



# ***Housing Benefit and Local Housing Allowance***

## ***Information for Landlords***

Published October 2014

## Welcome....

This information pack has been designed to provide information to new and existing landlords who have tenants claiming assistance in paying their rent.

The pack contains information about the benefits available, useful contacts and support offered.

The Benefit Service values the excellent working relationships we have developed with the Landlord community in the Borough and we look forward to continuing to work together.

### **Landlord Links**

We publish a twice yearly newsletter called "*Landlord Links*" which keeps you up to date with information about changes to Housing Benefit law and practice which may affect you and your



tenants, as well as updates about our local Housing Benefit service.

You can subscribe to receive the newsletter by clicking on the link below. Please include your name and Landlord Reference number when registering for the newsletter.

### **[Subscribe to Landlord Links Newsletter by clicking here](#)**

Previous editions of *Landlord Links* are available on the Landlord pages of our website [www.telford.gov.uk](http://www.telford.gov.uk)

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## Part One – Understanding Housing Benefit

Housing Benefit and Local Housing Allowance (LHA) are means tested benefits which are administered by the Council on behalf of the Department for Work & Pensions (DWP). They provide assistance to tenants who are receiving a low income to help meet their rental liability.

### Housing Benefit or Local Housing Allowance?

Local Housing Allowance (LHA) was introduced on 7<sup>th</sup> April 2008 as part of the Government's reform programme which aims to simplify Housing Benefit and support the wider objectives of welfare reform.

The LHA scheme is currently only applicable to the Private Rental Sector and applies to:-

- Any customer making a new claim for Housing Benefit
- Any existing Housing Benefit customer who changes address
- Any existing customer who has a break in their Housing Benefit of one week or more

Most customers living in privately rented accommodation will now be receiving Local Housing Allowance.

Local Housing Allowance currently does not apply to accommodation provided by Registered Social Landlords, Housing Associations, Council homes and similar. Tenants in this type of accommodation will continue to claim Housing Benefit.

### Who Can Claim?

Only the tenant of the property can make a claim for benefit; a landlord cannot claim Housing Benefit or LHA on behalf of their tenant. This is because benefit entitlement depends on the personal circumstances of the tenant and takes into account the rent level, income and household composition.

To be eligible to claim benefit a tenant must meet three basic requirements:

- the tenant must have a liability to pay rent, **and**
- the tenant must be living in the property as their normal home, **and**
- the tenant must make a claim for benefit.

If a tenant fails to meet any of these requirements, they will not be eligible for benefit (there are some rare exceptions to this such as temporary absence from the home or if the tenant is in hospital).

There are a few instances where a person may have a liability to pay rent but is treated as not liable for Housing Benefit and LHA purposes. Circumstances include where a tenancy is not on a commercial basis or the resident landlord is a close relative of the tenant or their partner.

## How is Housing Benefit/LHA calculated?

### How do we work out benefit entitlement?

The process involves comparing the weekly income of the tenant and their family with an applicable amount that the Government sets which represents the basic living needs of a family. The level of applicable amount is specified in Housing Benefit Regulations.

In broad terms, tenants with no income or a low income qualify for maximum benefit which may be reduced if there is a non dependant in their household. The more the household income exceeds the applicable amount set by the Government, the less the benefit entitlement will be.

- Maximum benefit is not the same as maximum rent. The rent may be restricted – please see below.

### The Rent

Housing Benefit (only received by tenants claiming prior to April 2008) takes into account the eligible rent of the property, which is set by the Rent Officer. Please see Part Five: The Role of the Rent Officer for more detail by [clicking here](#).

Housing Benefit may also include a few eligible services such as the cleaning of communal areas but it does not cover heating, cooking, hot water, lighting, water rates, laundry, room cleaning and meals. If a landlord provides any of these services, the tenant will have to pay for these themselves.

Local Housing Allowance (LHA) is not based on the property in which the tenant lives or the rent they are charged. The maximum rent used in an LHA claim is based on the number of bedrooms that the tenant and their family need. For more detailed information about the LHA scheme please see Part Five: Local Housing Allowance – by [clicking here](#). These claims are not referred to the Rent Officer. The LHA rates applicable for the number of bedrooms required by a tenant are given to the Council each month and published on our [website](#).

### Personal circumstances and household composition

The individual circumstances of the tenant affects the amount of benefit that is payable so household income, disability and age are all taken into account when calculating entitlement. The composition of the tenant's immediate family, which includes any dependant children and adults, is also an important factor in determining benefit entitlement.

The income of any grown up children and other adults living as part of the tenant's household may mean that a non dependant charge is applied to the claim.

### Non dependant charges

Non dependants are usually adult sons, daughters or other relatives and friends who live in the tenant's household on a non-commercial basis. Benefit is normally reduced for each non dependant living in the household. The amount of the deduction will depend on the type and amount of any income the non dependant has and is not related to any payments they may make to the tenant for their "keep".

## Calculating Benefit Entitlement

**Have you ever wanted to advise a prospective tenant of their potential benefit entitlement or been aware of a tenant's change of circumstances but not sure how this will affect the rate of benefit in payment?**

**Are you ever uncertain what rental payments to charge your tenant until their claim has been processed and entitlement is known?**

The online benefit calculator on our website will enable you or your tenant to estimate how much benefit they may be entitled to.

All you or your tenant need to do is enter details covering areas such as rent charged, income received and family make up. Then you simply hit the calculate button and let the program work it out.

Remember the more precise the information that you give the more accurate your calculation will be.

The results can be printed out and used to help determine whether it is worthwhile making a claim, or help you to determine what payments a tenant should be making towards their rent.

The calculator can determine:

- Housing Benefit
- Council Tax Support
- Local Housing Allowance; and
- Second Adult Rebate eligibility (which can give a rebate against Council Tax).

Alternatively, you can call our Customer Contact Centre on 01952 383838 and they will do the calculation for you.

The calculation can be found at [www.telford.gov.uk/apps/calculator](http://www.telford.gov.uk/apps/calculator)

**Any results you are given are only an estimate of possible entitlement. Actual entitlement can only be determined when a full application is submitted to the Council, accompanied by all relevant documentation**

## Verification: what evidence is required to complete a claim?

In order to make sure that the administration of Housing and Council Tax Support is secure, fair, provides help where it is needed and is vigilant in tackling fraud and error to ensure value for the tax payer, it is necessary for the Council to verify each claimant's identity, rental liability, income and any capital they may have.

