



Comhshaol, Pobal agus Rialtas Áitiúil
Environment, Community and Local Government



30 June 2016

Circular: Housing 31/2016
To the Chief Executive and each Director of Housing Services

Housing Assistance Payment (HAP) Scheme

Application of Revised HAP Limits, and Discretionary Flexibility to make enhanced HAP payments made available to all Local Authorities

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| <ul style="list-style-type: none">✓ Introduction of revised HAP rent limits✓ Guidance on Management of Additional Tenant Payments or “Top-Ups”✓ Guidance on Discretionary Flexibility to make enhanced HAP payments✓ Management of s.43 Determinations for atypical households✓ Update on the HAP Scheme, and✓ HAP Administrative Payment 2016 - first tranche reminder |
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A Chara,

I wish to notify local authorities of significant amendments to, and strengthening of, the supports available under the HAP scheme, provided for by the Housing Assistance Payment (Amendment) (No. 2) Regulations 2016, which have legal effect from 1 July 2016 as follows:

- the revision of the prescribed maximum HAP rent limits for all local authorities (see Appendix 1);
- the expansion of the capacity to make discretionary enhanced payments under the HAP scheme to all local authorities, and
- the amendment of the Principal HAP Regulations to regularise operational matters.

Guidance is also provided to local authorities herewith with regard to the -

- application and management of the revised HAP maximum rent limits, particularly in the case of reported top ups by tenants;
- management of the discretionary flexibility now being provided; and
- the management of the s.43 determination process for Atypical Households.

A general update on the roll out of the Housing Assistance Payment (HAP) scheme is also provided along with a reminder to HAP local authorities to submit requests for their HAP Administrative Payments for the period 1 January – 30 May 2016 for processing.

1) Revision and Application of HAP maximum rent limits

The need for greater flexibility in the operation of HAP rent limits has been incrementally recognised by the Department since September 2014 when the pilot scheme was first rolled out. The rental market has changed significantly over this period with rents increasing as the economy has improved and new supply has decreased. The need for increased flexibility was first recognised and piloted in those HAP areas with the most challenging rental markets through the introduction of a number of measures that recognised and addressed these determining factors.

The maximum rent limits for different household classes that apply in each local authority where HAP has been commenced, were originally set at identical levels to the Rent Supplement (RS) limits set by the Department of Social Protection (DSP). In order to set the HAP limits at informed, practical and appropriate levels this Department has worked closely with the Department of Social Protection during the recent review of rent supplement limits, and examined data gathered through the HAP Shared Service Centre (SSC) and related correspondence from local authorities. The ability of local authorities to meet housing need through the HAP scheme is being further enhanced by the extension of the discretionary ability of authorities to agree to payments that exceed rent limits by up to a maximum of 20%, where justified and required. The new limits will be available to local authorities in their determination of appropriate levels of support from 1 July 2016 and are listed in Appendix 1.

The new maximum rent limits will be available from that date for both **new and existing HAP households**. In all cases the local authority must make a decision on what level of support to provide based on the tenant's current position and the needs of a household, on a case by case basis. There is no provision for backdating an increase in payments within the HAP scheme; any increased levels of support agreed by the relevant local authority are only effective from the date of assessment by the local authority. Increased HAP payments will be managed by the HAP SSC in accordance with their own operational approaches, which will be advised to all HAP authorities as relevant.

Management of reported top-ups

Where existing HAP supported tenants wish to apply for increased support under the new rent limits, a case for such an increase must be made to the local authority. In such instance, it's a matter for each household to come forward and seek an increase in their HAP payment. When considering the circumstances of the household, local authorities should take account of the existing rent arrangements in place, the relevant average rent within the local market (see 2 below), and evidence of non-discretionary household top-ups being made by the household. In this regard, a local authority may seek evidence from the householder of additional payments or "top-ups" to a landlord that are reported, before agreeing to increase the households HAP payment. If a decision is taken to increase a HAP payment on this basis, standard letters are available for use through the SSC in order to communicate accurately the changes to the HAP payment for both landlords and tenants.

