition that is outside the scope or ability of the tenant to deliver.

How do I find out what the Local Housing Allowance rates for my property will be?

The Rent Service will provide details of the Local Housing Allowance rates every month. From April 2008 these will be available on the internet www.birmingham.gov.uk and at every Neighbourhood Office

What appeal rights do I have against a payment decision?

Appeal rights are not changing as a result of the new scheme. However, you should be aware that you will not be able to appeal against the Local Housing Allowance rates set for your area.

Further information

For more information about the Local Housing Allowance scheme, including Frequently Asked Questions, please refer to Birmingham City Council's website, www.birmingham.gov.uk, contact your local Neighbourhood Office or telephone us on **0121 464 7000**.