All documentation provided must be in the form of **original documents**. Photocopies are not acceptable. The responsibility for supplying proof of income and liability for rent rests solely with the tenant.

- **Two forms of identity**

The Council will need to see two forms of identity for both the tenant and any partner in the household. Acceptable items of proof include birth certificate, passport, marriage certificate or wage slips. Our Benefit Assessors will be happy to provide advice on all acceptable forms of identity to your tenant during their telephone callback as part of the telephone claim process. [Click here](#) for more information about making a claim.

- **National Insurance Number**

Proof of the National Insurance number for both the tenant and any partner will be needed. The number can be found on wage slips, P60, Benefit payment books and National Insurance number cards.

- **Proof of Rent**

### Tenancy Agreement

Always make sure your tenant has a copy of the agreement. It should be clear from this:


- How long the tenancy is for
- The amount of rent payable and how often (weekly, monthly)
- The agreement should be signed by both the tenant and the landlord
- If you are acting as the agent for the property the agreement should also give the name and address of the landlord.

A **Rent Book or Rent Account document** is acceptable but this must be up to date showing payments made and any arrears if applicable.

### Letter from the landlord

This is also acceptable as the proof of tenancy but it must include:

- The name and address of the landlord and managing agent
- The date the agreement commenced
- The amount payable and how often
- What is included in the rent, e.g. Meals, gas, electric, cleaning etc.
- Details of the rent already paid and the date of payment



- **Proof of Income**

#### **Proof of all state benefits/allowances**

If your tenant confirms they are in receipt of a State benefit, we can now verify most State benefits directly with the Jobcentre Plus.

#### **Proof of wages**

The wage slips must be up to date and consecutive. The Council will need to see the last five weeks payments if paid weekly, the last three payments if paid fortnightly or the last two months payments if paid monthly.

Alternatively the tenant can take the certificate of earnings, which is attached to the Housing Benefit application form, to their employer for completion. The Council can also send the certificate of earnings to the employer if the tenant requests this.

If the tenant has recently commenced employment a contract of employment which gives the hours to be worked and the amount of hourly pay may also be acceptable.

#### **Proof of Tax Credits**

This proof must be an up to date tax credit letter from the HMRC or a bank statement showing receipt of the Tax Credit. Our Benefit Assessors can now check the exact level of Tax Credit entitlement online during the Benefit assessment appointment.

#### **Proof of Pension Credit**

If your tenant confirms they are in receipt of Pension Credit, we can now verify Pension Credit entitlement directly with the Pension Service.

#### **Proof of Savings/Capital**

The authority will need to see the last three months bank statements for **all accounts**. Certificates or statements of any investments which include stocks, shares, unit trusts and National Savings certificates will be required.

#### **Proof of other income**

Other income could include occupational pensions, maintenance or other regular income from another source. Proof can be in the form of statements, letters or bank statements.

#### **Proof of a non dependant's income**

If the tenant has a non dependant in the household, the Council will need to see proof of their income.



## Part Two – Making a Claim

### Telephone Claims

The quickest and most efficient way to make a **new claim** is to book an appointment for a call back with one of our experienced Benefit Assessors who can make an initial assessment for benefit over the phone.

Once the claim has been assessed over the telephone, an appointment is made for the customer to come into First Point Telford in Southwater One to bring all of their supporting documentation and evidence to be verified.

Provided your tenant brings all of the required documentation and evidence with them, we will be able to:-

- Calculate the customers benefit award while they wait
- Explain the calculation to the customer in person, making clear how much benefit will be paid and how much rent still needs to be paid and discuss how they will pay their rent
- Applications for Discretionary Housing Payments (DHPs) and Safeguard can be completed where appropriate
- Assess the claim more quickly than by the traditional application form route
- No paper application forms are required
- Customer can take all of their evidence away with them at the end of the appointment

Appointments can be booked by calling our Customer Contact Centre on **01952 383838**. Customers can “drop-in” to First Point Telford and whilst we will endeavor to assess claims for all of our customers, it may involve waiting in a queue to be seen and we would strongly advise that an appointment is booked in advance.

Home visits can be arranged if vulnerable customers have difficulties accessing our services at First Point Telford.

### Telephone Enquiries

Telephone enquiries can be made to our dedicated Customer Services Team by calling 01952 383838.

Lines are open from 8am to 6pm Monday to Friday.

The email address for the Benefit Service is:  
[benefit.service@telford.gov.uk](mailto:benefit.service@telford.gov.uk)

Postal enquiries can be made to :-

Telford & Wrekin Council  
Revenues & Benefits Service  
PO Box 249  
Addenbrooke House  
Telford  
TF3 4LP





## Department for Work & Pensions

Customers are also able to make a claim for Housing Benefit / LHA via the Department for Work & Pensions when they make a claim for Income Support, Job Seekers Allowance or Employment & Support Allowance. The Department for Work & Pensions will send confirmation of the Customer's entitlement directly to the Council.

We will still need to see **original documentation** to support the claim and this must be supplied as soon as possible. **NB.** It is important that the benefit application is made immediately, even if the supporting documentation cannot be supplied until a later date.



## Part 3: Payment of Housing Benefit / LHA

### When will payments start?

This depends on the date we receive a request to claim benefit from the customer and the date the tenant moves into the property. The law states **“to be entitled to benefit a person must be liable to pay the rent and occupy the property as their home”**.

In the majority of cases, this means that the Council can only pay benefit from the date that the tenant moves into the property. It is important that they move in as soon as possible and arrange to make a claim **immediately**.



### Who will the payment be made to?

The rules surrounding payments differ depending on whether a tenant is receiving assistance under the old Housing Benefit scheme or Local Housing Allowance.

Most tenants renting their home in the Private Sector and receiving help to pay their rent will now be receiving Local Housing Allowance and wherever possible we have to pay LHA to the tenant so that they are responsible for paying their own rent.

