

What are Housing Benefit and Council Tax Benefit?

Housing Benefit and Council Tax Benefit are national welfare benefits which help people on low income pay rent or Council Tax, or both, on the home they live in.

Local councils run the schemes using regulations set out by the Government.

Housing Benefit and Council Tax Benefit are means-tested benefits. This means that the amount people get depends on:

- their income;
- their savings;
- the size and condition of their home;
- their rent; and
- who lives with them.

To get Housing Benefit or Council Tax Benefit, tenants must fill in a benefit claim form.

Who can claim Housing Benefit?

Anyone who pays rent for the home they live in can claim. But not everyone who pays rent will qualify.

Tenants may not qualify if:

- their income is too high;
- they live with, and pay rent to, a close relative;
- they used to live with the landlord as a family member, relative or friend, and now pay that person rent;
- they are a member of a religious order;
- they live in a care home such as a nursing or old people's home;
- it is not a business arrangement;
- they rent a former joint home from their ex-partner;
- they are responsible for a child of their landlord;

- they rent their property from a company, and they are a director or employee of that company;
- they rent from a trust and they are the trustee or a beneficiary;
- they used to own the property which they now rent;
- they live in the home as part of their job; or
- they are students. Most students don't qualify but some do, so please ask us or pick up our leaflet called 'Can students get Housing Benefit?'

If your tenant is not sure if they qualify, get them to fill in a form and return it to us straightaway.

We will write to tell them whether we can pay benefit.

Please note

- You or your tenant should not assume that benefit will be paid, or how much will be paid, until we tell you in writing.

Who must pay Council Tax?

An owner-occupier or tenant aged 18 or over living in the property is usually responsible for paying the Council Tax.

In certain circumstances, owners who do not live in the property must pay the Council Tax. The most common example of this is a house in multiple occupation (HMO).

What is an HMO?

An HMO is where:

- a tenant or tenants rent a room in the property and share facilities, for example a bathroom or kitchen (or both); and
- each has a separate tenancy agreement with only their name on it.

Generally, this is an HMO and the landlord or owner is responsible for paying Council Tax.

Do students have to pay Council Tax?

If all the tenants are full-time students in further or higher education, the property will be exempt from Council Tax during term time, even if it is an HMO.

Courses must be for at least one academic year, and periods of study, tuition or work experience must be at least 21 hours a week.

All the students must provide a student certificate from their college for the exemption to apply.

What about joint tenants?

If a property is rented out to more than one person and is not classed as an HMO, the tenants are responsible for paying the Council Tax.

If you rent out a joint tenancy like this, there should usually only be one tenancy agreement. It should show all the tenants' names and should have only one rent charge.

If you have any questions about Council Tax, please contact us. See the back of this leaflet for details.

How much Housing Benefit can be paid?

This depends on things like:

- how much income a tenant and their family has; and
- how much rent the Rent Officer says we can use in our calculation.

What is a pre-tenancy determination (PTD)?

Future tenants can apply for a PTD. It will help them know if they'll have to pay some of the rent themselves to top up their Housing Benefit.

They might decide they can't afford to take on the tenancy, and may decide to look for somewhere else to live rather than get into debt.

Before signing up to the tenancy, your future tenant should ask the Rent Service to decide what rent we must use to work out their Housing Benefit.

You can't apply yourself, but you will have to sign your future tenant's request for a PTD.

You will, however, get a copy of the Rent Officer's decision.

This free service usually takes about five days.

We will use the decision to pay the proper amount of benefit more quickly.

Your tenant can get a PTD application form from us. See the back of this leaflet for details.

You should send the form to us and we will pass it to the Rent Service.

Decisions stay in force for 12 months unless there is a change in the property or the number of people in the household.

Please note

- PTDs don't guarantee that your tenant will get benefit.
Your tenant must still fill in a claim form and send us all the proof we need so that we can work out their benefit.
We can tell your tenant roughly how much benefit they will get using the Rent Service's PTD.

What is 'eligible rent'?

'Eligible rent' is the rent we use to work out your tenant's Housing Benefit.

Eligible rent is not always the same as the rent being charged for the following reasons.

- Housing Benefit does not cover some service charges like heating, water or meals, so we cannot include those in the rent.
- We must base Housing Benefit on a rent level set by the Rent Officer Service (a government agency independent of local authorities), not on the rent you charge your tenant.