Changes to the Residential Tenancies Act 2004

The potential for any inflationary impact of these increases in local rental markets is significantly mitigated by the recent changes to the Residential Tenancies Act, where a landlord's right to review the rent has been lengthened to once every 2 years (increased from 1 year with effect from 4 December 2015). If the rent was reviewed at any time in the last 24 months, it cannot be reviewed again until 24 months after the date of the last review. Furthermore, a landlord must give the tenant proper notice of the amount of the proposed new rent (90 days) and the date from which it is to take effect. If there is any dispute about the amount of rent being proposed,

either side can refer the dispute to the RTB. It should be noted that any increase in the HAP payment made in order to address top-up payments, represents a change only in the arrangements for payment of the agreed rent. **A change to the HAP payment does not represent a change in the rental agreement or the tenancy agreed between tenant and landlord.**

2) Guiding Principles on Discretionary Flexibility to make enhanced HAP payments

The Housing Assistance Payment (Amendment) (No. 2) Regulations 2016 also expands the availability of the additional flexibility of 20% above the rent limits to all local authorities where HAP is operational (excluding the Homeless HAP Pilot Scheme, which retains its specific flexibility). The introduction of this discretion to all authorities follows its successful piloting in 6 administrative areas (Cork City, Cork County, Galway City, Galway County, Kildare and Meath). The additional flexibility has successfully facilitated a greater number of qualifying households to source suitable accommodation in these local authority areas. It has also reduced the level and instances of top-up payments being reported by HAP recipients. Data from the relevant HAP local authorities show that over the 6 months that the facility has been available, it has been exercised in a prudent manner and there is no evidence to suggest it had an inflationary effect on the local market.

As a matter of course, local authorities should ensure that HAP rental payments for a given household type do not exceed the rents for the relevant local area. Close attention should always be paid to the approach of colleagues in the Department of Social Protection and any administrative limits that they apply within your local authority area. This approach is particularly important:

- where there are a number of distinct rental markets in a local authority area; and
- when the HAP rent limits exceed the RS rent limits for that area.

Where necessary to secure suitable accommodation for a household that is qualified for social housing support that cannot find accommodation within the maximum rent limits, local authority staff may now agree to exceed those maximum HAP rent limits prescribed for their administrative area by up to the 20% prescribed where they determine it is justified. Such decisions are a matter for the local authority themselves, and can be made by reference to the guidance outlined here. Such decisions will be applied by the HAP SSC without any secondary verification. Local authority staff are, however, asked to ensure that a consistent and measured approach is taken in applying the discretionary flexibility provided.

The intention is that increased HAP rent Limits and these discretion powers should be utilised only when required, and should not have any inflationary effect on market rents in the area.

In general, given the increased level of support now available under the revised rent limits the need for the use of discretion should not be as acute as under the previous rent limits. The use of any discretion beyond the prescribed HAP rent limits for your area should be applied on an individual case by case basis by reference to a number of factors, as follows:

- **PRTB data¹ on rents at local postal district level;**
- **Current market rent in the given local area for similar properties;**
- **Level of rent supplement payment being applied by the Department of Social Protection in the given local area, including any use of discretion on their part.**

¹ PRTB Dataset for each county by property type is available at: <http://rtb.ie/>

Local authority staff are again reminded that the principles as outlined above should be applied when assessing all HAP applications, including those new and existing households seeking HAP rental payments within the rent limits. You are asked to make all relevant local authority staff aware of the approach to the provision of the additional discretion, as outlined.

HAP rates for atypical household types (S.43 Determinations)

HAP rent limits, which have been prescribed so far, are set out in the Housing Assistance Payment (Amendment) (No. 2) Regulations 2016. Where a maximum rent limit for a class of household has not been prescribed, the Minister may determine a maximum rent limit that will apply in respect of the class of household not encompassed by the prescribed Regulations (Under Section 43 of the Housing (Miscellaneous Provisions) Act 2014). For efficiency purposes and to lessen the concern of the household(s) in question, Ministerial delegation of this determination function was given to the Housing Assistance Payments & Current Programmes Section in August 2015. As roll out of the phased pilot continues, the number of requests from HAP local authorities for these determinations has increased, with 90 determinations having already been made in 2016 so far.

In general local authorities should now attempt to provide appropriate levels of support for such atypical households by utilising the revised rates and the discretionary flexibility to make enhanced HAP payments now provided to all authorities.

