



Guidance:

Broad Rental Market Area

Local Housing Allowance The New Housing Benefit Scheme

Background

From 5 January 2009 a **broad rental market area (local reference rent)** replaces a locality for determining a local reference rent (LRR). Also on that date a new **broad rental market area** replaces the former one for determining a local housing allowance (LHA). For convenience we refer to these as a BRMA(LRR) and a BRMA. Their respective definitions are set out in the Rent Officers (Housing Benefit Functions) Order 1997 (the Order) as amended by Statutory Instrument number 3156 in 2008

A BRMA(LRR) is an area:

- within which a tenant of the dwelling could reasonably be expected to live having regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping, taking account of the distance of travel, by public and private transport, to and from those facilities and services

A BRMA is an area:

- within which a person could reasonably be expected to live having regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping, taking account of the distance of travel, by public and private transport, to and from those facilities and services

Both a BRMA(LRR) and a BRMA are subject to two conditions. Firstly, they must both contain:

- residential premises of a variety of types, including such premises held on a variety of tenures

Secondly, a BRMA(LRR) must contain:

- sufficient privately rented residential premises, to ensure that, in the rent officer's opinion, the local reference rents for tenancies in the area are representative of the rents that a landlord might reasonably be expected to obtain in that area,

and a BRMA:

- sufficient privately rented residential premises, to ensure that, in the rent officer's opinion, the local housing allowance for the categories of dwelling in the area for which the rent officer is required to determine a local housing allowance is representative of the rents that a landlord might reasonably be expected to obtain in that area.



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Once determined, a BRMA(LRR) is used by the rent officer to apply an LRR to a referred case in the same way as previously. Meanwhile, the extent and name of a BRMA is notified to the local authority along with the relevant LHA figures, again the same as previously.

While the two parts of the Order therefore produce two classes of determination required by the two distinct schemes, one relating to a dwelling that has been referred to the rent officer and the other to a general allowance, they both define areas within which it is objectively reasonable for someone to live and enjoy access to specified facilities and services.

In this regard much of the foregoing is similar to the definitions of locality and BRMA set out in the previous Order – but there are important differences. The new BRMA(LRR) and BRMA are no longer based on a combination of neighbourhoods or distinct areas of residential accommodation; their named facilities and services are no longer required to be of the same type and similar standard; their variety of tenancies is replaced by a variety of tenures and, finally, they must now contain sufficient privately rented residential premises to give rise to the LRR and LHA.

Determination

There are three elements to the BRMA(LRR) and BRMA determinations.

1. Access to facilities and services

This element can be approached as two tasks:

- identification of facilities and services, and
- assessment of accessibility to them

For convenience we refer to them collectively as the HERBS:

- **H**health,
- **E**ducation,
- **R**ecreation,
- personal **B**anking, and
- **S**hopping

The rent officer should identify and take account of:

- General practitioners, dentists, opticians and pharmacies, health centres and hospitals.
- Primary schools, secondary schools and colleges of further education. (Universities should be noted but, as their catchments tend to be regional, national and even international, using them as determining factors is not advised).



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- Parks, leisure centres, sports centres, swimming pools, outdoor sports facilities, spectator sports venues, theatres, cinemas, museums, places of interest, restaurants, clubs and other community activities.
- Banks, building societies, post offices and automated cash machines.
- Convenience stores, shopping parades, supermarkets, high streets, street markets, shopping centres and out of town sites. (Regional centres should be noted but, because their catchments are regional, using them as a basis for a determination is not advisable).

Rent officers must consider access to the HERBS identified. The requirement is that a BRMA(LRR) and BRMA must offer reasonable access to them by both public and private transport. The Order requires consideration of the “distance of travel” and, inevitably, “distance” is commensurate with ‘time’. If journeys take an unreasonable time, for the tenant of a dwelling or a potential recipient of an allowance, it is likely that an area is too broad.

In the context of determining area boundary, access to some HERBS will be influenced in one direction while access to others will be influenced in another. Rent officers should therefore strive to exercise careful judgement when determining boundary. The important thing is that the tenant of a referred dwelling has reasonable access to the HERBS and that people living across an area share a reasonable level of access to them.