All the rents that private landlords charge are referred to this Rent Service for consideration.

You can't appeal about the figures the Rent Service sets for us to work out your tenant's benefit.

Your tenant can appeal to us and we will ask the Rent Service to look at their decision again.

- We must usually limit benefit for single people under 25, without children, to a 'single-room rent' set by the Rent Service.

Housing Benefit is not always the same as the 'eligible rent'.

Once we have the eligible rent, we then have to take off certain amounts because of the tenant's income, or because they have other adults living with them – for example, an adult son or daughter, other relative or friend.

If Housing Benefit does not cover the full rent, the tenant is responsible for paying any difference to the landlord.

Tenants are also responsible for paying rent for any periods not covered by Housing Benefit.

What are ‘indicative or interim rents’?

When your tenant claims benefit, and has given us all the information we need, we speed things up by paying benefit based on a provisional ‘indicative rent’ provided by the local Rent Service. This is sometimes called an ‘interim rent’ or a ‘payment on account’.

Later, when the Rent Service gives us its final decision on the level of rent to use for benefits, we work out the benefit again.

How does my tenant make a claim for benefit?

Tenants must fill in and sign a benefit claim form. We also ask the tenant’s partner to sign the form.

They can get a form from us. See the back of this leaflet for details.

If someone helps your tenant to fill the form in, we ask them to sign it too.

Your tenant must show us some documents. Please see the section called ‘What documents can you accept?’. Your tenant can speed things up by sending us these in with their claim.

What documents can you accept?

Your tenant and their partner must each provide separate proof of their identity and National Insurance number because the law says we must see these before we can deal with a claim.

We will tell your tenant what they need to provide as proof, and we usually need to see original documents.

However, no-one should delay a claim because they do not have these documents. They should send their application in straightaway and tell us that they will send us the documents later.

What proof of rent do you need?

We need proof of the rent the tenant has to pay. This is usually a tenancy agreement, which must include:

- the full name and home or business address of the landlord;
- the full name and home or business address of any agent;
- the date the tenancy will start;
- the full address of the property they are renting;
- the amount charged;
- the landlord's or agent's signature;
- the tenants' signatures;
- the date the document was signed;
- what is included in the rent, for example, meals, gas, electricity and water rates;
- the amount included for these services;
- the full names of those renting the property;
- how often the rent is payable – usually every week, four weeks or month; and
- how long the tenancy will last for.

When is benefit paid?

We pay benefit in weeks, and a benefit week usually starts on a Monday and ends on a Sunday. We usually pay benefit from the Monday after we get the claim.

If we get a claim in the same benefit week as the tenancy starts, we will pay benefit from the start of the tenancy unless we have paid benefit at a previous address.

Sometimes we can pay benefit for an earlier period. This is called 'backdating' benefit, and strict rules apply. Pick up our leaflet called 'Housing Benefit and Council Tax Benefit – can your claim be backdated?'

What if my tenant's circumstances change?

You, or your tenant, must tell us straightaway, in writing, of any changes that may affect benefit.

If you or your tenant are not sure what to report, tell us anyway. We will let you or your tenant know if it affects benefit.

You can pick up a copy of our leaflet called 'Changes you need to tell us about if you are claiming Housing Benefit and Council Tax Benefit' for more information.

What should a tenant do if they change address?

If a tenant moves to a new address, they must fill in a new claim for benefit.

If they leave your property, the benefit will end even if you are still charging them rent. The tenant is responsible for any rent due after benefit ends.

You or your tenant should tell us straightaway if they are moving out.

If a tenant changes rooms in a house in multiple occupation, or board and lodgings accommodation, you or your tenant must tell us in writing straightaway and your tenant must send us a new claim form.

What information can you give the landlord?

We can't tell you anything if we pay Housing Benefit direct to your tenant.

All details about your tenant's claim are confidential. We cannot give them to anyone without the tenant's permission, in writing.

We cannot even confirm that a claim has been made.

If we pay Housing Benefit to you direct, we can tell you:

- the date benefit started and ended;
- the weekly amount of benefit and how often it was paid;
- the amount we are taking directly from benefit to recover an overpayment; and
- details of any cheque paid directly to you.

If we start or stop paying you direct, we will write to you to tell you.

It is up to you to collect any difference between the benefit we pay and the rent that is due.

If your tenant asks us to pay you direct but we cannot pay the claim because we do not have all the tenants' details, we will write to let you know.

