

### How to Avoid Stamp Duty - by Russell Eaton

This book gives guidance and advice on how you can legally avoid paying stamp duty and save yourself some money. Tax-Cafe Publications

ISBN 1-904608-1674 Price: £24.95 Amazon Books

### Flat Owners Guide by Paul Walentowicz and Charles Robinson

This is another useful book from Shelter, this time for owners of long leasehold flats.

ISBN 1 978 1 903595 183 Price: £6.41 Shelter

### The Landlords Survival Guide By Lesley Henderson

Landlords looking for a book to give them practical help with landlording could do far worse than choose this book by experienced landlord Lesley Henderson.

ISBN 978-1-84528-224-0 Price: £7.25 Amazon Books

### Website Links you may find useful:

Plymouth City Council : [www.plymouth.gov.uk](http://www.plymouth.gov.uk)

Bristol City Council: [www.bristol-city.gov.uk](http://www.bristol-city.gov.uk)

#### Tenancy Deposit Schemes:

[www.depositprotection.com](http://www.depositprotection.com) (CUSTODIAL)

[www.mydeposits.co.uk](http://www.mydeposits.co.uk) (INSURANCE BACKED)

[www.tds.gb.com](http://www.tds.gb.com) (INSURANCE BACKED & RESOLUTION SERVICE)

Valuation Office (District Valuer) [www.voa.gov.uk](http://www.voa.gov.uk)

Buy-To-Let Finance: [www.themoneycentre.co.uk](http://www.themoneycentre.co.uk)

Rental Property Knowledge: [www.landlordzone.co.uk](http://www.landlordzone.co.uk)

National Federation of Residential Landlords (NFRL) [www.spla.co.uk](http://www.spla.co.uk)

Courtesy & thanks to Letting Network, Landlord-Law, DWP, DCLG, PCC, NFRL, NLA, RICS and all others for the use of some or part articles within this newsletter



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Contact: (01752) 242980

Email: [landlords4landlords@hotmail.co.uk](mailto:landlords4landlords@hotmail.co.uk)



# NEWSLETTER

Welcome,

To our February/ March 2008 issue.

This issues theme is based mainly on the forthcoming change in the Housing Act 2004 regarding Local Housing Allowance (LHA). Due to be introduced on 7th April 2008.

We have endeavoured to include usual articles of interest regarding landlord issues.

## Housing Benefit Important Changes

Changes are being made to Housing Benefit. If a tenant makes a new claim for Housing Benefit on or

after 7 April 2008, any entitlement to benefit will be worked out using the Local Housing Allowance rates.

These changes only affect tenants who rent their home from a private landlord.

If a tenant is already getting Housing Benefit on 7 April 2008, they will not be affected by these changes unless:

- they move address to a home rented from a private landlord
- they have a break in their claim – if they stop claiming Housing Benefit for any reason (for example moving into work) any new claim for benefit will be worked out using the Local Housing Allowance rates.

Local Housing Allowance is a flat rate 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 might be covered by the benefit.

The only change for most landlords is that payment of benefit worked out using the Local Housing Allowance rates will usually be made direct to the tenant. The tenant will still be responsible for paying their rent to the landlord.

There is a range of safeguards to protect the interests of landlords. These include direct payment to landlords where a tenant is eight weeks or more in arrears with their rent, where it is thought that the tenant will have difficulty managing their affairs or is unlikely to pay their rent.

For more information please obtain leaflet HB(LHA)4 from your Local Authority: Local Housing Allowance: Information for Private Landlords has further detail on how you may be affected.

## In this issue...

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- Important Changes

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## Westcountry Landlords Association

### Message From Linda Johns Plymouth City Council Licensing Team



The team dealing with HMO Licensing are now spending more time proactively looking for properties and landlords who have failed to comply with the legislation. Over 432 HMO licences have been issued but it is thought that there are at least another 300 properties that should be licensed.