There are occasions where we must pay the benefit directly to the landlord for example where evidence is received that a tenant is 8 weeks or more in arrears or when payments are being made to a landlord from another income related benefit. Additionally, the Council may decide to make payment to a landlord directly in the following circumstances:-

- The tenant is **unlikely** to pay their rent because:-
  - They have rent arrears and have consistently failed to pay; or
  - They have a history of rent arrears with previous landlords.
- The tenant is not able to manage their own rental payments, normally because of vulnerability. For example, the tenant is known to have a learning disability or a drug/alcohol problem that would mean they are likely to have difficulty handling a budget.
- The tenant is **unable** to pay their rent because they have financial difficulties which mean they are unable to open a bank/building society account, have severe debt problems or are bankrupt.
- If paying the landlord directly will assist a tenant in securing or retaining a tenancy. In this case, the rent charged must be an “affordable rent”. In the vast majority of cases, an affordable rent will be deemed to be the LHA rate that applies to the tenant.

If you would like to discuss payments of benefit for your tenant, you can contact our Discretionary Awards Officers who will be happy to offer advice and guidance. For contact details [click here](#).

If a tenant is receiving Housing Benefit under the old scheme, payment will normally be made to the tenant unless they request that benefit is paid to their landlord, the Council considers it is in the best interests of the tenant and their family to pay HB to the landlord or the tenant has left the property with arrears owing.

The Council must also pay the benefit directly to the landlord if the tenant has arrears of 8 weeks or more, payments are being made to a landlord from another income related benefit (e.g. Income Support or Job Seekers Allowance) or where a tenant has died and a decision had already been made to pay the landlord direct.

## How will I receive benefit payments?

Benefit payments will be made every four weeks or monthly in arrears, in line with the payment cycle used by the Council. The payment will normally be made by automatic transfer to the landlord’s bank account (via BACS).

The Council will also send out a schedule of payments (Landlord Payment Notification) via post which will detail the name and address of each tenant you are receiving payment for, the amount of the payment for each tenant and the period the payment covers.

## What information can I ask about my tenant's claim?

The amount of information that can be disclosed will depend on whether benefit is being paid to the tenant or landlord.

### Payments are being made to the tenant

All details of a tenant's claim are confidential and cannot be disclosed to a third party in any circumstances and this includes confirming whether a claim has been made. We may disclose information to someone who is acting as an appointee for the tenant or has been nominated to deal with their financial affairs. A tenant can request that we share information about benefit entitlement with their landlord but we would not disclose any details about the personal circumstances of the tenant – only their entitlement.

### Payments are being made to the landlord

Where benefit is being paid directly to the landlord, we will be able to disclose the following:-

- The dates on which entitlement starts and ends
- The weekly amount of benefit entitlement, amounts paid and date of payment

Where a landlord is receiving payment directly we will always inform a them in writing when:-

- A determination of a tenant's benefit is made
- Entitlement ends due to a change in circumstances
- Entitlement ends due to a change of address
- A claim is suspended
- Entitlement is adjusted due to a change of circumstances
- A tenant has made a claim but fails to qualify

## Understanding my Landlord Payment Notification

Each time we make a payment of Housing Benefit/LHA to you, we will send you a Landlord Payment Notification letter which details the amount of benefit we are paying to you, which tenants the payments are made for and whether the amount paid has been adjusted to take into account recovery of overpayments.

We post the landlord notifications so you should receive them on the day you receive the payment. If you haven't received the notification please allow two working days for postal delays before requesting a duplicate notification.

We have included an example of a Landlord Payment Notification on the next page with notes explaining the sections included.

TELFORD & WREKIN COUNCIL-LIVE SYSTEM  
Landlord Payment Notification

Your Ref: 0

This is our landlord reference for you

Date: 07-JAN-2011  
Page: 1

Any Landlord  
Any Office  
Any Street  
ANY TOWN  
A01 1AA

We show the last four digits of the account the benefit is to be paid into.

Dear Sir/Madam

Payment has been made for housing benefit for the following tenant(s).  
The Payments have been made by Creditor BACS on 11-JAN-2011.  
This has been paid into:- Sort:\*\*-\*\*-\*\* Account No:\*\*\*\*000X.

Entitlements/Underpayments Records :-

Claim	Claimant	Period	Benefit	Adjustment	Total
11111	Mr Joe Bloggs 1, This Street, This Area, TELFORD, SHROPSHIRE, TF1 1ZZ	29-NOV-10 - 26-DEC-10	303.00	0.00	303.00
Entitlement/Under Payments Totals:			303.00	0.00	303.00
Landlord Balance					303.00

Please contact the L.A office for further details

This is the tenant for whom the payment is for. If there are payments for other tenants these will also be displayed.

Adjustment for any overpayment recovery made.

This is the amount that will be paid into the account

## Part 4: Useful Contacts

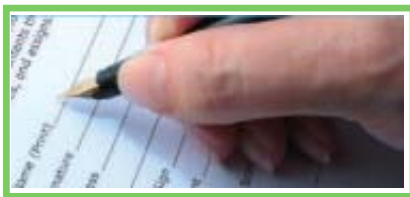
### Customer Contact Centre

Our dedicated Customer Services Team are able to assist you with day to day landlord benefit enquiries by calling 01952 383838 or visiting us at First Point Telford.

[Click here](#) to visit the First Point information page and opening times.

### Discretionary Awards Team

We now have a team of Discretionary Awards Officers (formerly called Landlord Liaison Officers) based within the Benefit Service.



They can offer advice to landlords on benefit policy and procedure as well as assisting with the more complex benefit queries or any ongoing problems landlords may be experiencing. **Please note that this service is available to all landlords.**

The Discretionary Awards Officers also ensure that safeguards are applied to prevent tenants putting their tenancies at risk through arrears, and assist landlords who may be concerned about vulnerable tenants and those who are unlikely to pay.

The Discretionary Awards Officers are also responsible for the administration of Discretionary Housing Payments. More information can be found [here](#).

The Discretionary Awards Officers can be contacted on their direct line 01952 383858 or by email at [landlord.liaison@telford.gov.uk](mailto:landlord.liaison@telford.gov.uk)

**In order for the Discretionary Awards Officers to be able to deal with your urgent and complex queries, it is important that routine or day to day queries such as chasing progress on claims are made through our Customer Contact Centre.**



## Overpayment Team

The Overpayment Team can be contacted on 01952 383984 for queries about overpayment recovery. If you have a query about how an overpayment has arisen, please contact the Customer Contact Centre on 01952 383838.

Please note, the information they can give you regarding an overpayment is likely to be limited.

