

# *Housing Benefit Information for Landlords*



## **General note to landlords**

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At Wychavon we believe that landlords are important stakeholders in the services that we provide. We want to work with you so that your tenant's claim can be processed quickly and accurately, so that we can pay you promptly, and prevent overpayments from arising.

You will have made a contractual agreement with your tenant for them to pay the rent. Your tenant may claim Benefit to help pay the rent, but that doesn't mean you are entitled to their Benefit. There are circumstances where we can pay their Benefit directly to you. However, this doesn't affect your usual relationship with your tenant, and doesn't form a contract between you and us. If there are difficulties with the payment of rent, you really need to discuss this with your tenant, as it's still your responsibility to collect their rent. An understanding of this is vital in maintaining a good relationship between you and us.

## **Housing Benefit - Confidentiality**

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Any personal information that we hold about your tenant must be held as strictly confidential, unless your tenant has given us their permission first in writing. We will always try to be helpful when you contact us. However, we hope you will understand that without their permission, we would be breaking the law if we were to give you any information about them, or any claim they may have.

On our application forms, we ask for permission to discuss the progress of a claim with you, where we are making payments to you directly. If permission is given, we can discuss the progress of the claim in general terms. However, we will not be able to discuss their personal details with you.

## Housing Benefit - What is it?

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Housing Benefit gives help towards housing costs for people on a low income, or who receive Income Support or Jobseeker's Allowance. It is a state benefit which we administer on behalf of the Department for Work and Pensions. It is not a rent payment. Even where Benefit is given, the liability to pay the rent is still remains with your tenant.

Housing Benefit will only give help towards actual housing costs. There may be other costs included in the rent. These may include service charges for water rates, heating, energy, meals and personal care. These costs will not be covered by Benefit. Charges for general care and support may be covered, but you will need to ask us about this, as the rules on this are gradually changing. Also, Benefit will not pay for a deposit or rent in advance.

## Housing Benefit - How to claim

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### Pre-tenancy Determination

Before you even enter into an agreement with a prospective tenant, it is a good idea to get a Pre-tenancy Determination. Forms are available at our offices. We send the completed form to the Rent Officer Service, who looks at the rent too see if it is fair. He then writes to us, you and the prospective tenant with his decision. His decision tells everyone the maximum amount of Benefit we can award. This takes around 7 to 10 days, but it will speed up the time it takes to deal with a claim, if one is made. It's important to remember that his decision tells us **the maximum** amount of Benefit we can award, not how much we can award.

Prospective tenants can also come to us and ask for a Benefits forecast as well. This, together with a Pre-Tenancy Determination, would give any prospective tenant a reasonable idea of how much Benefit they could get. This can help them to decide if they can afford the rent, before they even take up the tenancy.

### **The claim form**

It's your tenant's responsibility to claim Benefit. However, they do not have to tell you that they are claiming. Without a claim, we cannot pay Benefit. Claim forms are available from all of our offices. Probably the most important thing to remember about making a claim, is to return a completed form **without delay!** This is because the date we pay Benefit from, is worked out from the day that we get the claim form.

Normally, Benefit starts from the Monday after we get a claim, even if that day is a Monday. Benefit weeks run from Monday to Sunday. A special rule allows us to pay Benefit to new tenants from the start of the week, as long as we get their form in that first week, or if their rent is payable monthly, we can pay Benefit from the start of their tenancy. If they move in over the weekend, we need their claim form the Friday before they move, at the very latest. We cannot backdate Benefit before this, unless the tenant gives us a very good reason why, in writing. We may ask for proof of this.

Benefit is only due when your tenant is actually living in the property. We cannot pay Benefit before this. Benefit must also stop when they move out. Benefit is not payable for any notice period that has not been served.

Benefit is usually reviewed at least once every year. Your tenant is sent a claim form to renew the claim well before it is due to expire. If we don't get this back, we will cancel their claim. If the form is late, there may be a gap where no Benefit is paid.