The suspected addresses are already known and are being investigated by checks through land registry, housing benefit payments, street surveys etc. If you are one of these landlords don't wait any longer! The longer you leave it the worse it is - housing benefit can be reclaimed for up to 12 months where the property has been unlicensed. Tenants who pay their own rent can also reclaim this where a landlord is successfully prosecuted. If your property needs licensing or you are not sure if it needs licensing or not, contact the team on 01752 307079. If we have written to you - don't ignore these letters. Don't be the one to make the headlines! Get your applications in!

### Britain's getting set for digital – are you?

The switchover starts in Whitehaven, Cumbria in October 2007 and ends in 2012. It's happening region by region, and to find out which TV region you're in, you'll need to check which ITV local news service you receive

Digital Television means more choice, and in some cases, better picture quality for viewers, and starts this year.

### What it is

If you only have the five major TV channels on your telly, the chances are that you have analogue television. Digital television converts information into bits (or units of digital information) and then uses a set-top box or a digital television set to convert this information back into sound and pictures.

### How to get it

Analogue television comes through a standard TV aerial. Digital TV, however, can come through any of the following methods, depending on what kind of digital telly you choose:

- an aerial with a set-top box
- a cable
- a phone connection

### More funding to tackle homelessness announced

Junior Housing Minister, Iain Wright, has announced a rise of six per cent in the funding for homeless services.

Councils will receive at least £150 million over three years to help them prevent and tackle homelessness in their areas and will receive almost £50 million in homelessness grants next year - a £3 million increase on last year and a rise of six per cent.

All local authorities will receive at least £30,000, with some receiving increases of 25 per cent higher than last year, including Newham, Solihull and Sunderland.

This is the first time that Communities and Local Government has awarded a three year settlement. It should help them to meet the targets to reduce the number of households in temporary accommodation by 50 per cent and end the use of bed and breakfast for 16 and 17 year olds by 2010. Councils will be able to invest the funding in expanding successful prevention schemes such as rent deposit and mediation services.

Wright said: "This record funding will help councils step up their work to prevent and tackle homelessness. We want to help families living in temporary accommodation into a settled home, provide better opportunities for young people facing homelessness and make further reductions in rough sleeping."

**FREE e-bulletins  
for all Landlords**

**Just register your details at  
[www.wlainfo.co.uk](http://www.wlainfo.co.uk)**

### Landlord Expo / Awareness Day

**Tuesday 22nd April 2008**

**Stonehouse Leisure & Social Club  
Kings Road Devonport Plymouth**

**12 noon — 8pm**

**All Welcome**

## Westcountry Landlords Association

### Membership Application Form

Please complete the details below and return with a cheque for **£35** (this amount includes a "one-off" joining fee of £10) payable to "Westcountry Landlords Association"...Or join online at [www.wlainfo.co.uk](http://www.wlainfo.co.uk)

After Completion return to

**Westcountry Landlords Association  
P.O. Box 454  
Plymouth PL3 4WL**

Trading Name:

Surname (Mr/Mrs/Ms/Dr)

Christian Name(s):

Partners Surname (if applicable):

Partners Christian Names:

Full Address:

Postcode:

Telephone No. (Day):

Telephone No. (Evening):

Email Address

Choose preferred password   
For members area website access

Where did you hear about us ?

Signed:

Dated:

Above Information will be held on a computer system and shall be kept Private & Confidential.

**Membership year runs from 1st January — 31st December**

CUT HERE



**CONTRACTORS & SERVICES**

**PLEASE NOTE**

The WLA does not accept responsibility for third party providers / services below

Some of our members have used these contractors and services below and would like to recommend them to other landlords

**PLYMOUTH**

**Dale Domestic Appliances \***

30 Dale Road  
Mutley  
Plymouth PL4 6PD  
Tel: (01752) 266409

**Already Property Services \***

5 Loftus Gardens  
St. Budeaux  
Plymouth PL5 1NZ  
Tel: (01752) 369843  
Mobile: 07799 856663

**Palladium Builders Merchants \***

158 St Levan Road  
Plymouth PL2 1PT  
Tel: (01752) 551881  
*(Call WLA for discount code issued for members)*

**Fras999 \***

Fire Risk Assessment & Fire Safety Advice  
Tel: (01752) 880064  
Website: <http://www.fras999.co.uk>