## Landlord and Tenant Advice Service

The Landlord and Tenant Advice Service (sometimes referred to as Private Sector) offer free and impartial advice on all landlord and tenant issues.

They can be contacted from Monday to Friday 8.30am to 5.00pm on 01952 381874 or by email at [housing.services@telford.gov.uk](mailto:housing.services@telford.gov.uk)

## Website

Visit our website at [www.telford.gov.uk](http://www.telford.gov.uk) to obtain up to date information on Housing and Council Tax Supports, Local Housing Allowance, Council Tax and Business Rates. Useful forms can be downloaded here for use. Benefit information specifically for landlords can be found at [www.telford.gov.uk/landlord](http://www.telford.gov.uk/landlord)

## Other Useful Contacts

In addition to our own website, there is a wide range of information available at [www.gov.uk](http://www.gov.uk) including benefits, housing and private renting.

The Wrekin Landlords' Association is a group run by local landlords representing the interests of the local private rental sector. The group holds regular meetings which host a variety of speakers, and representatives from the Benefit Service have previously attended to pass on information about important changes to Housing Benefit legislation. Further information can be found on their website [www.wrekinlandlords.com](http://www.wrekinlandlords.com) .



## First Point Contact Centre

The new First Point Telford office and library has opened in Southwater One and residents can now visit for help, advice and information on a wide range of Council and partner services.

You can access a number of Council services including environmental maintenance (fly tipping, graffiti and vandalism, bins, refuse and recycling), Council Tax, Benefits and housing advice, Concessionary Travel, Blue Badge, Family Connect, leisure and theatre bookings, Next Step Community Training, Land Charges and Registration of Births.

The list of partner services available includes CAB, The British Legion, SSAFA, British Red Cross and the Health Lifestyles Hub.

Computers and phones are available for free use by members of the public who may want to access services or search for jobs.

Residents are met by a Customer Services Officer who will ensure their enquiry is dealt with as quickly and efficiently as possible. They have been trained to deal with a wide range of enquiries. Please note, there are restrictions in both the Data Protection Act and Benefit regulations concerning the information that can be disclosed to landlords.

### Opening times

Monday	8.30am to 5:30pm
Tuesday	8.30am to 5:30pm
Wednesday	8.30am to 5:30pm
Thursday	8.30am to 5:30pm
Friday	8.30am to 5:30pm
Saturday	9am to 1pm

## Part 5: Other Useful Information

In the following pages, we have included some detailed information about the more complex areas of Housing Benefit administration as well as some related topics that you may find useful.

- **Overpayments**
- **Disputes**
- **Benefit Fraud**
- **Council Tax**
- **Claim Reviews**
- **The role of The Rent Officer**
- **Local Housing Allowance**
- **Discretionary Housing Payments**

## Benefit Overpayments

### What is an overpayment?

An overpayment is an amount of benefit that has been paid for which there was no entitlement under the regulations. Overpayments occur when:

- The tenant has a change in their personal circumstances that reduces or ends their entitlement to Housing Benefit which is reported to the authority after it has occurred. eg. Change in income or household circumstances.
- The tenant has a retrospective change in their circumstances such as a backdated increase in their income.
- The tenant, landlord or other party fraudulently claims benefit to which they are not entitled.
- The Council, Department for Work and Pensions (DWP) or HM Revenue & Customs (HMRC) makes a mistake in the calculation of benefit or failed to act on a reported change of circumstance. This is called an official error.

### Is the overpayment recoverable?

Almost all overpayments are recoverable, including the majority of those caused by an official error. Legislation allows councils discretion as to whether or not to recover benefit overpayments. Telford & Wrekin considers that it has a duty to the local community to recover these overpayments as they were initially paid from public funds.

The only exception to this are official error overpayments, where neither the tenant or the person receiving direct payments, could reasonably be expected to realise they were being overpaid.

## Who can be asked to repay an overpayment?

- The tenant in most instances; and in some cases;
- The person to whom the payments have been made including the landlord or agent
- The tenant's partner in some circumstances
- A person who has contributed to a fraudulent claim to Housing Benefit
- The estate of a deceased person

In most instances an overpayment is recoverable from the tenant, however there are some instances where the landlord or agent will be asked to repay the overpayment. In some cases the regulations prescribe that an overpayment may be recoverable from more than one party and in such instances the Council has the discretion to choose who to pursue recovery from.

If an overpayment has occurred because of a misrepresentation or a failure to disclose information (whether fraudulently or otherwise) the overpayment is recoverable from the person(s) who has failed to disclose the information. An example may be where a tenant has moved out of the property and the landlord knew but failed to notify the Council.

If an overpayment has occurred because of an "official error" (for example an error made by the DWP or the Local Authority) and the overpayment is deemed to be recoverable, then recovery can be made from the person who could reasonably have been expected to know that there was an overpayment occurring. An example may be where the Council has used too high a rent level in the benefit calculation. In such a case it may be reasonable from the notifications and payments issued that both the claimant and landlord to have been able to know that the benefit was too high.

## Recovery from the tenant

- If the tenant is in receipt of benefit the overpayment will be recovered from future payments by a weekly deduction. There is a standard deduction rate prescribed by the DWP. Higher deductions may be taken in certain circumstances.

**If payments are made directly to the landlord, the deduction will be reflected in the amount of benefit that is issued every four weeks / month. The landlord will be notified of any deductions that are to be made. The tenant is responsible for paying any shortfall of rent that may occur as a result of the deduction.**

- If the tenant has a partner, recovery of an overpayment can be made from benefit payable to that partner providing the tenant and partner were members of the same household when the overpayment occurred and at the time of recovery.
- The Council may issue an invoice to the tenant for repayment.
- Deductions may be made from other benefits or allowances that are paid by the DWP such as Income Support or Jobseekers Allowance.

## Recovery from the landlord

There will be occasions when you will be notified that there has been an overpayment of Housing Benefit/LHA and that you are required to pay that money back.

There are a number of ways you can now pay back an overpayment.

