Leaflet MCL6

Housing Benefit information for Private Landlords
Merseyside authorities working together

This leaflet is one of a series produced by a number of Merseyside authorities to help you understand Housing Benefit and Council Tax Reduction. It is a general guide. People have different circumstances, so please contact us if you need more detailed advice. Addresses are on the back of this leaflet.

FIGHT FRAUD – PLAY YOUR PART

Benefit Thieves take money from your pocket. Don’t turn a blind eye and let them get away with it. If you know or suspect a Benefit Thief, report it in confidence. You do not have to give your details.

Call FREE on 0800 0730532 or use the simple Online Form at www.knowsley.gov.uk

You can also get this information in other formats and languages. Please phone 0151 443 4031 or email customerservices@knowsley.gov.uk
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We believe that landlords are an important stakeholder in the service we provide. We aim to work with landlords to ensure they receive payment promptly and to make sure overpayments are minimized. In return we ask landlords to respect our obligations towards claimant confidentiality and the Data Protection Act when they make enquiries about their tenants.

1. **Who can claim Housing Benefit?**

Housing Benefit helps tenants who are on a low income pay their rent. Only the tenant can apply for Housing Benefit. A landlord cannot claim Housing Benefit on behalf of a tenant. To get Housing Benefit a tenant must:

- Have a liability to pay rent; and
- Be living in the property as their main home; and
- Make a claim.

Tenants must make a claim for Housing Benefit direct to the Council.

Those who are claiming Income Support, Jobseeker’s Allowance or Employment and Support Allowance can make their claim for Housing Benefit with the Jobcentre Plus. The Jobcentre Plus will send the claim to us with confirmation of entitlement. Pensioners who are getting Pension Credit can claim through the Pension Service.

2. **Can I find out how much benefit you could pay before I take a tenant?**

Yes, you can find out the maximum amount of rent that will be used to work out your tenant’s claim. Your tenant’s Housing Benefit will be worked out using Local Housing Allowance rates. This is based on where the tenant lives and the number of people who live with them. Details of how we calculate the number of bedrooms your tenant is entitled to is covered in part 9. The amount of Housing Benefit is also affected by the income and circumstances of the tenant and anyone else who lives in the household. Local Housing Allowance rates are published by us and are available on the Council's website and at our One Stop Shops.

There is no right of appeal against the Local Housing Allowance rates.
3. **How long does it take to sort out benefit?**

We aim to pay Housing Benefit as soon as possible, after receiving all the information. There can be delays in making payments of benefits caused by:

- Claim forms which are not fully completed or signed
- Evidence of income, capital/savings, rent, identity, or National Insurance number not being provided.

4. **What evidence of rent is needed?**

Always make sure that your tenant has a written tenancy agreement, or some evidence of liability to pay rent. Photocopies are not acceptable.

The evidence must include:

- Name and address of tenant(s)
- Name of any joint tenants
- Name and address of the landlord
- Name and address of your agent if you have one
- How long the tenancy is for
- How much the rent is
- What services are included and the amount of each service
- How often the rent is due.

The tenancy agreement should be signed by you and your tenant(s). If you are the agent for the landlord the agreement should give the landlord’s full name and address.

5. **When does the benefit start?**

This depends on the date we get the form, the date the tenancy started and the date the tenant moved into the address. This means that in most cases benefit will not start until the tenant moves in. Benefit is usually paid from the Monday following the date the claim is received.
If a tenant moves into a property and makes an application for benefit within the first week of the tenancy, we can pay benefit from the day they start living in the property.

If the claim is received in the benefit week after they have moved in, the benefit will only be paid from the Monday following the date the claim is received.

However, if they are in receipt of Income Support, income-based Jobseekers Allowance or income-related Employment and Support Allowance, they have up to one month to claim Housing Benefit.

6. How much benefit will my tenant be entitled to?

This will depend on:

- How much income the tenant and their partner get
- Who lives with them
- When they made their claim.

The Local Housing Allowance rate is the maximum amount they can receive. If their rent is higher than the Local Housing Allowance rate, they will have to make up the shortfall in their rent.