### **The information we'll need**

We will make a thorough investigation into all of the information on the claim form, to check that it is right. We need to see proof of identity, income, capital and their rent. This must be from the original documents,

copies will not be accepted. These can be brought to any of our offices, where they will be verified and returned immediately. We can also do this by post.

Your tenant may ask you for proof of their rent. This is the information we will need:

- **Your name and business address**
- **Date the tenancy started and when it will end**
- **Amount of rent and how often it is to be paid**
- **What services are included in the rent**
- **Proof of when their rent is paid up to**

If you have issued them with a tenancy agreement and given them receipts for the rent they have paid, they should be able to provide us with all of this information. Otherwise, they will have to ask you for this proof. To make it easier for you, you can complete one of our Proof of Rent Forms which are available from our offices. You can also do this by letter.

## **Housing Benefit - How it's worked out**

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### **The Rent Officer**

Virtually all rents must be referred to the Rent Officer. He is independent of the Council. He tells us the rent that we **must** use to work out the Benefit. When he makes his decision, he will compare your rent with the rent for an average property in the area that suits your tenant's needs. He will not let us pay extra Benefit for a property that is bigger or more expensive than this. If this is the case, their Benefit will be restricted. Until we get his decision, we will use a notional figure to try and make sure that Benefit is not overpaid. When we get his decision, we will adjust this for the whole period of the claim.

One important thing to note is that tenants who are under the age of 25, and who live on their own, will have their rent restricted to an average rent for just a bed sitting room. These are the rules and we have no discretion over this.

We do have some discretion to award a **Discretionary Housing Payment** to 'top up' a restricted rent. However, due to the budget available, awards tend to be for small amounts and for short periods. Tenants will need to ask for this in writing. We also produce a leaflet about this for more information.

### **The calculation**

Benefit is worked out by comparing your tenant's actual income with what the government says is the minimum for their household's needs. People on Income Support, or an equivalent amount, get the maximum help. Where people earn more than this, they will get less. There is no set amount. Each claim is worked out separately.

Where there are non-dependant adults living with the tenant, we usually have to make a deduction from their Benefit, as they should be making a contribution. We have to use figures set by the government, which depend on how much they earn. Sometimes this may mean that they no longer qualify for Benefit.

The full result of the calculation is notified in writing to your tenant. If we pay their Benefit to you, we will write to you and tell you the following information:

- **How much Benefit they are entitled to**
- **When the Benefit will start**
- **How much the payments will be and from when**

## Housing Benefit - How it's paid

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Benefit is paid to the tenant unless they ask us in writing to pay you directly. There is a section on the claim form for this. They can also ask us to stop paying you at any time. Before we will pay you, we need your acceptance in writing to the following terms:

- **You will accept the payments**
- **You will repay Benefit that is overpaid if asked**
- **You will notify us of any changes in tenant's circumstances you are aware of**

There is a declaration on the claim form that your tenant may ask you to sign. If they do not do this, we will send you a declaration to sign. Without this, we will not pay you their Benefit.

There are also some reasons when we can pay you without the permission of your tenant. We would need you write to us with proof of any of these. The reasons are:

- **When they have more than 8 weeks rent arrears**
- **When they have moved and have rent arrears for when they were there**
- **If we feel it's in their interests to do so**

Benefit is paid 4 weekly in arrears by a crossed cheque. We do not pay Benefit monthly, so if you charge rent monthly, you need to remember that payments usually represent 4 weeks rent, not a full month. This does not mean that you lose money, you just get paid every 4 weeks.

## **Housing Benefit - What happens if too much Benefit is paid?**

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Sometimes your tenant may be paid Benefit they are not entitled to. This is called an overpayment. There are many reasons for this. Generally though, this is because we have not been told soon enough about changes that will affect their Benefit. Almost all overpayments need to be paid back.

We would expect you to tell us about any changes that you know of, so that overpayments of Benefit may be minimised or prevented, especially where you should be aware of these. For example, when tenants move in or out, or changes that you would be aware of, if they live with you in your own home.