- Deductions from any other benefit payments payable to you. This is called Blameless Tenant recovery. This is our preferred method as it is the easiest and most cost effective method of recovery. Please see below for more detail.
- Via the Council's website [www.telford.gov.uk/pay\\_for\\_it](http://www.telford.gov.uk/pay_for_it)
- At a local Post Office or anywhere displaying the PayPoint sign. You just need to take along your invoice (which has a bar code on it) and your payment.
- Via the Council's 24 hour payment line 01952 383977
- By speaking to a member of our Customer Services Team or Overpayments Team during office hours.
- By sending in a cheque
- By visiting the Council's First Point – where you can pay by cheque or debit / credit card.

## Blameless Tenant Recovery

If you have an overpayment and you are receiving payments of benefit in respect of other tenants then we can reduce the payments we send to recover the overpayment. This is how it works:

- An overpayment occurs and is determined recoverable from you, the landlord.
- You are notified of the tenant's name and address and the dates, the amount and the circumstances of the overpayment; you are given 1 calendar month in which to request a reconsideration.
- You are sent an invoice.

If, after 1 calendar month you have **not** requested a reconsideration of the decision and the debt remains outstanding and recoverable from you, it will be deducted from the next payment of benefit due to you. **This is known as blameless tenant recovery** and the recovery amount will be deducted from the benefit that is paid to the landlord in respect of other tenants.

The amount of the deduction **should not** be treated as arrears for those tenants and the landlord **must not** try to recover the shortfall from them. The schedule accompanying your payment will detail each amount that has been recovered in this way.

If you would like more information, please contact the Overpayments Team on 01952 383984.

## Overpayments that cannot be recovered from the landlord

Overpayments of benefit cannot be recovered from a landlord or agent if:

- The benefit was not paid to them
- In instances where a landlord was not aware that a change of circumstances had occurred. For example a none resident landlord may not be aware of a change in income of their tenant. However it may be reasonable for a resident landlord (living in the same property) to know that a change has occurred.
- The landlord has notified the Council in writing that they suspect there has been an overpayment; **and**
  - the Council is able to prove that the tenant was intending to receive the benefit fraudulently or there has been a deliberate failure to report a relevant change of circumstances and the overpayment occurred as a result of that deliberate failure; **and**
  - The Council is satisfied that the landlord has not colluded with the tenant to cause the overpayment and the landlord has not acted or neglected to act so as to contribute to the period or the amount of the overpayment; **and**
  - The overpayment is not the result of a change of address.

If the above apply the Council will not ask a landlord for repayment of the overpayment even if they have received the benefit payments directly.

## If an overpayment is not repaid

Where an invoice has been sent to the landlord and this remains unpaid or an agreed arrangement to repay the debt is not being maintained and all other options have been exhausted, the Council may take action in the County Court or use the services of a Debt Recovery Agent. County Court action may affect a landlord's credit score. If a County Court Judgment is obtained then there are a number of options available including attachment of earnings, use of the County Court Bailiffs and charging orders against any property owned.

**If a landlord habitually fails to repay any overpayments that are recoverable the Council can decide that the landlord is not a "fit and proper person" under Benefit regulations and can refuse to make payments direct to that landlord.**

# Local Housing Allowance (LHA)

Local Housing Allowance (LHA) is part of the government's reform program which aims to simplify Housing Benefit and ensure it supports the wider objectives for welfare reform.

Local Housing Allowance was introduced on 7<sup>th</sup> April 2008 and any customer making a new claim for Housing Benefit, moving house, or having a break in their Housing Benefit of a week or more after this date will be transferred onto the new scheme. At present the scheme is only applicable to the Private Rental Sector. Accommodation provided by Registered Social Landlords, Housing Associations, Councils and similar organisations will not yet be affected.

## How Local Housing Allowance works

LHA is based on the size of the household and the area in which a person lives.

Each local authority is allocated a Broad Rental Market Area (BRMA). A BRMA is an area which contains a wide range of properties but which is considered to be a single rental market. There is only one BRMA in Telford and this covers the whole of Shropshire. The Rent Office sets individual LHA rates for each BRMA every month and they are published by the local authority so that landlords and prospective LHA tenants can be clear about the maximum amount of rent that LHA will cover.

Because a prospective tenant will know up-front the maximum amount of LHA they will be entitled to, it should encourage them to shop around with their allowance, giving them a much greater degree of personal choice about which tenancy they want to take. If they find a property they like with a rent that exceeds the LHA rate they will be entitled to, they can still choose to take on the tenancy as they will know the amount of shortfall that they have to pay themselves.

**Payment of the allowance will normally be made to the tenant, who will then pay the landlord.**

## How is the LHA rate determined?

To determine the size of the property that a tenant and their family need and the LHA rate that is to be used in the assessment of the claim the following size criteria is used.

One bedroom is allowed for:

- every adult couple (same or opposite sex)
- any other adult aged 16 or over
- any two children of the same sex aged under 16
- any two children under age 10
- any other child

**If you are thinking of renting to single person under the age of 35, please check with us the LHA rate they will be entitled to. For the majority it will only be the shared rate and not the one bedroom rate. The shared room rate will apply to most single people up to the age of 35.**

It is clear to see the maximum rate of LHA that tenant will be entitled to by looking at the number of bedrooms that they need. Other rooms such as a living room, kitchen or bathroom are not counted.

A claim is based on the rate of LHA set by the rent service for the month in which the claim is made. This will then be reviewed annually on the anniversary date of the claim.

The amount of LHA that a person will receive is then subject to a means test, which takes into factors such as account:

- who lives in the household
- how much money the tenant has coming in
- what savings the tenant has

The number of people who are included in a claim for LHA will be used to work out how many bedrooms the tenant needs and the category of LHA they will receive.

An LHA bedroom calculator is available [here](#) at the [Directgov website](#).

Please remember that the appropriate LHA rate is the maximum LHA that will be payable. The tenant's income and family circumstances may mean less than the maximum is payable.

### **Direct Payment of LHA to Claimant**

Tenants receive the LHA payment directly and are responsible for paying their rent.

In certain circumstances however, landlords can continue to receive payments of LHA:-

- If it is considered that the tenant is vulnerable and likely to have difficulty managing their own affairs (for example - the tenant has learning difficulties).
- If it is considered that the tenant will not pay the landlord their rent. It could be that the Council knows that the tenant has failed to pay their rent in the past
- If the tenant has rent arrears of eight weeks or more
- If the tenant is having deductions from their Income Support or Jobseeker's Allowance to pay off rent arrears
- If LHA is backdated or there has been a delay in processing a claim and there is a large amount of allowance to be paid the council can decide to make the first payment direct to the landlord.
- Paying the LHA will secure or protect the tenancy. Please note in order to pay a landlord in these circumstances the rent must be at a level that is affordable to the tenant.



