

Report to the Finance and Performance Management Cabinet Committee



**Epping Forest
District Council**

Date of meeting: 17 March 2008.

Portfolio: Finance, Performance Management & Corporate Support Services.

Subject: Local Housing Allowance.

Responsible Officer: Janet Twinn (01992-564215).

Democratic Services Officer: Gary Woodhall (01992-564470).

Recommendations/Decisions Required:

- (1) To note the introduction of the Local Housing Allowance and the potential impact on residents; and**
- (2) To consider the attached Vulnerability and Direct Payment Policy and recommend it to Cabinet for approval.**

Introduction:

1. Housing Benefit and Council Tax Benefit are means tested benefit schemes which assist with the payment of rent and Council Tax. The schemes are statutory and are administered by Local Authorities on behalf of the Department of Work and Pensions. In the Epping Forest District, there are currently just over 8000 claimants and in 2007/08 it is expected that a total of over £32m will be paid. The majority of this cost is claimed back from the Government.

Local Housing Allowance:

2. The Local Housing Allowance (LHA) is a new way of calculating and paying Housing Benefit and it is being introduced nationally from April 2008. This new scheme applies only to tenants renting accommodation from private landlords who make a claim for Housing Benefit on or after 7 April 2008. At present, it will not apply to council tenants, tenants of Registered Social Landlords or people living in mobile homes or houseboats, although there is the possibility that the scheme will be introduced in these areas in the future. People currently in receipt of Housing Benefit will continue to have their Housing Benefit calculated in accordance with the existing scheme whilst they continue to live in the same property and do not have a break in their Housing Benefit entitlement.

3. The scheme has been introduced as a way of making tenants more responsible for their choice of accommodation and managing their own finances. Under the new scheme, claimants will have their LHA entitlement assessed on the average rent level for the size of accommodation that the size of their household requires. This level will be set at a fixed rate and everybody living in the same area, with the same size of household, will have their LHA calculated using the same fixed rate. If a claimants rent liability is lower than the fixed rate, they will still be able to receive the fixed rate of LHA and keep the difference, up to a maximum amount of £15.00 per week. The LHA rates will reviewed by the Rent Service each month and published in appropriate places such as the website and to third parties such as the Housing Service, CAB and local Letting Agents. A prospective tenant can therefore determine in advance the amount of help towards their rent that they can receive and either

assesses how they can pay any shortfall themselves, negotiate with the landlord accordingly or look for alternative more affordable accommodation.

4. At present, the claimant can choose whether to have their Housing Benefit paid to themselves or their landlord unless they are more than 8 weeks in arrears with their rent. However, under the LHA, the claimants have no choice and will receive their payments direct. The LHA will only be paid to the landlord if the claimant is 'vulnerable' (ie not able to manage their own finances), or if the tenant has more than 8 weeks rent arrears.

5. Under the present Housing Benefit scheme, the Rent Service has to provide rent decisions for each private sector benefit claim. These are based on the rent that the landlord could expect from the property and the average rent levels in the area for the appropriate size accommodation for the claimant. The LHA scheme still requires The Rent Service to continually survey the local area to establish average rent levels for different size accommodation. As a consequence of the introduction of the LHA, The Rent Service decided that they would review the localities that they use for assessing average rent levels. Nationally, they have reduced the number of localities and have established large 'Broad Rental Market Areas' (BRMA's). The LHA rates are then set using the average rent levels in each of these BRMA's.

6. There are 3 BRMA's affecting the Epping Forest District and therefore 3 different LHA rates for tenants depending on where they live in the District. As a basic guide, properties south of the M25 will be included in the Outer North East (London) BRMA. This BRMA includes Chingford, Woodford, Ilford, Barking, Dagenham and Hornchurch. Everything north of the M25 (except Waltham Abbey) has been included in a Harlow & Stortford BRMA. This BRMA includes Harlow, Bishops Stortford and a large rural area extending to just south of Saffron Walden and just west of Braintree. Waltham Abbey has been included in a South East Herts BRMA which includes Hoddesdon, Ware, Hertford, Welwyn Garden City and Hatfield. As a result of this review of the rent localities, the average rent levels within the Epping Forest District have reduced quite significantly in each of the 3 BRMA's.

