



# HOUSING BENEFIT

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## **WORKING WITH LANDLORDS**

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## Background

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Housing Benefit payments are part of a national welfare benefit scheme to help people on low income pay their rent. Having a home is a basic need and it is important that the scheme operates efficiently to secure tenants' accommodation.

Whilst claims for benefit are normally made by the tenant, working effectively with landlords will help ensure that tenants can find somewhere affordable to live and that they maintain payment of their rental liability.

## Purpose

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To provide a clear understanding of the areas that we will work closely on with landlords to improve the service delivery of Housing Benefit for individual tenants.

Landlords are defined as individual private landlords, Registered Social Landlords and Stratford District Council itself.

## The Policy

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Legislation defines a number of areas where the landlord can get involved with benefit claims, and areas where decisions are made which directly affect them. They are detailed below;

- Discussing claim details with landlords
- Gathering rental proof from landlords
- Confirming tenancy details
- Making claims for benefit
- Decisions on claims that involve the landlord as an 'affected person' (*payments and overpayments*)
- Provision of urgent payments (*on account*) to avoid eviction
- Landlords' duties to report changes in circumstance
- Landlords' right to challenge a decision
- Landlords' right to complain about the service
- Landlords and benefit fraud

## **Discussing Claim Details with Landlords**

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Claims are normally made by the tenant and the rules require that their details are private and confidential. Our Information Strategy, driven by Data Protection legislation, further inhibits the passing of information to third parties without the claimant's written consent (unless for example the information is required to stop a crime).

Stratford's Benefit claim forms contain a specific opt in statement where the tenant may agree to information about their claim being discussed with their landlord and/or the landlord's representative. It is our policy to normally only discuss claims with landlords where this statement has been completed.

Without this signed authority, disclosure of any details, even to advise if a claim form has been received, is a breach of legislation and could open the Council and the person attempting to get the information to possible legal action. However, even in the absence of an opt in signature, where decisions are made that directly affect the landlord (see below), decision letters clearly indicating what has been decided will be given to the landlord, and these decisions only can be discussed.

The rules have been designed to protect the rights of the individual and are the responsibility of the Government's Information Commissioner. The rules also enable the Council, as a landlord, to receive information on claims to ensure they can collect rents from their own tenants.

## **Gathering Rental Proof from Landlords**

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Benefit rules state that claims will require proof of all circumstances, including proof of rent. This means confirmation of:

- > who is liable to pay
- > liable address
- > tenancy start date
- > amount of rent
- > the value of any services included in the rent
- > any rent paid and arrears to date

Registered Social landlords and private landlords will be required to provide proof by submitting either:

- an up to date tenancy agreement: or
- an up to date rent book: or
- a letter containing all of the above details or
- the Council's proforma

It is Council policy and part of the Verification Framework to collect information from landlords in this format.

## **Confirming Important Tenancy Details**

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The benefit rules state that the Council should ask questions about the creation of the tenancy, to ensure it is not contrived (see Housing Benefit Regulation 7).

As a result of this, for all individual non Registered Social Landlord private tenancy claims, the Council may ask for additional information from the landlord, e.g.:

- how did the tenancy you have with this tenant begin?
- are you and the tenant/tenant's partner related, and if so, how?
- is the tenant responsible for looking after your child?

Where the property is multi-occupied, it may also be necessary to gather detailed information on who lives where in the property.

It is Council policy to collect this information to ensure Housing Benefit is paid accurately.

## **Making Claims for Benefit**

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The regulations require that claims are normally made by the person who is entitled to the help, typically the tenant. This gives additional security against fraud by ensuring that written evidence on the form must be separate to that given as proof of rent by the landlord.