## The Role of the Rent Officer – For Housing Benefit claims only

Housing Benefit regulations state that councils must refer the details of Housing Benefit claims (but not LHA claims) to the Rent Officer. Rent Officers are independent of the Council. They are employed by the Valuation Office Agency, an executive agency of the Department for Works and Pensions.

The Rent Officer will make a series of valuations of a property which are called “determinations”. The Rent Officer has a duty to notify the Council of these various rent figures or determinations which are then used to work out the eligible rent for a property used in the Housing Benefit calculation.

- **Claim related rent:** The Rent Officer will tell the Council if the proposed rent is too high and will determine a figure considered reasonable for the property. The rent officer collects information about rent levels from lettings agencies, private landlords and then uses this to decide if the rent that has been referred could be achieved on the open market.
- **Local Reference Rent:** This figure is determined by taking into account a range of rents for the same type of property in a certain area. The Rent Officer will determine a Local Reference Rent if the claim related rent is higher than the average rents for that type of property in the area. This could mean that although the rent you are charging is considered acceptable by the Rent Officer we cannot base our benefit calculation on it because it is higher than the Local Reference Rent. The purpose of this is to encourage tenants who need to claim Housing Benefit to look for affordable accommodation.
- **Single Room Rent:** The Rent Officer will also give a determination for single room rent and this will be used to calculate benefit claims from single people under 35.
- **Size-Related Determination:** Where the Rent Officer decides that the property has more rooms than the tenant needs he will give a determination for a suitably sized property. Usually this is lower than the claim related rent for the property. This is a size related determination. When deciding whether a property is too large the Rent Officer considers the number of living rooms.

One living room is allowed for up to 3 people, 2 living rooms are allowed for 4-6 people and 3 living rooms in any other case.

The bathroom and kitchen are ignored but the following criteria are applied for the bedrooms:

- 1 bedroom for 2 children under the age of 10 whatever the sex;
- 1 bedroom for 2 children under the age of 16 of the same sex;
- 1 bedroom for a couple or a single parent;
- 1 bedroom for a person 16 or over.

So a house with three bedrooms could be considered too large for a single parent with 2 girls aged 15 or even a couple with 2 girls aged 15.

The number of living rooms (i.e. rooms other than bedrooms, kitchens and bathrooms) is also taken into account when deciding if a property is too large.

If the Rent Officer provides a Claim related Rent, a Local Reference Rent **and** a Size-Related Determination, the authority will base the Housing Benefit on the lowest of these figures. This is known as the **maximum rent**.

The maximum rent is not always the same as the rent being charged so where Housing Benefit does not cover the full rent the tenant is responsible for paying the difference to the landlord. They must also pay for any periods that they are not entitled to benefit.

A new rent officer decision will be requested every twelve months during the life of a benefit claim. This is to obtain the up to date market rent from the Rent Officer Service before we continue to pay benefit.

The Rent Officer will in some instances provide market rent information which shows that rents are declining and this will usually mean that the amount of Housing Benefit that is payable will reduce.

### **Re-determinations to the Rent Officer**

When a Rent Officer has made a determination of the rent, following an application from the Council, the tenant can request that the determination be looked at again if they are not satisfied. This is called a **re-determination**.

**The tenant** will be able to seek a re-determination of the Rent Officer determination by written request to the Council. This must be within **one month** of the date of the notification of their benefit award. The Council will write to the Rent Officer on the tenant's behalf requesting a re-determination.

If a second tenant has their benefit determined using an existing Rent Officer determination they in turn are able to seek a re-determination.

If the effect of the re-determination is that the maximum rent increases this will apply from the date of the rent officer's original decision and any arrears of Housing Benefit will be awarded.

If the effect of the re-determination is that the maximum rent decreases this will apply from the date of the re-determination. It is not applied retrospectively and therefore would not cause an overpayment.

## Claim Reviews and Change of Circumstances

The Council is no longer required to review every claim at set intervals. Previously the tenant had to complete a full application form and send in all verification documentation every twelve months, or less in some circumstances, regardless of whether or not there had been any change in income or circumstances. Failure to return the application form meant that benefit would be cancelled.

**Claims are now set up to run indefinitely and the emphasis is on the customer to report any changes.**

This does not mean that a claim will not be looked at again.

The Benefit Assessment Team deals with the review of claims either by visit, telephone or using lists produced by various agencies to match their data with ours. Reviews are now targeted to those claims where there is a significant chance that a change has occurred. The customer will be asked to complete a form and provide the necessary information.

Tenants who receive benefit payments will be required to provide proof that they are paying their rent and in cases where benefit is paid to their landlord, will be asked to provide proof of payments for any shortfall not paid by benefit. In cases where the tenant cannot provide this, further inquiries will have to be made into the commerciality of the rental agreement. Benefit can only be paid where there is a **commercial liability** to pay rent. We are aware that a rent book is not mandatory but the tenant should however have receipts for any payments they have made to the landlord.

We have found that some landlords have issued a tenancy agreement and once the Rent Officer decision is returned or the LHA rate is set, they have renegotiated the rent to a lower figure. There is no problem with doing this as long as the landlord puts this in writing to the tenant and the Council are informed.

### Change of Circumstances

Your tenant has an obligation to report any change of circumstances which may affect entitlement to benefit. These can be reported in writing or by visit to First Point (where your tenant can wait and have their benefit re-assessed).

Changes should be reported without delay. Delays can lead to overpayments being created or if a change which would lead to increased entitlement, loss of benefit if it not reported within one month.

Landlords are required to report all known changes. A common change that landlords are aware of is if a tenant moves out of the property. To avoid overpayments please inform us promptly. We have an end of tenancy form which you can use [here](#).

Landlords or tenants failing to report change of circumstances may be subject to further action. Please see [Benefit Fraud pages](#).