7. The LHA has already been introduced quite successfully in 9 Pathfinder Local Authorities, although tenants generally benefited from the new scheme and rent levels did not reduce. Nationally, it is predicted that there will be more 'winners' from the scheme than 'losers' but unfortunately the Epping Forest District is an area that will be affected overall by lower rent levels. Although the LHA does not commence until April, we have received the LHA rates for March to give an indication of the expected levels. These figures are shown in Appendix A.

8. An unforeseen consequence of this review is that although existing Benefit claimants are not affected by the LHA, they have been affected by the rent review. Under the current scheme, we have to refer the rent for each Housing Benefit claim to the Rent Service and we are given a decision that is valid for 52 weeks, after which we have to obtain a new decision from the Rent Service. Each decision has a 'Local Reference Rent' figure and it is either this figure or the rental valuation of the property itself that is used to assess Housing Benefit entitlement. Since the BRMA's have been established, we have been receiving decisions on existing claims using average rent levels within the larger BRMA's, rather than the former smaller localities. There have already been some significant decreases in Housing Benefit entitlement for existing claims, some as much as £100.00 per month. There is no warning that can be given, nor any transitional protection as the new decision applies with immediate effect.

9. The Rent Service has provided information to authorities on 'winners' and 'losers' for existing claimants. They have looked at all the rent referrals in the last year and have determined whether rent levels will decrease or increase as a result of the rent review. A summary of how the Epping Forest District and the surrounding Local Authorities have been affected is shown in Appendix B. It can be seen from this chart that we are going to be

significantly affected by the rent review, whilst other surrounding authorities will actually see increases in their rents. The area with the most tenants affected is Waltham Abbey with an overall 57.2% of tenants facing a decrease, the majority of the decreases being £5.00 - £10.00 per week. However, Epping has the problem that the majority of the decreases are £20.00 - £25.00 per week.

10. The Housing Benefit scheme and the Local Housing Allowance are statutory schemes for the authority and we have no choice but to operate these schemes. Similarly, we have no control over any Rent Service decision. We have previously made representations to the Rent Service about the BRMA's with limited success, but in view of the criteria that the Rent Service have to use, it is difficult to object to their decisions. The only method of challenging the Rent Service is by judicial review. The Department for Work and Pensions are also aware that the Council is concerned at the number of people adversely affected. However, the Council is in the minority of authorities that are looking at significant numbers and amounts of decreases and therefore cannot expect any changes to now be made.

Vulnerability and Direct Payment Policy:

11. The LHA will be paid directly to claimants but it is recognised that there will be some claimants who will be unable/unlikely to pay their rent to their landlord. Provision has therefore been made for these circumstances within the LHA scheme. In order to help claimants be responsible for their own finances whilst protecting the interests of vulnerable claimants and landlords, it is necessary to put in place a policy for determining when direct payments to landlords would be appropriate.

12. The main points of the policy set out the criteria for identifying potentially vulnerable claimants and the decision making process. The Policy is attached at Appendix C.

Conclusion:

13. It is anticipated that the LHA will cause considerable short term difficulties for some residents and Members are asked to note the information provided in the report. To allow officers to implement the LHA efficiently and objectively a policy for direct payments is required and Members are asked to recommend the attached policy to Cabinet for approval.