3) Update on Housing Assistance Payment (HAP) scheme

There are currently some 11,000 active HAP tenancies in the local authority areas providing the statutory pilot scheme to all eligible households. HAP is now available to all eligible households in 19 local authority areas, and to Homeless households in the four Dublin LAs under the Homeless HAP pilot. Please see map below, which shows where HAP is currently operational:



Wave 3 roll-out: September – December 2016

The Department has commenced preparatory measures to introduce HAP to a further group of local authorities to be known as Wave 3: Cavan, Kerry, Laois, Leitrim, Longford, Roscommon, Westmeath, Wexford and Wicklow. Rollout to these local authorities will be incremental during the period September to December 2016, subject to the necessary regulations being in place.

Full roll-out of the HAP scheme in the Dublin Region

HAP will be rolled out in the remaining three Dublin authorities early in 2017, completing the full roll out of the scheme. In order to ensure successful delivery of HAP in the capital, a specific purpose working-group has been established to plan and manage roll-out in the Dublin Region; the first meeting of this group took place on 29 June 2016.

4) Submission of HAP Administrative Payments 2016

HAP local authorities are reminded to send in a completed claim form for the mid-year Administrative Payment for 2016. As in 2015, HAP authorities will be provided with a HAP Administrative Payment of €150 per HAP household on the basis of the cumulative number of households (including closed tenancies) supported through HAP in your LA area, exclusive of households previously claimed for at end 2015. Claims should be based on the HAP SSC Reports provided at the end of May. The arrangements for the end of year HAP Administrative Payment will be covered at a later date.

5) Contacts for HAP Queries

Finally, I wish to remind local authorities that the HAP Practitioners Toolkit (available on the Housing Agency's website) should be used as the first point of contact for information on HAP. Should you have difficulty finding what you need within the Toolkit it is recommended that you send your query to the following contacts/ email addresses:

Queries in relation to	Send query to
HAP legislation, policy and HAP Administrative Payment	hap@environ.ie
Queries in relation to operational matters, which are not covered in the HAP Toolkit	hap@housing.ie
S.43 (2)(b)Determinations	hap@environ.ie and hap@housing.ie
Queries in relation to functions managed by the HAP Shared Service Centre(SSC), e.g. uploading applications to Sugar, Arrears	the appropriate HAP SSC Team Contact

If you have any queries in respect of this circular, please contact:

- Tom Gallagher
Direct Line: 01 888 2131/ Email: thomas.gallagher@environ.ie
- Stella Mc Kervey
Direct Line: 053 911 7344/ Email: stella.mckervey@environ.ie
- David Drea
Direct Line: 053 911 7418/ Email: david.drea@environ.ie

Yours sincerely,



Nina Murray
Principal Officer
Housing Assistance Payment and Current Programmes
Email: nina.murray@environ.ie
Phone: 053 911 7332

Appendix 1 – HAP Maximum Monthly Rent Limits effective from 1 July 2016

Local authority administrative area (1)	Household class						
	One adult in shared accommodation (2)	A couple in shared accommodation (3)	One adult (4)	A couple (5)	One adult, or a couple, with 1 child (6)	One adult, or a couple, with 2 children (7)	One adult, or a couple, with 3 children (8)
Carlow County Council	€ 270	€ 290	€ 440	€ 510	€ 570	€ 600	€ 630
Clare County Council	220	240	360	400	480	515	550
Cork City Council	300	330	550	650	900	925	950
Cork County Council	300	330	550	650	900	925	950
Donegal County Council	200	230	340	370	410	470	520
Dublin City Council	430	500	660	900	1,250	1,275	1,300
Dun Laoghaire-Rathdown County Council	430	500	660	900	1,250	1,275	1,300
Fingal County Council	400	440	660	900	1,150	1,175	1,200
Galway City Council	330	360	575	650	850	875	900
Galway County Council	330	360	575	650	850	875	900
Kildare County Council	350	400	575	750	975	1,050	1,100
Kilkenny County Council	230	270	480	530	630	660	690
Limerick City and County Council	270	300	420	450	650	700	750
Louth County Council	310	350	575	650	975	1,050	1,100
Mayo County Council	200	220	390	410	480	500	520
Meath County Council	310	350	575	700	975	1,050	1,100
Monaghan County Council	200	220	330	390	500	515	530
Offaly County Council	210	230	380	435	550	575	600
Sligo County Council	220	250	460	490	550	575	600
South Dublin County Council	430	500	660	900	1,250	1,275	1,300
Tipperary County Council	210	230	380	420	525	560	600
Waterford City and County Council	240	270	430	450	550	575	600