



## Notice to Landlords accepting direct payment of Housing Benefit on behalf of their tenant(s)

### Direct Payments

The Housing Benefit (General) Regulations, 1987, allows a Local Authority some discretion over whom to make Housing Benefit payments to. However, there are limited circumstances where payments must be made direct to the landlord. Regulations 93 - 95 (inclusive) are specifically concerned with payments of Housing Benefit.

**Regulation 93** states that a payment of rent allowance shall be made to a landlord –

- where an amount of income support or either kind of JSA payable to the claimant, or partner, is being paid direct to the landlord to meet arrears; or
- the claimant has rent arrears equivalent to eight weeks or more, except where the authority considers it to be in the overriding interest of the claimant not to make direct payments.

**Regulation 94** states that rent allowance may be paid to a person's landlord where –

- the person has requested or consented to such payments;
- payment to the landlord is in the interest of the claimant and his family;
- the person has ceased to live in the property and there are outstanding payments of rent, but any payment must be limited to the amount of rent outstanding.

**Regulation 94(1B)** specifies instances when direct payments **may not** be made to a landlord.

This is known as the 'Fit & proper' test – i.e. is a landlord a Fit and Proper person to receive direct payments of Housing Benefit.

Generally we will class landlords as not being fit & proper recipients of Housing Benefit where there is:

- evidence of regular refusal to repay overpayments – despite the fact that a proper notification was issued and that the rights of review had been exercised or made available.
- Evidence of regular omission to report changes in tenants circumstances which he or she might reasonably be expected to know might affect entitlement or;
- evidence of involvement in benefit fraud.

**Regulation 95** allows the Authority to withhold rent allowance in certain circumstances including where it is not in the claimant's overriding interest to make direct payment to the landlord.

## **Duty to notify changes if circumstances**

**Regulation 75** imposes a duty on claimants **or on any person to whom Housing Benefit payments are made** to notify in writing to this office changes of circumstances which they might reasonably be expected to know would effect the amount of or the receipt of Housing Benefit.

Landlords must clearly notify deaths and vacations to the Benefit Section. It is not acceptable that they assume continued occupation of a property purely because rent allowance is being paid to them. Landlords (or agents) must fulfill their normal landlord functions and take positive steps to verify the residency of their tenants.

## **Overpayments**

The Council have a discretion to seek recovery of overallowed Housing Benefit from the claimant or to recover from you, as the recipient of the Housing Benefit payments.

It is therefore, in your interest to ensure that any rent credits left on your tenant's accounts are not refunded to that tenant until you have confirmed that the Council will not be seeking the recovery of overpaid Housing Benefit.

Please note, where a request has been made for repayment of overallowed Housing Benefit, and payment is not immediately forthcoming, the Council may well exercise its discretion to pay future Housing Benefit directly to the claimant. This is irrespective of any additional legal action that is available to the Council.

Landlords should be aware of the following: -

1. There may be instances where the tenant has had an overpayment of Housing Benefit at their previous address. That address may not have been in your ownership. The Council may decide to recover these types of overpayment by reducing future Housing Benefit payments to you. The regulations allow for any previous overpayments to be deducted from ongoing Housing Benefit.
2. Housing Benefit will not necessarily equate to the full rent liability.

## **Landlords right to information.**

Where we are paying rent allowance direct to a landlord, the landlord has the right to know weekly entitlement, the date the claim was paid from, the date the claim will end and any details about payments made or payments pending.

Landlords do not have the right to any information about the claimant's circumstances and income unless we have the claimants express permission to discuss with the landlord. Any request must be in writing.

**Return this part to the Council**

I acknowledge receipt of the notice from Sefton Council setting out the basis upon which Housing Benefit is paid to me, under Regulation 93 and 94 of the Housing Benefit (General) Regulations, 1987.

Any overpayment of Housing Benefit may be recoverable from me under the Regulation 101 (1) (b) of those Regulations, as the person to whom Benefit was paid. This will apply for any tenant on behalf of whom I receive Housing Benefit payments.

I have read this notice and understand the implications of my receiving payments direct.

Dated	Signed	Name (in capitals)

Contact telephone number.....

On behalf of (Trading name of Landlord/ Organisation)	
Address	
Name and address of the tenant for whom payment is sought in the first instance	Landlord code (office use)

**Landlords Obligations**

Under the Housing Benefit (General) Regulations 1987, a landlord has certain obligations, as a landlord or agent, to notify the Benefits Office of **any** changes of circumstances, which may affect their tenants' entitlement. For example, if another tenant moves into the address, if a tenant vacates your property, moves rooms or flats within an address, or no longer receives meals. The Social Security Administration (Fraud) Act 1997 makes it an offence if a person, without reasonable excuse, fails to notify the Authority of a change of circumstances.



## Direct Payment Bank Details Form

<b>Your details</b>	
Your Name	
Your Address and Postcode	

<b>Direct Payment to Bank or Building Society Account</b>												
Please arrange direct payment of my Housing Benefit into my Bank / Building Society												
Bank / Building Society Name												
Bank / Building Society Address												
Full name of account holder												
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