The use of the word “reasonably” in the definition exerts a limit on broad extent. ‘Reasonableness’ is a concept that allows public bodies to exercise discretion in following Parliamentary intentions but, at the same time, restrains officials from exceeding those intentions. It is impossible to provide a precise definition of reasonableness that could cover every situation. The provision of good transport links means an area is justifiable when someone enjoys access to a not unreasonable degree. In a broad area context, the term “reasonable” may vary. For example, people in rural locations expect to travel greater distances to access HERBS than people in urban locations.

2. Variety of property types and tenures

This element represents a checking mechanism, or test, after the consideration of the primary HERBS element.

The requirement is straightforward and requires rent officers to ensure that an area contains an assortment of property types (e.g. houses, flats, bungalows, terraced, semis, detached, purpose built and converted). Rent officers may also consider whether other, less usual, types of dwellings are present, such as caravans or caravan sites, boats or moorings. Rent officers must also ensure a variety of tenures such as owner occupation, local authority renting, social renting and private renting.



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3. Sufficient privately rented premises

This element represents the second test to be satisfied. It requires rent officers to ensure that the private rented sector identified in the “variety” test is adequate to support an LRR and LHA representative of the market.

Broad areas will not resemble each other in every way. The private rented sector, for example, is far from evenly spread; it tends to be concentrated in the urban areas and scattered unevenly throughout rural ones - in many places it is non-existent. It is not, therefore, the intention of this guidance to attempt to settle on an amount of privately rented premises that could serve as a benchmark and meet the test for all broad area determinations. Rent officers have a responsibility to use their judgment and, taking account of the relevant factors, reach an informed opinion.

If, in a bid to address deficiency, rent officers wished to increase an area’s extent, they would need to revisit the primary consideration of accessibility to the HERBS. However, the Order also requires that where rent officers, in a densely populated conurbation for example, wished to decrease an area’s extent in order to address perceived excess, they would need to revisit the view that the area is broad: i.e. wide in extent, large in expanse, or spacious. The key issue here is thus one of applying checks and balances, and sufficiency therefore needs to be considered within the context of the Order as whole.

Since rent officers have to collect lettings information on which to base the LRR and LHA, it may be reasonable for us to quantify, in general terms, the amount of lettings information rent officers can expect to collect. Lettings information representing 20% of the private rented sector should provide a reliable representation of a broad rental market. (It should be noted that the size of the Private Rented Sector (PRS) cannot be determined by the amount of lettings information that the VOA holds – the extent of the PRS must be independently assessed by using other data such as census data.)

Where rent officers identify an insufficient number of dwellings for a required room or bedroom category, they may import lettings information from similar areas. The important point to note is that, as it is the rent officer’s duty to decide what constitutes sufficiency for a broad area, it would be reasonable to consider only the most generally available room and bedroom categories of property when forming an opinion of general sufficiency.

It is in such ways that rent officers exercise judgment as to whether an area contains sufficient private rented lettings for an LRR and LHA to be determined that is representative of what a landlord could reasonably expect to obtain in a broad area.



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Reviews

The difference between LRR and LHA has consequences for the review process; for while LRR is open to redetermination LHA is not. Broad areas are generally agreed by rent officers but a rent officer determining an LRR must be satisfied that the assessment of BRMA is appropriate. If a rent officer, particularly where a redetermination is involved, is not satisfied that the BRMA(LRR) is appropriate to the case, another BRMA(LRR) should be determined - the rent officer has a duty to exercise judgment and supply reasons for the redetermination of BRMA(LRR). This would involve consultation with other rent officers.

Generally agreed broad areas are subject to periodic review. The VOA has a Business Plan commitment to conduct regular reviews of BRMAs.

Consultation with local authorities

The VOA has given an undertaking to consult with local authorities and other stakeholders when determining a BRMA. The determination decision rests with the rent officer and must be based solely on the legal requirements of the Order.

Notification to Local Authorities

Once a BRMA has been determined all the relevant local authorities within it will be notified. The notification will include the name of the BRMA and the postcodes within its boundary.