7. How are the Local Housing Allowance rates worked out?

The rates will be based on:

- The Broad Rental Market area where your tenant lives
- The number of people who live in the household.

The amount of Housing Benefit under Local Housing Allowance, which your tenant(s) may receive, depends on:

- Who lives with them
- What money they have coming into the household
- Any savings they have
- If they share paying the rent.
8. **What is a Broad Rental Market Area?**

The Rent Service no longer values individual properties; instead they will set annual Local Housing Allowance rates for different size properties within various areas. These areas are called Broad Rental Market Areas.

Each Council will have at least one Broad Rental Market Area. We publish these rates in our One Stop Shops and on our website so you can find out the amount of rent that Local Housing Allowance will cover.

9. **How many bedrooms is my tenant allowed?**

Local Housing Allowance rates are based on the size of the household occupying the property. To calculate the number of bedrooms that will apply for your tenant’s household you need to count one bedroom for the following people:

- A single claimant or an adult couple
- Any other single adult aged 16 or over
- Any two children under age 10
- Any two children of the same sex under age 16
- Any other child.
- A non resident carer*

*A bedroom is allowed for a carer who stays overnight on a regular basis to look after your tenant or their partner, provided there is a spare bedroom available for them to use.

The maximum bedroom allowance for Local Housing Allowance is 4 bedrooms, even if your tenant needs 5 bedrooms or more.

When calculating the number of rooms, we do not count:

- Children who are not normally resident in the property, for example, visiting at weekends.
10. Can my tenant get extra help with their rent?

We cannot pay Housing Benefit above the Local Housing Allowance rates.

However, your tenant can apply for a Discretionary Housing Payment. This is to help with any shortfall in rent. Discretionary Housing Payments are not awarded automatically, as their circumstances have to be considered. For more information see our leaflet “Discretionary Payments and support”.

11. Can I appeal against the amount of benefit my tenant is awarded?

No. Only the tenant can appeal against the amount of benefit they are awarded. The tenant is the person who must make the claim for benefit; any benefit entitlement is the right and property of the tenant. It is up to the tenant to say whether they are unhappy with the amount of benefit being paid. Any appeal against the amount of benefit must be made and signed by the tenant at every stage of the appeal.

12. What rights do I have as a landlord?

If you receive direct payments of Housing Benefit, you have the right to be told how much the weekly benefit is, how often it will be paid and the period covered. If we decide to stop paying you directly we must tell you that we have done this and the reasons why. You have the right to appeal against our decision to stop paying the rent direct.

Tenant’s under Local Housing Allowance rules, do not have the right for their Housing Benefit to be paid direct to you, except in certain circumstances. For example, the tenant is unable or unlikely to pay the rent or has rent arrears; or where direct payment would help the tenant secure or retain the tenancy.

Your tenant can sign an authorisation form, for the Council to discuss their claim with you.

You have the right of appeal against overpaid Housing Benefit that is being recovered from you.
13. Why does the Housing Benefit sometimes go down?

We may review a claim from time to time, which can result in the benefit going up or down. The review may include looking at the level of rent being charged or the Local Housing Allowance rate used. It is necessary to get up-to-date information from the Rent Service before we continue paying benefit and this can go down as well as up. Local Housing Allowance rates are reviewed annually.

In April 2011, Local Housing Allowance rates were set at the 30th percentile rents for each property size in each Broad Rental Market area. Benefit can also go down because a tenant’s personal circumstances have changed. For example, the tenant may have had an increase in income or a change in the number of people in the household.

14. What information can I expect to get if I ring the Contact Centre?

The Data Protection Act is specific about what information can be given about someone’s claim for benefit. If we award benefit and it is to be paid directly to you, we can tell you:

- The amount of the benefit
- How often it will be paid
- When we stop paying benefit to you.

We will be happy to discuss other issues provided the tenant gives written permission to discuss their claim. The important thing to remember is that the benefit claim belongs to the tenant and they are responsible for paying the rent for the duration of the tenancy.
15. **What should I do if arrears of rent are building up?**

The first thing to do is to speak to your tenant, remember they are responsible for the rent. If the rent is in arrears of eight weeks or more we can pay you directly. You will need to contact us and provide evidence. We will then consider making payment to you.