LHA rates – March 2008

Appendix A

Locality	Room	1 bed property	2 bed property	3 bed property	4 bed property	5 bed property
Harlow & Stortford	£69.00 pw £299 pcm	£126.92 pw £549.99 pcm	£161.54 pw £700.01 pcm	£190.38 pw £824.98 pcm	£311.54 pw £1350.01 pcm	£346.15 pw £1499.98 pcm
South East Herts	£77.31 pw £335.01 pcm	£137.31 pw £595.01 pcm	£173.08 pw £750.01 pcm	£196.15 pw £849.98 pcm	£288.46 pw £1249.99 pcm	£302.89 pw £1312.52 pcm
Outer North East London	£85.38 pw £369.98 pcm	£150.00 pw £650.00 pcm	£184.62 pw £800.02 pcm	£229.81 pw £995.84 pcm	£311.54 pw £1350.01 pcm	£415.38 pw £1799.98 pcm

Claimants with decreased entitlement as a result of the rent review

Appendix B

Overall results for Local Authorities

Local Authority	Total referrals over 12 months	No change	Increased entitlement	Decreased entitlement	Decreased entitlement as % of claimants
Epping Forest	1294	709	95	490	37.9%
Harlow	894	683	206	5	0.6%
Broxbourne	1399	857	372	170	12.2%
East Herts	986	575	280	131	13.3%
Brentwood	588	389	1	198	33.7%
Waltham Forest	8056	6817	1239	0	0.0%
Redbridge	6883	3283	3581	19	0.3%
Havering	3023	2093	930	0	0.0%

BRMA's in the Epping Forest District

BRMA	Total referrals over 12 months	No change	Increased entitlement	Decreased entitlement	Decreased entitlement as % of claimants
South East Herts	264	113	0	151	57.2%
Harlow & Stortford	324	141	27	156	48.1%
Outer North East London	706	455	68	183	25.9%

Local Housing Allowance

Vulnerability and Direct Payment Policy

Introduction

Local Housing Allowance (LHA) legislation prescribes that claim payments must be paid directly to the claimant (tenant), rather than the landlord. Tenants can no longer choose to have their benefit paid directly to their landlord but, in certain circumstances where the tenant is not able to manage their financial affairs, payment can still be made to landlords. Generally, this may be where the claimant is either considered to be 'vulnerable' or they owe rent arrears of eight weeks or more.

The aim of this policy is to:

- Provide a safeguard to the most vulnerable tenants and reassure them that their benefit and rent will be paid.
- Prevent rent arrears and tenants being put at risk of eviction.
- Reassure landlords that their rent will be paid if they have vulnerable tenants or are approached by vulnerable tenants.
- Make reasonable, fair and consistent decisions.
- Treat each case individually and not make assumptions about people's situations.

The policy is not designed to:

- Replace support that is being received to allow tenants the opportunity to be responsible tenants and to be in control of their income and expenditure.
- Be a blanket policy for agencies providing support to private tenants.
- Be used by landlords to circumvent the aims of the LHA.
- Undermine the rights of tenants to receive payments themselves.

Vulnerable Claimants

The Council has the discretion to pay the landlord directly where it considers the claimant is likely to have difficulty managing his or her affairs.

People who should not be considered as vulnerable

- People who have been appointed to act on behalf of a claimant who is 'unable for the time being to act for themselves' and
- The claimants they act for, until such time as they cease to have an appointee acting for them.

Identifying potentially vulnerable claimants

We may receive requests for consideration from the claimant, landlord or a third party such as DWP, Social Services, GP, friend or family member. The request should be made in writing and include supporting documentary evidence. If the request comes from anyone other than the claimant we must contact the claimant either by phone, or preferably by conducting an interview, to find out what his or her issues are.

We will only respond to the landlord or third party if there is written consent from the claimant to do so. If no consent is given, then the third party should be told that we will investigate the matter and contact the claimant.

There are two indicators to consider when trying to identify vulnerable claimants – the cause and the effect. It is necessary to consider either or both when trying to establish vulnerability, although a claimant is not automatically vulnerable because they match one of the indicators.