**A M Pat Testing—(Portable Appl. Testing)\***

Tel: (01822) 820476 Website: [www.ampat.eu](http://www.ampat.eu)

**Clive Gavin (Plumber) \***

30 Years Experience  
Guaranteed same day service  
Tel: 07803 320755

**Nash & Co LLP (Solicitors)**

Beaumont House  
Beaumont Park  
Plymouth PL4 9BD  
Tel: (01752) 664444

**Larry Speare Carpets & Beds**

Rendle Street  
Plymouth PL1 1TP  
Tel: (01752) 220964

\* Denotes WLA Discount Available

**BRISTOL**

**Furnished Homes \***

Underley Furnishings Ltd  
Great Western Business Park  
Armstrong Way  
Yate  
Bristol BS37 5NG  
Tel: 0845 603 1553  
Website: [www.furnishedhomes.org](http://www.furnishedhomes.org)  
*(Suppliers of Robust, Durable Furniture)*

**The Sale Shop \***

203 Cheltenham Road  
Bristol BS6 5QX  
Tel: 0117 907 1785  
*(Suppliers of new furniture for the office or landlord)*  
Website: [www.thesaleshopbristol.co.uk](http://www.thesaleshopbristol.co.uk)

**Landlords Safety Services \***

129 Fossway Road  
Hengrove  
Bristol BS14 9QL  
Tel: 01275 832284  
*(Corgi safety checks and PAT testing)*

**Emmaus Bristol \***

Barton Manor  
St. Philips  
Bristol BS2 0RL  
Tel: 0117 9540886  
*(Used household goods for the Landlord)*  
Website: [www.emmausbristol.org.uk](http://www.emmausbristol.org.uk)

**Bristol Timber Store \***

1 Filton Avenue  
Horfield  
Bristol BS7 0AQ  
Tel: 08458 433 533  
Website: [www.bristoltimberstore.co.uk](http://www.bristoltimberstore.co.uk)

**AMD Solicitors**

2 Station Road  
Shirehampton  
Bristol BS11 9TT  
Tel: 0117 9235562

*(Contact: Chris Brown & quote WLA Membership Number)*

**Used a good Tradesman or Service and been satisfied ?  
Let us know for inclusion here**

**OR  
Would you like to advertise in next newsletter?  
Just contact us: (01752) 242980**



**LATEST MORTGAGE NEWS**

“As any of you who read my regular column in the homeseeker will be aware, at the moment I think there are more exciting rates out there for buy to let than there are for many of the residential sectors!

For those of you who still borrow from your banks (mine don't bother asking me anymore), or if you've not looked at what the whole buy to let market has to offer in a while you may find the schemes below of interest:

If you want a long term rate I don't think you can beat **5.99% fixed for ten years with no lender's fee**. This deal is available up to 85% FOR LIMITED COMPANIES ALSO but if the rent doesn't "stack up" (and it's a fairly generous calculation) it is available up to 75% on a non status basis.

**90% lending is still available** where the rent doesn't fit but at the time of writing I'm hoping for some new products as it's a bit "Hobson's choice" at present. For 85% lending though there are better deals available with rates below 6%, fixed and tracker deals are available.

Although my favourite lender seems just to have no money to lend there are now three or four schemes that work for "refurbishment buy to let" so if you are looking at a project, which is where all the profit seems to be at the moment, please give us a call and we'll talk through the deals available.

Up to 85% I still think the best money out there comes in at **5.14% fixed for three years** and interestingly enough this lender will allow a remortgage after only three months in case you find that bargain to buy!

Student lets are proving more popular with those lenders who have money to lend and a new lender to the market can now do up to **10 student rooms** in one block at reasonable rates. The other area more and more lenders are seemingly happy with is houses (ie one freehold) split into flats so it may be worth calling us if this is the type of property you are looking at or have in your portfolio.

Shobrooks and Fulfords each have **auctions** imminent and as we generally do business at each please don't hesitate to chat with us if buying at auction is something you are tempted by, 28 days is a long time in mortgages if you talk to the right people!