# Disputes

## Statement of Reasons, Reconsiderations and Appeals

### Who can dispute a decision?

A “person affected” by a decision that has been made in respect of a claim for benefit, may dispute the decision. This person may be:

- The claimant or the appointee
- A person from whom the Council has determined that an overpayment of benefit is recoverable.
- The landlord or the agent (if they are paid direct)

The regulations state that the only time a landlord or their agent is a “person affected” is when a decision is made regarding the circumstances in which payment is to be made to a landlord, circumstances in which payment may be made to a landlord, and the decision that an overpayment is recoverable from the landlord or their agent.

However although these are the only decisions that can be disputed by a landlord, if a landlord has information to suggest that a benefit award is incorrect and provides information to the Council we will always look again to ensure the correct decision has been made (for example an incorrect end of tenancy date has been used in a calculation).

The affected person can request any of the following options once they have received a notification of the decision regarding benefit entitlement.

- **Ask for an explanation (Statement of reasons)** – A landlord can write to us requesting a more detailed explanation of our decision. This should be requested within one month of the date of the decision. We will write giving a more detailed explanation of how and why we have reached our decision. Alternatively a request for a verbal explanation may be made and we will telephone to explain how and why we have reached our decision. However, if the landlord still disagrees with the information in the original decision, they have a time limit of **one month** from the date they were first informed of our decision and not from the date of our explanation (any time that it takes us to issue our explanation is not counted in the one month time limit)
- **Ask us to look again at the decision (Reconsideration)** – This request must be made in writing and signed by the person who is affected by the decision. This should also be requested within **one month** of the date of the benefit notification. It should state which decision needs to be reconsidered and the reason why it is thought the decision is wrong. We will send a letter stating the detailed reasons why we have or have not changed our decision. If we have reconsidered our original decision and we have not changed it then if you wish, there is a right of appeal against the decision. This must be received by the Council within **one month** of the date of the reconsideration decision.
- **Appeal against the decision** – This must be in writing and signed by the person who is affected by the decision. The appeal must be made within **one month** of the date of your benefit notification (or if you have already had a reconsideration decision, within one month of the date of that reconsideration). It must state which decision is being appealed and the reason why it is thought the decision is wrong. If we have not already done so

we will reconsider the decision. If we are unable to alter our decision we will prepare the case so that an independent tribunal, administered by Her Majesty's Court and Tribunals Service, can hear the appeal. We will send both the landlord and HM Court and Tribunals Service a copy of our submission. In certain circumstances your tenant may also be sent a copy of the submission and invited to the appeal hearing. There is a choice of an oral hearing or a paper based hearing. The tribunal (normally one legally qualified person) will then make a decision on the appeal. There is more information about HM Court and Tribunals Service on their website – [www.justice.gov.uk](http://www.justice.gov.uk). Housing Benefit and Council Tax Support appeals are heard by the Social Security and Child Support first-tier Tribunal.

## Late Reconsiderations and Appeals

If the landlord sends the Council a request for reconsideration or appeal and it is outside the one month time limit, we will require in writing, the reasons why the reconsideration or appeal request is late.

In the case of a reconsideration we will make a decision as to whether we are able to accept the reasons for it being late. In the case of an appeal if we do not think that you have shown you had a good reason for sending in the appeal late, the request will be sent to HM Court and Tribunals Service and they will make a decision as to whether or not they can accept your reasons for lateness. If we are able to accept your reasons for sending in the appeal late, your appeal will be treated as though it has been made on time.

There is an **absolute** time-limit of 13 months so if the request for reconsideration or appeal is received **more than** 13 months after notification of the original decision then the reconsideration will not be considered. An appeal outside the absolute time-limit will be sent to HM Court and Tribunals Service for them to confirm whether the appeal should be struck out.

## How to dispute a decision

Any dispute must be in writing and state the reasons why the person affected does not agree with the original decision that has been made. For example in a case when disputing the date a benefit claim has been ended when someone has moved out we need the following details; when notice to end the tenancy was received; the date that any deposit was released; confirmation whether you have seen the tenant in the property after the date they state they have moved, the date the tenancy ended and the date the keys have been returned.

It is helpful to the Quality Assurance & Appeals Officer if the dispute is made on the Council's dispute form as it is then clear what action the person affected wishes to take. A copy of the form can be downloaded [here](#).

Please note that disputes made via e-mail can only be accepted if they contain a scanned signature. Any dispute not containing a signature will have to be returned in order to obtain one.

We aim to deal with all dispute requests within four weeks of receipt or as quickly as possible thereafter. All relevant information should be included and also any documentary evidence where appropriate

# Benefit Fraud

Benefit fraud is a deliberate misrepresentation or non disclosure of information for the intention of obtaining benefit or increasing an existing award of benefit.

The Social Security Administration (Fraud) Act 1992 is a significant act of law as it gives local authorities additional powers to help prevent and detect fraudulent claims for benefit. Local authorities can now obtain information directly from a landlord, agent or anyone acting on their behalf if there are suspicions about a claim. The suspicions do not have to involve the landlord and could be related to a claim at any property the landlord or agent owns or manages. We may ask for information using this new power but we will make it clear that we are doing so.

The Act strengthened the offences relating to fraud and this has implications for landlords and agents. It is now a criminal offence to dishonestly or without reasonable excuse:

- Fail to notify a change of circumstances which regulations under this Act require a person to notify.
- Knowingly cause or allow another person to fail to notify a change of circumstance which regulations require the other person to notify
- Make a false statement or representation
- Produce or allow to be produced any documentation or information which is false.

These offences mean that any landlord or agent who knowingly allow or encourage a tenant to provide false or incorrect information may be guilty of an offence. Similarly, a landlord or agent who allow or encourage a tenant not to report a change in circumstances can be guilty of an offence.

Where the landlord or agent receive payments of benefit, they have a duty to report any change in circumstance which may affect the amount of benefit that the tenant may be entitled to. Failure to do so may be a breach of the offences listed above and may lead to the landlord or agent receiving a formal caution, an administrative penalty or being prosecuted.

Our notification letters to the landlord or agent list the type of changes that a landlord should report – **please make sure you read these notifications carefully.**

## Reporting Fraud

If a landlord believes that a tenant, or another landlord, may be committing benefit fraud they can contact our Fraud Investigation Team on 01952 383899.

Alternatively any relevant information can be put in writing and sent to us.

More information on benefit fraud can be found at [www.telford.gov.uk/fraud](http://www.telford.gov.uk/fraud)

# Council Tax

Council Tax is a tax on residential properties and is used to meet the cost of local public services.