If their Benefit has been paid to you, in all cases, we will write to both of you to tell you:

- **How much the overpayment is**
- **The period it relates to**
- **How and if it will be recovered**
- **Any appeal rights you have**

If your tenant is still getting Benefit, we will recover the overpayment by deducting a set amount from their regular 4 weekly cheque, until the overpayment is cleared. The same will apply if their Benefit is being paid directly to you. Some overpayments can relate to the tenant's previous address.

If your tenant no longer gets Benefit, after giving time for an appeal, an invoice will be sent for payment. The invoice will be sent to you if you were paid their Benefit. This should be repaid within the time given. If you can't do this, you must contact us to make an arrangement to pay it back. We issue reminders for unpaid invoices, but if these remain unpaid, we may take action through the County Court.

You may have other tenants, where we are also making payments of Benefit directly to you. If one of your tenants has been overpaid, and they no longer get Benefit, we may also recover the overpayment from your other tenants' Benefit payments. In this case, the law says that you must consider that the amount we have deducted, has still been paid in respect of the other tenant.

This will mean that you will need to collect any rent arrears from your tenant. We are aware that this may cause difficulties, especially if they have moved. However, the rules say that these overpayments must be paid back. Unfortunately, we will not be able to provide you with a forwarding address for any former tenant. The responsibility for collecting the rent is yours, as their landlord. (Please see the general note at the beginning of this leaflet.)

### **Council Tax liability**

When your tenants move out, we usually need to alter our Council Tax records to show who is now responsible for the Council Tax. You will be responsible whenever the property is empty. However, we can reduce, or even exempt the Tax, depending on whether the property is left furnished or not. You should tell us promptly, whenever your properties become empty. Although it is not your responsibility to tell us when a new tenant moves in, it is in your interests to do this, as it will help us to change the responsibility for the tax from you to your tenant. This will help prevent us from sending you incorrect bills. Forms to tell us about these changes are available from our offices.

### **Housing Benefit - Right to Appeal**

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Your tenant can appeal against almost any aspect of their claim for Benefit. However, your right to appeal is very limited. For example, you can appeal against whether or not an overpayment should be recovered directly from you. You have no right to appeal against any aspect of your tenant's entitlement.

There are two ways to appeal. You are encouraged to ask us to look at our decision again first. This gives us an opportunity to change our decision, if we agree with you, without going through a formal appeals procedure. To do this, please ask us to **'review'** our decision. You can ask right away for your case to be heard by an independent tribunal run by The Appeals Service. If you wish to do this, you will need to **'appeal'** against our decision.

Appeals must be made in writing. They must be made within **one month** of the date we notified you of the overpayment. You must give a reason for your appeal.

## What you can expect from us

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- We will process claims promptly, normally within 14 days of receiving all the information we need to work out the claim
- We will make payments to you every 4 weeks, as long as your tenant is entitled to Benefit
- We will notify you in writing of any changes to your tenant's Benefit and how much you will be paid, or if they have asked us to stop paying you
- We will only discuss your tenant's claim with you if they have given us their permission
- We will notify you in writing if there is an overpayment of Benefit

## What we expect from you

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- Accurate information about tenancy details for your tenants
- You will tell us right away about any changes in your tenant's circumstances, so that overpayments can be prevented or minimized, for example when your tenants move out
- Your recognition that you are not entitled to your tenant's Benefit and that if there are difficulties with payment of rent, you must take this up with your tenant
- Prompt repayment of Benefit overpayments

## How to contact us

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**In person:** At the Civic Centre or the Council Shops in Evesham and Droitwich Spa

**In writing:** Wychavon District Council  
PO Box 11  
Pershore  
Worcs.  
WR10 1PU

**By telephone:** 01386 565130

**By fax:** 01386 554416

**By email:** [benefits@wychavon.gov.uk](mailto:benefits@wychavon.gov.uk)

**Website:** [www.wychavon.gov.uk](http://www.wychavon.gov.uk)

*This leaflet has been produced to give landlords a broad overview of how the Housing Benefit system works. It is not intended to be a complete summary of all of the Housing Benefit Regulations. The Regulations are also subject to changes by the government.*