Always contact us before you take any court action for rent arrears. We will try to help you and your tenant if we can.

16. **Can I have benefit paid to me?**

Payment is normally made to the tenant. Benefit can only be paid to the landlord in certain circumstances, such as where:

- the tenant is unable or unlikely to pay their rent.
- the tenant is vulnerable
- direct payment would help the tenant secure or retain the tenancy.

Further information about these circumstances are detailed in our Safeguard Guidance which is available on our website.

We will usually only refuse to pay a landlord direct where it is decided that the landlord is not fit and proper. Landlords may be considered to be not fit and proper if there are problems in getting overpayments back or the landlord is implicated in fraudulent claims for benefit.

If we do pay you directly, payments will be made direct to your bank or building society account and you will be sent a schedule. This will tell you whose benefit is being paid to you, how much it is and what period it covers. Payments will be made every four weeks in arrears and may be affected by a deduction where we are recovering amounts to reduce or clear any overpayments.
17. Will I have to repay overpayments of benefit paid directly to me?

We will normally recover an overpayment of benefit from the person who has received the payment. If the benefit is being paid directly to you, this means we will normally recover the benefit from you.

Sometimes, we will recover the benefit directly from the tenant, even though the benefit was paid directly to you. This is usually when we are happy that you didn’t know they were not entitled to the payment and it is unreasonable to recover it from you. If there is still entitlement to benefit, future payments will be reduced until the overpayment is paid back. You should collect any shortfall in rent from your tenant.

We can recover any overpayment that is deemed to be a ‘recoverable overpayment’. An overpayment is recoverable unless:

- It has been caused by official error and
- The person entitled to the benefit could not have reasonably been expected to know their benefit was too much.

18. How will you recover overpayments?

The 1997 Fraud Act allows us to recover overpayments of benefit by making deductions from future payments. We will normally only recover new and recent overpayments from your schedules. We can recover old overpayments from the schedules but we will do this only when all other attempts have failed. We will contact you first before we do this.

Your rights as a landlord are not affected by these powers of recovery. You are still entitled to information about the overpayment and you can still appeal against the overpayment. However, you only have one month from the date you were notified about the overpayment to make an appeal. The time limit can be extended by up to one year in special circumstances. If your appeal is successful, any amount recovered from you will be refunded.
19. How does the Fraud Act affect me as a Landlord?

The Fraud Act is a significant act of law, and gives councils additional powers to help prevent and detect fraudulent claims for benefit. It allows councils to get information directly from you or your agent if there are suspicions about a claim. The suspicions do not have to involve you and could be in relation to any claim at any property you own or manage.

There are fines for landlords who fail to provide the information. Anytime we ask you for information using these powers we will make it clear that we are doing so and what happens if you don’t provide the information. Landlords who allow or encourage a tenant not to report a change in circumstances can be guilty of an offence.

Where you are receiving payments directly, you have a duty to report changes in circumstances straight away, which may affect the amount of benefit you receive. Failure to do so may be an offence.

20. Are deposits paid by Housing Benefit?

No. Deposits are not covered by Housing Benefit. If you require a deposit from a tenant, they will need to provide this from their own funds. If they are unable to do this, they can ask the Department for Work and Pensions for help.

You must protect your tenants’ deposits, in either a custodial or insurance based scheme. For information visit: www.gov.uk.

21. Will the Council pay a month’s notice if the tenant leaves without telling me?

We can only pay Housing Benefit if a tenant has a liability to pay rent and occupies the property as their home. A tenant, who has left without giving notice may still have a liability to pay rent but no longer occupies the property as their home, will not normally be entitled to benefit.

The only time we can pay benefit on a home that the tenant has left is if they qualify for overlapping benefit. Overlapping benefit means that the
tenant is entitled to Housing Benefit at two different addresses for the same period.

To get overlapping benefit the tenant must:

- Have a liability to pay rent at a new address; and
- Have claimed Housing Benefit at the new address; and
- Have a liability to pay rent at the old address, which could not reasonably have been avoided.