Causes

Each case must be considered on its own merits when making a decision on vulnerability, taking into account any supporting evidence. Many circumstances may affect a person’s ability to manage his or her financial affairs. For example;

- **Learning Disabilities** – These can range from mild to severe. In more severe cases, the claimant is likely to have an appointee to act on his or her behalf, in which case a decision not to pay the landlord should be made.
- **Medical Conditions** – Those which seriously impair someone from managing his or her affairs on a day-to-day basis, e.g. mental illness (schizophrenia, Alzheimer’s, senile dementia). However, again, there may be an appointee acting on a claimant’s behalf in most of these situations.
- **Illiteracy or an inability to speak English.**
- **Addiction to drugs, alcohol or gambling.**
- **Fleeing domestic violence; single homeless (care leavers); people leaving prison.**

Cause – examples of evidence required

Description	Examples of evidence required
Learning Disability	Written evidence from GP, Social Services, Care Workers, DWP, etc.
Medical Condition	Written evidence from GP, Social Services, Care Workers, hospital, etc.
Illiteracy / Inability to speak English	Written evidence from support organisations, etc.
Addiction to drugs / alcohol / gambling	Written evidence from support organisations, etc.
Fleeing domestic violence / single homeless / leaving prison	Written evidence from support organisations, probationary service, social services, etc.

Effects

The effects of vulnerability can illustrate quite clearly the inability of a claimant to manage his or her own affairs. Some examples are;

- **Severe debt problems / recent County Court Judgements.**

- **Undischarged Bankrupt.**
- **Inability to obtain a bank account** – in practice everyone should be able to obtain a basic bank account at one of the High Street banks or building societies.
- **DWP making deductions from IS/JSA IB to pay utility companies directly to clear outstanding arrears** – should only be considered if part of the debt is still outstanding.
- **In receipt of help from Supporting People (SP).**
- **In receipt of help from a homeless charity.**

Effect – examples of evidence required

Description	Examples of evidence required
Severe debt problems / recent CCJ's	Evidence from help groups, creditors, court orders, solicitors, etc.
Undischarged bankrupt	Copy of court order.
Inability to open a bank account	Letters from banks or money advisers.
DWP making payments of IS / JSA direct to utility companies with outstanding arrears	Only consider if there is evidence that part of the debt is still outstanding.
In receipt of Supporting People help	Evidence from social services and support providers.
In receipt of help from a homeless charity	Evidence from the homeless charity

If the claimant fails to provide the information / evidence required, this may in itself demonstrate vulnerability, especially when coupled with another factor.

Tenants with rent arrears of eight weeks or more

Claim payments will be made direct to the landlord where the tenant has built up rent arrears of eight weeks or more. The landlord will have to provide documented evidence of rent arrears and any recovery action taken. The Council may decide to continue paying the landlord even after the arrears have fallen below eight weeks.

Making a Decision

It is important to note that just because a claimant falls into one or more of the above categories, this does not necessarily mean he or she is 'vulnerable'. Each case must be treated on its own merit, based on the information and evidence collected. In some circumstances it may be appropriate to conduct an interview with the claimant, or at the very least a telephone call could be used in addition to paper evidence prior to making a final decision.

Information received from a non-independent source, such as landlord, friend or family member, does not carry as much weight as that received from an independent source, and should therefore be viewed only in support of other evidence.

To ensure consistency with the decision-making, information and evidence should always be obtained, and the judgement on whether to treat a claimant as vulnerable and to therefore make payment directly to the landlord will be the responsibility of a senior officer.

A report will be written for all decisions stating what information / evidence was taken into account and why it resulted in direct payment being granted or refused. This will assist with reviews of the decision and potential appeals.

Reviewing the Decision

Two types of review can take place;

1. An appeal from a relevant person (the rules for appealing are the same as the rules for Housing Benefit).
2. A review of the claimant's circumstances, to establish whether the 'vulnerable' decision is still appropriate.

The decision to treat a claimant as 'vulnerable' will be reviewed after an appropriate period of time as decided by the Council.