If we pay Housing Benefit to your agent direct, we cannot give you any information and you must ask your tenant for any other information you need.

We will give your agent the same information that we would give to you if we paid you direct – see the section called 'If we pay you direct'.

What could delay benefit being paid?

There are various things that could delay benefit being paid. For example, if:

- we have not received a claim;
- the tenant hasn't filled the form in properly;
- we haven't got all the proof we've asked for; or
- we need to make further enquiries.

Please note that the tenant is solely responsible for supplying proof of identity, income, rent and so on.

What are the general rules on payments?

Your tenant can choose if they want their benefit paid directly to themselves or direct to you.

Payments are usually made every four weeks, for the previous four weeks, by crossed cheque.

The Housing Benefit Regulations say that if a tenant has not paid you eight weeks' rent or more, we must:

- pay the landlord direct; or
- suspend payment altogether, if it is in the best interests of the person claiming not to pay the landlord direct.

Please write and tell us as soon as your tenant owes you eight weeks' rent or more.

In some circumstances, the first cheque we send to the tenant is made payable to the landlord. This is usually because the cheque covers more than eight weeks' rent.

We will usually agree if a tenant asks us to send payments direct to the landlord.

Your tenant can ask us to stop paying you direct. We will write and tell you if this happens.

If we pay you direct because your tenant owes rent, we can only start paying the tenant instead if we are satisfied that they owe you less than eight weeks' rent.

We will not pay you direct if we decide that you are not acting correctly over benefit matters.

If we pay you direct, we can ask you to repay any overpayment, even if you couldn't have known we were paying too much.

But, if the overpayment was because of a change in the tenant's income or family, we may ask the tenant rather than you to repay it.

If you think your tenant is making a fraudulent claim for benefit, please tell us straightaway. We would not normally expect you to pay back the overpayment.

We do not assume any of the tenant's responsibilities by agreeing to pay Housing Benefit direct.

You must write to tell us immediately if the tenant moves out, or to tell us any other information that may affect their benefit.

If you have several tenants on benefit, we will combine all the payments in one cheque. We include a list of payment details with every cheque, and may also ask you to sign an acknowledgement sheet. You should report any changes straightaway.

What if there has been an overpayment of benefit?

If we find we have paid too much benefit, we can ask you or your tenant to pay it back.

How can you recover the overpayment?

The main ways are by:

- taking money from the ongoing benefit of the person claiming;
- taking money from other benefit that is due to the tenant;
- taking money from your payments for other tenants; and
- sending a bill.

By taking money from ongoing benefit

If a tenant's circumstances change and there is an overpayment, we often take the money back by weekly deductions from their continuing benefit, even if they live at an address that is different from where the overpayment happened.

The tenant should pay the difference in the rent that is due direct to you.

By sending a bill

We can send a bill to recover:

- an overpayment from a tenant who is no longer on benefit; or
- payments from landlords when, for example, you have been paid after your tenant has moved out.

If we send you a bill you disagree with, get in touch with us straightaway.

As a landlord, you have the right to appeal against our decision to recover an overpayment from you.

If you don't repay overpayments when we ask you to, we can take the money out of benefit we're due to pay you for other tenants. We may decide not to pay you at all.

What if I or my tenant do not agree with your decision – can we appeal?

That depends. As a landlord, you have fewer appeal rights than a tenant.

Appeals by tenants

Your tenant can appeal against any decision we have made about their benefit claim.

We tell them their appeal rights and the time limits on the decision letters we send out.

They have one month from the date of the decision letter in which to ask us to reconsider our decision. There are full details in our leaflet called 'What to do if you disagree with a Housing Benefit or Council Tax Benefit decision'.

If the tenant appeals, they must sign all the letters.

Landlords have no right to appeal against a tenant's claim and the details are confidential. We cannot give you any details.

Appeals by landlords

Landlords can only appeal against our decision if:

- we refuse to pay benefit direct; or
- we decide they should repay an overpayment.

Landlords can't appeal about the amount of a tenant's benefit, or which weeks it's been awarded for.

Where can I or my tenant get help?

You can always phone us for help and advice. See the back of this leaflet for details.

Or, you could contact your local Citizens Advice Bureau or Welfare Rights Service. Details are in your local phone book.

What if I want to comment on your service?

You should get in touch with us. We would like to know what you think about this leaflet or about the service we provide to you.

You'll find our details on the back of this leaflet.