As you may or may not know, no-one in the area does the amount of buy to let business we do at The Mayfair Consultancy and mortgages is **all** we do, that is apart from run my own portfolio of eighteen properties! So for an expert, experienced view with a landlords perspective be sure to call us for an appointment!

I look forward to hearing from you!

Robert Smith (The Mayfair Consultancy)  
54 North Hill Plymouth PL4 8EU  
Tel: (01752) 211221

Website:  
[www.themayfairconsultancy.co.uk](http://www.themayfairconsultancy.co.uk)

**FORTHCOMING PROPERTY AUCTIONS**

**PLYMOUTH**

**Shobrook & Co**  
Tel: (01752) 663341  
Email: [info@shobrook.co.uk](mailto:info@shobrook.co.uk)  
Website: [www.shobrook.co.uk](http://www.shobrook.co.uk)  
Venue: New Continental Hotel Millbay Road

**NEXT AUCTION DATE:  
27th March 2008**

**PLYMOUTH**

**Fulfords — Westcountry Property Auctions**  
Tel: 0870 2414343  
Email:  
[Info@westcountrypropertyauctions.co.uk](mailto:Info@westcountrypropertyauctions.co.uk)  
Website: [www.fulfords.co.uk](http://www.fulfords.co.uk)

Venues: Various —Please Contact Fulfords

**NEXT AUCTION DATES: 14th / 15th MAY 2008**

**BRISTOL**

**Maggs & Allen**

Tel: 0117 949 1888  
Email: [admin@maggsandallen.co.uk](mailto:admin@maggsandallen.co.uk)  
Website:  
[www.maggsandallen-auctioneers.co.uk](http://www.maggsandallen-auctioneers.co.uk)  
Venue: The Bristol Golf Club  
Blackhorse Hill Almondsbury

**NEXT AUCTION DATES: 25th March 2008**

**Local Housing Allowance questions and answers: Landlord audience**

**Background to the Local Housing Allowance**

**1. What is the Local Housing Allowance?**

The Local Housing Allowance (LHA) is a new way of deciding rent payments for people receiving Housing Benefit (HB). It does not replace HB. It uses a flat rate allowance based on the size 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 that you charge so the benefit that your tenants receive may be higher or lower than the contractual rent.

The rate of LHA that customers receive will be reviewed on an annual basis.

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.

**2. When are the changes being introduced?**

LHA will be introduced from April 7th 2008.

**3. What does the LHA scheme cover?**

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.

**4. What do you define as the mainstream private sector?**

If you are a landlord who lets accommodation

in the sector deregulated by the Housing Act 1988, then we consider this as the mainstream private sector.

**5. Will benefit claims be transferred to LHA rates right away?**

Not straight away. Tenants will continue to receive benefit under existing rules until a change occurs ie if 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 LHA, the authority will protect the tenant for 52 weeks from the date of death at their current rate.

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

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

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

**7. Why are the changes being made?**

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.

**Case Law**



**Northstar Land Ltd v Brooks [2006] EWCA Civ 756 [2006] 2 EGLR 67 – Offer to extend time for completion by purchaser. Not accepted by vendors. Whether vendors were estopped from rescinding the contract by their silence.**

This case concerned a dispute over completion of a contract. The vendors claimed that they had been entitled to rescind the contract because the purchasers had failed to comply with a notice to complete. The purchasers' case was that they had offered to extend the time for completion prior to the day fixed for completion by the notice, and the vendors had failed to come back to them on that offer. The purchasers' argument was that the vendors were estopped by their silence, in response to the offer of an extension of time, from rescinding the contract. This argument cut no ice with the Court of Appeal, who held that no reasonable solicitor could have understood the vendors' silence, in response to the offer, as an agreement to postpone completion. Accordingly the vendors' rescission of the contract was held to have been effective.

**Retrospective offence enough**

Court of Appeal — Nov 2007

**Raglan Housing Association Ltd v Fairclough**

A landlord could rely upon the commission of an indictable offence before a person took up a tenancy to obtain possession of the demised property under ground 14 of Schedule 2 to the Housing Act 1988, as amended by section 14 of the Housing Act 1996.