It is Council policy to expect tenants to normally complete their own applications for benefit

Where this is not possible, there are alternatives:

- where a person has been identified by a Court of Protection Order as having the right to act for the tenant, this person can claim on the tenant's behalf:

or

- where a tenant is unable to act for themselves, the Council may appoint a suitable person over 18 as an appointee to act for the tenant in making their claim

## **Decisions on Claims that Directly Affect a Landlord as a Person Affected**

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There are two areas where landlords can be directly affected by decisions made on Housing Benefit claims:

- Direct payment to a private landlord of the tenant's benefit and
- Decisions to recover overpayments

## **Payment Decisions**

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The Benefit regulations contain some mandatory and some discretionary rules governing direct payment of a tenant's benefit to a private landlord. When such decisions are made, the Council will issue a formal notice to the landlord.

All private landlords will be paid on a four weekly arrears cycle. One cheque with a schedule of payment details will be issued where the cheque is in respect of more than one tenant.

Also, the 'Fit and Proper' person test will be applied to ensure that a landlord is suitable to receive direct payments. Decisions are normally made based on the previous history of the landlord, e.g. in repaying overpayments or fraudulent activity. Such decisions will be properly notified to the landlord with reasons why direct payment has been refused, where applicable.

It is Council policy to make direct payments only where permitted by the regulations and to issue notice of such a decision direct to the landlord.

## **Overpayment Decisions**

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The Benefit regulations state that a landlord who receives direct Housing Benefit payments is deemed a 'prescribed person' for the recovery of overpayments of Housing Benefit.

NB – the exception is, where having received direct payments, a private landlord gives the Council information which stops a benefit fraud being committed by the tenant.

It is Council policy to seek recovery of overpayments directly from private landlords (see Overpayments and Write-Off Policy). However, not where the landlord stops a fraud or where Benefit Advisors deem that recovery should be sought from the tenant directly.

The Council will issue decision notices to landlords where any decision to recover an overpayment is made, including Blameless Tenant notices (recovering from another tenant's benefit).

## **Provision of Urgent Payments (on Account) to Avoid Eviction**

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It is the Council's policy to ensure that where a benefit claim has been received and there is adequate proof of entitlement, we will work with the landlord to award urgent payments of Housing Benefit (if appropriate).

## **A Landlord's Duty to Report Changes in Circumstance**

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Landlords who receive direct benefit payments have a duty to report any changes in circumstance which they may reasonably be expected to know might affect their rights to the payments or the amount of those payments. The Council will advise all landlords of their duty and give examples of the reportable changes, e.g. changes in rent due or if the tenant leaves the property. This information should be in written format to the Benefits team.

Where landlords also notify changes, which stop abuse of the benefits system, they will not be pursued for repayment of any resultant overpayments.

## **A Landlord's Right to Challenge a Decision**

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Where decisions on a claim are made which directly affect a landlord, the Council will provide a lawful decision notice that informs the landlord of their right to challenge all or part of that decision. The challenging of a decision may result in an Appeals Tribunal. To ensure good practice and equity, the Council shall recommend that the landlord asks for an explanation or reconsideration of the decision within one month first, as this will not harm the landlord's rights and will speed the process of checking the accuracy of the original decision.

## **A Landlord's Right to Complain about the Quality of the Service**

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The Council strives to provide an effective and efficient service. However, we acknowledged that errors and omissions can sometimes occur.

The Council has a Corporate Complaints policy which is open to any landlord who feels aggrieved by an action or inaction of the Council.

It is the Council's policy to provide information leaflets on the Complaints Policy at all Council offices.

## **Landlords and Benefit Fraud**

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The Council expects any landlord who received benefit payments directly or indirectly to notify us of any information they may become aware of in relation to possible abuse of the benefits system. This will help ensure protection of public funds as well as protecting the landlord from the scrutiny of Investigations Staff or the Police, in any case which may require a criminal Court action to resolve. The Council, as a landlord, also expects the same actions from its own staff.

It is Council policy to have a fraud hotline for such information to be passed on speedily to Investigations staff. (We are currently awaiting the implementation of the hotline via the Department for Work and Pensions).

**If you find the text in this document difficult to read, we can supply it in a format better suited to your needs.**



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