Council tax is normally payable by someone who is solely or mainly resident at a property and is over the age of 18. The landlord usually passes on the Council Tax liability to their tenants when they move into the property. The tenant can claim both Council Tax Support and Housing Benefit on the same claim form.

If a landlord wishes to continue to pay Council Tax on a property, the charge could be included in the tenancy agreement as part of the rent. The landlord would then continue to receive the bill and make the payment of Council Tax to the Council.

It is extremely important for a landlord to notify our Customer Contact Centre of any changes relating to a property in order that the Council Tax is attributed to the correct person.

There are three common circumstances where the owner or landlord would be liable to pay the Council Tax themselves:

- If a property was built or adapted for tenants who do not form part of a single household, have separate tenancies or pay rent for only part of the property; the property may be classed as a House of Multiple Occupation
- The property is a hostel or care home
- The property is unoccupied

There are some situations where there may be no liability for the payment of Council Tax in respect of unoccupied properties. These are unoccupied properties which:

- are left unoccupied by someone who is receiving personal care in hospital or nursing home or elsewhere
- are left unoccupied by someone who has moved to provide personal care to another person
- are left unoccupied by someone who has gone into prison
- are awaiting probate or letters of administration to be granted
- are awaiting occupation by a minister of religion
- are the property of a bankrupt person
- are the responsibility of a bankrupt's trustee
- are empty because occupation is prohibited by law

Many of the exemptions listed above are only applicable for a fixed period.

Please note that unoccupied unfurnished properties and those undergoing major repair which don't fall into any of the above categories no longer receive an exemption.

More information can be found on our website [www.telford.gov.uk](http://www.telford.gov.uk).



## Discretionary Housing Payments

If your tenant is in receipt of some Housing Benefit (including Local Housing Allowance) or Council Tax Support, but there is a shortfall between the benefit they are entitled to and the rent and or Council Tax that is charged and they are struggling to pay the shortfall, then they may be awarded a Discretionary Housing Payment (DHP). DHPs are usually paid for a short period of time to help with any hardship your tenant is experiencing due to unusual circumstances.

If your tenant wishes to apply for a DHP they must complete an [application form](#) giving details of their financial situation including income, expenditure and any debts.

Each application for a DHP is considered on the individual merits of the case. Payments may be awarded if your tenant is experiencing financial hardship, or they have some other special circumstance which is causing them difficulty paying their rent or Council Tax.

When a DHP application is received, a Discretionary Awards Officer will arrange a visit to your tenant. They will give advice about any other income that your tenant may be able to access and give them information on how they may be able to ease their financial difficulties.

If your tenant requires further information on DHPs, please ask them to ring our Customer Contact Centre on 01952 383838.

## Frequently Asked Questions

- **Does the Council pay deposits?**

If a landlord requires a deposit for the tenancy the tenant will be responsible for making this payment. Benefit will not cover this. The Council does operate a bond scheme for certain vulnerable tenants. Tenants can find out more information by ringing our Housing Service on 01952 381925.

- **Will the Council pay 4 weeks notice when the tenant leaves without giving notice?**

Benefit is payable if a tenant has a liability to pay rent and occupies the property as their home. A tenant who has vacated without giving notice may still have a liability to pay rent but as they no longer occupy the property as their home there will not normally be an entitlement to benefit.

However, we can consider paying benefit on a home that the tenant has vacated if the tenant:

- has a liability to pay rent at a new address; **and**
- has claimed benefit at the new address; **and**
- has a liability to pay rent at the old address which he could not reasonably have avoided

It is advisable for the tenant to apply in writing giving the relevant information

If the Council considers that the tenant has taken all reasonable steps to prevent the continuing rent liability at the old address we will consider paying benefit but only for a maximum of four weeks.

- **Will the Council pay benefit if a tenant is absent from the property for a temporary period?**

The Council may continue to pay benefit if a tenant is away from home on a temporary basis. We can normally pay up to a maximum of 13 weeks.

We can pay only where:

- the tenant intends to return to the property
- the tenant's absence is likely to last no more than 13 weeks **and**
- the property is not re-let

If the tenant is in hospital or in prison **on remand** we may consider making payments of benefit for absences of up to 52 weeks. However the tenant must have the intention to return home within the 52 weeks. If it becomes clear that the tenant will not be returning home or that the absence will exceed 13 weeks (or 52 weeks for people in hospital or on remand) the benefit will stop immediately.

For example if a tenant went into hospital with the intention of returning home within 52 weeks we would continue to pay benefit. If, after two weeks it becomes clear that the tenant will not be returning home, the benefit would stop immediately.

- **How can I comment on the Housing Benefit Service?**

If you have a comment then you can always contact our Discretionary Awards Officers who will be happy to discuss any issues or ideas you have.

Alternatively the Council has a dedicated Customer Quality Team who co-ordinate all customer feedback including compliments and complaints.

If you would like to tell us about something we have done well, you have a suggestion about how we could do things differently, or you need to complain, you can contact the Customer Quality team.

The easiest way is to fill in this [online feedback form](#), you can also [view the status of your feedback](#).

We are committed to:

- dealing with complaints and comments quickly and effectively
- using complaints, comments and compliments to review and improve our services

Contact Details for the Customer Quality Team are:

By email to [customer.quality@telford.gov.uk](mailto:customer.quality@telford.gov.uk)

By telephone to 01952 382006

In writing to –  
Customer Quality Team  
Telford & Wrekin Council  
Addenbrooke House  
Ironmasters Way  
Telford  
TF3 4NT

Further information on complaints can be found on our website.



**Notification of End of Tenancy (for completion by Landlord or Landlord's Agent).**

Name of tenant

Address vacating

Tenancy End Date

Date tenant moved out

Date tenant handed in notice

Date keys returned

Forwarding Address

Current Status of property (is it empty?  
If new tenants please give names and  
previous address if known and date  
new tenancy begins)

Landlord Name and Address

Signature

Date

Please print name

If company please state position  
(Housing Officer etc.)

Company Stamp

Please return completed form to: Revenues and Benefits Service  
Telford and Wrekin Council  
PO BOX 249  
Addenbrooke House  
Telford  
TF3 4LP

**Email: [benefit.service@telford.gov.uk](mailto:benefit.service@telford.gov.uk) Telephone: 01952 383838**