The Court of Appeal (Lord Justice Chadwick and Lord Justice Moore-Bick) so stated on November 1st, 2007, when dismissing an appeal by Alex Patrick Fairclough from Judge Burford, QC, who, on January 26, 2007, in Southampton County Court made a possession order in favour of Raglan Housing Association Ltd.

On May 6, 2004, Mr Fairclough was arrested on suspicion of offences under the Protection of Children Act 1978. On January 24, 2005 he was granted a tenancy and on March 10, 2006 he pleaded guilty to the charge and was imprisoned for 12 months.

LORD JUSTICE MOORE-BICK said that the court could exercise the possession power when it was satisfied that it was reasonable to do so and in making that decision it should take into account the effect that the tenant's behaviour already had on other people in the locality, any continuing effect which was likely to follow and the effect that any repetition of the same behaviour would be likely to have.

**Bristol News**

**Forthcoming Bristol Expo 15th May 2008**  
*(The biggest in the west — not to be missed)*

**Holiday Inn Filton**

*Recycling in North Somerset is set to become easier in April. From 7 April 2008, householders' recycling day will be changed to be the same as their refuse collection.*

**GAS COOKERS IN FLATS**

Recently there has been some confusion over the type of cooker landlords could install in flats.

We have obtained some clarification on this from the Institute of Gas Engineers and Managers (IGEM).

Previous to their intervention with Corgi, Landlords would not have been able to install gas cookers without a Flame Supervision Device (FSD) from 1st January 2008.

For your Info: - An FSD shuts off the supply if no flame is present or the flame extinguishes (i.e. by pans over boiling or being blown out by draughts etc).

Suppliers will be able to deplete their stocks and engineers will be able to connect the appliance. Although suppliers we have spoken to are already ordering gas cookers with this device fitted.

If purchasing a new cooker it might be worthwhile advising the supplier that it is to go into a flat. More information can be found at:  
[www.igem.org.uk/Technical/techarticles.asp](http://www.igem.org.uk/Technical/techarticles.asp)

**IMMERSION HEATER WARNING**

Following an inquest, it was distressing to hear about the poor unfortunate baby girl that was scalded to death last year by a "failed immersion heater".

If you have an electric immersion tank please ensure that it is fitted with the correct heater that complies with the current British Safety Standard BS EN 60335-2-73:2003.

The Water Regulations Advisory Scheme (WRAS) have issued some guidance on this which can be found by visiting

[www.wras.co.uk/PDF\\_Files/Scalding%20information%20note%20Jan%202008.pdf](http://www.wras.co.uk/PDF_Files/Scalding%20information%20note%20Jan%202008.pdf)

**LHA and landlords**

**39. What have been the experiences of landlords in the LHA pilot areas?**

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](http://www.dwp.gov.uk/housingbenefit/lha/evaluation)

**40. Has the introduction of LHA resulted in landlords exiting the HB market?**

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.

**41. What is the position regarding the number of tenants receiving their LHA direct?**

Payments are being made to tenants in around 84% of cases. This is an increase of approximately 48% prior to implementation of LHA.

**42. What other information is available for me?**

DWP and local authorities are working together to ensure that landlords are kept informed of the changes being made to Housing Benefit and that they know where to obtain further advice and information. Your local authority will be able to provide you with more information about the LHA and how it will operate in your area. Alternatively you can visit the DWP website:

[www.dwp.gov.uk/housingbenefit/lha](http://www.dwp.gov.uk/housingbenefit/lha)

**Attract Quality Tenants**

List your property on all major directories. Complete package £99 advertised 'till let.

**Plymouth Estates**

Call (01752) 407774 / 07913 849703

[www.plymouthestates.co.uk](http://www.plymouthestates.co.uk)

[www.southwestlettingagent.co.uk](http://www.southwestlettingagent.co.uk)

**Some useful Questions and Answers**

**Q: My tenant of 18 months has advised that she is behind with her utility bills and the utility company has threatened to force entry to my property to install an electric key meter, can they legally do this without my permission?**

**A:** Yes, they can (with a court order) However, your tenant will be responsible for the cost of getting the meter removed and works completed, this amount can be recovered by the utility company from the tenant.