The tenant does not have to make a claim for overlapping benefit. However, they should tell us why he or she didn’t give notice. If we agree that the tenant took all reasonable steps to prevent the liability at the old address continuing, we will pay overlapping benefit, but only for a maximum of four weeks.

22. Will you pay benefit if my tenant is absent from the property for a while?

We can continue to pay benefit if a tenant is away from home on a temporary basis. We can normally only pay for a maximum of 13 weeks if:

- The tenant’s absence is temporary and the tenant intends to return to the property; and
- The tenant’s absence is likely to last no more than 13 weeks and
- The property is not let in the meantime.

Some tenants may be temporarily absent for up to 52 weeks and still get benefit during this period. These are:

- A prisoner on remand
- A vulnerable student
- Absent through fear of violence
- A hospital in-patient
- In a residential care home on a temporary basis.
- Receiving medically approved treatment, care or convalescence
- Providing medically approved care or caring for a child whose parent or guardian is receiving medical treatment or medically approved care
- Absent because your partner or dependant child is receiving medical treatment or medically approved care outside a residential home.
For example, if a tenant went into hospital with the intention of returning home within 52 weeks we would be able to pay Housing Benefit. If, after two weeks, it became clear that the tenant would not be returning home, the benefit would stop straight away.

The rules change for those in prison once they are sentenced. At that point, if they are likely to be in prison for more than 13 weeks they will not be entitled to benefit as it can only be paid for a maximum of 13 weeks.

23. **What about Council Tax?**

If your tenant is liable to pay Council Tax on the property, they can apply for Council Tax Reduction on the same form as for Housing Benefit.

If the property is classed as a house in multiple occupation (HMO) you, as the landlord are liable for Council Tax on the whole property.

24. **What if I have a query?**

You can call our Contact Centre or you can call in person at any of the One Stop Shops. You can write a letter to us, or email us. Contact details are at the back of this leaflet.
Leaflets and where to get them

All of these leaflets are available free of charge. You can get them from the One Stop Shops, Citizen Advice Bureau and libraries. You can also download copies on www.knowsley.gov.uk.

For your ease, all of the leaflets have a reference to identify them:

MCL1 Starting Work
MCL2 Help with Rent
MCL3 Help with Council Tax (a guide to Council Tax Reduction)
MCL4 How to claim Housing Benefit
MCL5 Help with Disputing a Benefit Decision
MCL6 Housing Benefit information for Private Landlords
MCL7 Discretionary Payments and support
MCL8 Benefit changes
MCL9 Council Tax Discounts (including Disabled Relief)

This leaflet is printed on recycled paper
How to contact us

Information relating to the services which the Council provides and how to contact the various departments can be obtained from any Branch Library or One Stop Shop.

In person: Please call at:

Huyton One Stop Shop
Municipal Buildings
Archway Road
Huyton
Merseyside
L36 9XJ

Kirkby One Stop Shop
Municipal Buildings
Cherryfield Drive
Kirkby
Merseyside
L32 1TX

Prescot One Stop Shop
Prescot Shopping Centre
Aspinall Street
Merseyside
L34 5GA

Halewood One Stop Shop
Roseheath Drive
Off Leathers Lane
Merseyside
L26 0UP

One Stop Shop opening times: Monday to Friday 9.00am to 5.00pm

By post: Please write to:

Housing Benefit Section
Knowsley Borough Council
Municipal Buildings
Cherryfield Drive
Kirkby
Merseyside
L32 1TX

By telephone:
Please ring contact centre on
0151 443 4042

By e-mail:
benefits@knowsley.gov.uk

By fax:
0151 443 4142

Disabled access is available at all of the One Stop Shops. The following facilities are available:

- Wheelchair/pram access and lowered desks
- Minicom telephone system for hearing impaired people. Please dial: 0151 443 4248
- Advisors trained in British Sign Language (up to Level 2)
- Access to BT’s language line through which we can contact an interpreter in minutes
- Private interview rooms
- Friendly staff who are happy to assist

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