**Q: I am a landlord agent - we have a new tenant and just about to serve a S8 notice she paid £50 to get herself below the "8 weeks". It is frustrating to say the least as she started the tenancy in December 2007!! Do I have to wait until the next rent due date (i.e. monthly tenancy)? Can I add charges to be accepted as rental charges to keep her at 8 weeks - i.e. £25 for a letter and interest (3% above Nat West base rate)?**

**A:** Yes, it is very annoying when tenants do this, but I am afraid you will need to wait until the next rent falls due. The only good thing is that if she is to avoid repossession she will have to pay her rent in full from now on, to remain under 8 weeks/two months limit. So far as charges are concerned, you can only impose these if they are authorised under the tenancy agreement. However they will not help you with your rent claim as they cannot count as rent arrears.

**Q: What choice do I have in evicting tenants when they have a child and have not paid the rent for 5 months please.**

**A:** You can serve a notice under section 8 of the Housing Act (which has to be in the proper form and give not less than two weeks notice) and then if they do not pay the rent or move out you can bring court proceedings for a possession order. There is another method of obtaining possession under section 21 of the Housing Act, but this cannot be used until the fixed term ends and you need to serve a two month notice first, so this may not be suitable for you.

*\* These forms and guidance notes for completion can be found in the Members Area of the WLA website.: [www.wlainfo.co.uk](http://www.wlainfo.co.uk)\**

**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.

**8. Will you be introducing LHA into the social sector?**

We will not be introducing LHA for tenants in social housing. However, we will develop proposals for using Housing Benefit to help address the high levels of worklessness in social housing. This will include encouraging tenants to take greater personal responsibility for managing their own rent payments.

**LHA Rates**

**9. 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. 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.

**10. Who decides LHA rates?**

Having set the BRMAs, Rent Officers are responsible for calculating the LHAs for different sizes of property in that area. Once the Rent Service has determined the LHA rates for an area, an individual customer's benefit will depend on their age and the size of their household. For example a person aged under 25 will receive the shared room rate whilst a couple with one child will receive the two-room rate.

**11. When will LHA rates be published?**

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 at the end of March.

**12. Where will LHA rates be published?**

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

**13. What will 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  
2 Bedroom rate £62.50  
3 Bedroom rate £80.00  
4 Bedroom rate £87.50  
5 Bedroom rate £90.00  
6 Bedroom rate £97.50

**14. How will LHA areas be decided?**

Each local authority area will have at least one Broad Market Rental Area (BMRA) within which a set of LHA rates will apply. Each BMRA will include a mix of accommodation as well as facilities such as shops, hospitals and schools.

**15. Will there be any right of appeal against the levels of allowances for each Broad Rental Market Area determined by the Rent Officer?**

No, because the BRMA covers an area which includes other tenants, any appeal received could ultimately change the LHA rate for tenants who have not appealed and are content with their allowance. This is because any decision would have to be implemented to all tenants receiving that BRMA / LHA rate.

**16. 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.

**17. Will this excess be capped?**

Yes, the maximum excess permitted will be £15.

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

You may ask them to make up any shortfall out of their other income. Alternatively, the customer may also choose to move to cheaper accommodation. However, if the customer previously paid their rent without any support from HB in the past year they will be entitled to an initial 13 weeks of benefit that will cover the full rent, without any restrictions.

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**19. Will new customers be assessed under the old rules and paid the higher amount if they would be better off?**

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

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

The rate of benefit that your tenant receives is a flat rate allowance based on the LHA rate in effect for your area rather than the rent that you actually charge them. This means that your tenant's LHA rate will not change even if the rent you charge them changes. However, their LHA rate will be reviewed annually.

**Service Charges, Boarders, Joint Tenants and Crown Tenants**

**21. How will service charges be handled?**

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

**22. Are Crown Tenancies excluded from LHA?**

Yes. As they are excluded from current rent restrictions they are also excluded from LHA.

**23. How will board and lodgings cases be assessed?**

In general claims from boarders will continue to be assessed under current rules; that is, they will not be subject to the LHA. However if the Rent Officer decides that the accommodation that you let does not fit the board and lodging criteria, your tenant's claims will be subject to LHA rates.

**24. How will joint tenants be treated?**

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

**Direct payments to the landlord**

**25. Who will benefit be paid to?**

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

**26. What are these exceptions?**

Local authorities will have discretion to pay rent direct to the landlord where there is evidence that the customer would be unlikely to pay their

rent and making direct payments would be in the interests of the customer. 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 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.

**People who are unlikely to pay their rent.**

Customers may have demonstrated, through their past behaviour, that it is improbable that they will pay their rent. In these cases, a local authority may make payments direct to the landlord.

If 8 weeks rent arrears have built up. If rent arrears are owed, the local authority will arrange to make payments direct to the landlord unless it is not in the customer's overriding interests to do so. However landlords are encouraged not to wait for the 8 week period to be reached before contacting the local authority.

**27. Why is eight weeks arrears significant?**

Under Schedule 2 of the Housing Act 1988 (as amended by the Housing Act 1996) a landlord may be able to terminate an Assured Shorthold Tenancy Agreement when at least eight weeks rent is unpaid and the rent is payable weekly or fortnightly.

**28. What if I, as a landlord, just prefer to have the rent paid direct to me?**

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 aspect of helping customers with the move into work. Most customers will be paid their benefit into a bank account and then will be free to set up a Standing Order to pay you, just as they would if they were in work

**29. If I ask 8 weeks rent in advance, so that the tenant is 'in arrears' after one day of the tenancy, is the local authority obliged to pay me directly?**

Direct payments should be made to a landlord where "the person is in arrears of an amount equivalent to 8 weeks or more of the amount he 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 in respect of a period that has not yet been served. Additionally, the requirement to pay directly

is intended as a safeguard to protect vulnerable tenants as well as legitimate landlords and remedial action may be taken if there is evidence that this safeguard is being abused.

**30. If I do receive the payment of rent direct to me, will I be paid any of the customer's (claimant's) excess as well?**

Not normally. Where a payment is made direct to you, it must not include any amount above which the tenant is liable to pay in rent. If there are rent arrears, any excess may be paid to you but only until the arrears are paid off.

**31. What if the tenant is withholding rent due to a dispute?**

Once arrears of rent, whatever the cause, have reached 8 weeks then it is mandatory for the local authority to make payment direct to the landlord provided that there has been no finding that the landlord is not a "fit and proper" person or that it is not in the customer's overriding interests to make direct payments. This can include where the tenant is in dispute with the landlord, but they must provide evidence of this.

**32. What is the "fit and proper" test?**

Local authorities are not obliged to make direct payments where they are not satisfied that the landlord is a "fit and proper person" to be the recipient of a 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 proven that they have engaged in financial impropriety. This should normally include an element of HB impropriety, such as fraud or a knowing failure to declare changes in circumstances affecting the payment of benefit. Authorities 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.

**Recovery of overpayments**

**33. How will overpayments be recovered?**

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

- Benefit overpaid to a landlord can be recovered from either the landlord or the customer, as the local authority chooses; and
- Benefit overpaid to a customer can be recovered only from the customer.

As most customers will receive their benefit themselves under the LHA, most overpayments

will therefore be recovered from the customer and not the landlord.

**34. What if benefit payments were split?**

Split liability for overpayments can already arise where an overpayment accrues 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 local authority can recover from either or both of the landlord and tenant. If the local authority decides to recover from the landlord, the overpayment can be recovered from future payments, by invoice or other appropriate means.

**Appeal Rights**

**35. Will appeals against direct payment decisions be allowed?**

Yes. Both you and your 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 on vulnerability.

**36. If I won an appeal obliging the Local Authority to make direct payments to me, would the Local Authority pay me all the arrears that are due, even though they had already paid benefit to the tenant?**

No. Even if you win an appeal, the local authority will not make duplicate payment of benefit. Direct payments would be made from an acceptable date in order to ensure that no overpayment occurs.

**37. Can a tenant or landlord appeal Against a decision that the landlord should not receive Housing Benefit on the customer's behalf as an agent?**

No. This decision is not appealable.

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

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

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