

SCHEDULE 1

PART I DETERMINATIONS

Local reference rents

4.—(1) The rent officer shall make a determination of a local reference rent in accordance with the formula—

$$R = \frac{H + L}{2}$$

where—R is the local reference rent;

H is the highest rent, in the rent officer's opinion,—

(a) which a landlord might reasonably have been expected to obtain, at the relevant time, for an assured tenancy of a dwelling [^{F1}in England, or an occupation contract of a dwelling in Wales,] which meets the criteria in sub-paragraph (2); and

(b) which is not an exceptionally high rent; and

L is the lowest rent, in the rent officer's opinion,—

(a) which a landlord might reasonably have been expected to obtain, at the relevant time, for an assured tenancy of a dwelling [^{F2}in England, or an occupation contract of a dwelling in Wales,] which meets the criteria in sub-paragraph (2); and

(b) which is not an exceptionally low rent; and

(2) The criteria are—

(a) that the dwelling under the assured tenancy [^{F3}or occupation contract]—

(i) is in the same [^{F4}broad rental market area (local reference rent)] as the dwelling;

(ii) is in a reasonable state of repair; and

(iii) has the same number of bedrooms and rooms suitable for living in as the dwelling (or, in a case where the dwelling exceeds the size criteria for the occupiers, accords with the size criteria); and

(b) if the tenant does not have the use under the tenancy of the dwelling [^{F5}at the relevant time] of more than one bedroom or room suitable for living in [^{F6}and neither the tenant nor the tenant's partner is a person who requires overnight care]—

(i) that under the assured tenancy [^{F7}or occupation contract] the tenant does not have the use of more than one bedroom or room suitable for living in;

(ii) if the rent under the tenancy [^{F8}at the relevant time] includes payments for board and attendance and the rent officer considers the amount fairly attributable to board and attendance is a substantial part of the rent, that a substantial part of the rent under the assured tenancy [^{F9}or occupation contract] is fairly attributable to board and attendance;

Changes to legislation: There are currently no known outstanding effects for the The Rent Officers (Housing Benefit Functions) Order 1997, Paragraph 4. (See end of Document for details)

- (iii) if sub-paragraph (ii) does not apply and the tenant shares a ^{F10}kitchen, toilet, bathroom and room suitable for living in] with a person other than a member of his household, a non-dependant or a person who pays rent to the tenant, that the assured tenancy ^{F11}or occupation contract] provides for the tenant to share a ^{F10}kitchen, toilet, bathroom and room suitable for living in]; and
 - (iv) if sub-paragraphs (ii) and (iii) do not apply, that the circumstances described in sub-paragraphs (ii) and (iii) do not apply in relation to the assured tenancy ^{F12}or occupation contract].
- (3) Where ascertaining H and L under sub-paragraph (1), the rent officer:
- (a) shall assume that no one who would have been entitled to housing benefit had sought or is seeking the tenancy; and
 - (b) shall exclude the amount of any rent which, in the rent officer’s opinion, is fairly attributable to the provision of services which are ineligible to be met by housing benefit;
^{F13} ...
 - (c) ^{F13} ...
- (4) In sub-paragraph (2)(b)—
- “bedroom or room suitable for living in” does not include a room which the tenant shares with any person other than—
- (a) a member of his household;
 - (b) a non-dependant (as defined in this sub-paragraph); or
 - (c) a person who pays rent to the tenant; and
- ^{F14}^{F15} “non-dependant” means a non-dependant of the tenant within the meaning of regulation 3 of the Housing Benefit Regulations or, as the case may be, regulation 3 of the Housing Benefit (State Pension Credit) Regulations;]
- (5) In sub-paragraph (3), “services” means services performed or facilities (including the use of furniture) provided for, or rights made available to, the tenant, but not ^{F16}, in the case of a tenancy where a substantial part of the rent under the tenancy is fairly attributable to board and attendance, the provision of meals (including the preparation of meals or provision of unprepared food).]
- ^{F17}(6) For the purposes of this paragraph and paragraph 5 “broad rental market area (local reference rent)” means the 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.
- (7) A broad rental market area (local reference rent) must contain—
- (a) residential premises of a variety of types, including such premises held on a variety of tenures; and
 - (b) 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.]

Textual Amendments

F1 Words in Sch. 1 para. 4(1)(a) inserted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), Sch. 1 para. 17(b)(iii)(aa)

- F2** Words in Sch. 1 para. 4(1)(a) inserted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), **Sch. 1 para. 17(b)(iii)(bb)**
- F3** Words in Sch. 1 para. 4(2)(a) inserted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), **Sch. 1 para. 17(b)(iv)**
- F4** Words in Sch. 1 para. 4(2) substituted (5.1.2009) by Rent Officers (Housing Benefit Functions) Amendment (No.2) Order 2008 (S.I. 2008/3156), arts. 1, **2(3)(a)(i)**
- F5** Words in Sch. 1 para. 4(2)(b) inserted (E.W.) (3.4.2000) by The Rent Officers (Housing Benefit Functions) (Amendment) Order 2000 (S.I. 2000/1), arts. 1(1), **10(a)(i)**
- F6** Words in Sch. 1 para. 4(2)(b) inserted (1.4.2011) by The Rent Officers (Housing Benefit Functions) Amendment Order 2010 (S.I. 2010/2836), arts. 1(3), **3(3)**
- F7** Words in Sch. 1 para. 4(2)(b)(i) inserted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), **Sch. 1 para. 17(b)(v)**
- F8** Words in Sch. 1 para. 4(2)(b)(ii) inserted (E.W.) (3.4.2000) by The Rent Officers (Housing Benefit Functions) (Amendment) Order 2000 (S.I. 2000/1), arts. 1(1), **10(a)(ii)**
- F9** Words in Sch. 1 para. 4(2)(b)(ii) inserted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), **Sch. 1 para. 17(b)(vi)**
- F10** Words in Sch. 1 para. 4(2)(b)(iii) substituted (E.W.) (2.7.2001) by The Rent Officers (Housing Benefit Functions) (Amendment) (No.2) Order 2001 (S.I. 2001/2317), arts. 1(1), **2(3)**
- F11** Words in Sch. 1 para. 4(2)(b)(iii) inserted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), **Sch. 1 para. 17(b)(vii)**
- F12** Words in Sch. 1 para. 4(2)(b)(iv) inserted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), **Sch. 1 para. 17(b)(viii)**
- F13** Sch. 1 para. 4(3)(c) omitted (1.4.2003 for specified purposes, 7.4.2003 for specified purposes) by virtue of Rent Officers (Housing Benefit Functions) Amendment Order 2003 (S.I. 2003/478), arts. 1(1), **2(2)**
- F14** Words in Sch. 1 para. 4(4) substituted (7.4.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **10(7)(a)** (with art. 2)
- F15** Words in Sch. 1 para. 4(4) substituted (6.3.2006) by The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), reg. 1(1), **Sch. 2 para. 11(10)(a)** (with regs. 2, 3, Sch. 3, 4)
- F16** Words in Sch. 1 para. 4(5) substituted (E.W.) (3.4.2000) by The Rent Officers (Housing Benefit Functions) (Amendment) Order 2000 (S.I. 2000/1), arts. 1(1), **10(c)** (with art. 16)
- F17** Sch. 1 para. 4(6)(7) substituted for Sch. 1 para. 4(6) (5.1.2009) by Rent Officers (Housing Benefit Functions) Amendment (No.2) Order 2008 (S.I. 2008/3156), arts. 1, **2(3)(a)(ii)**

Changes to legislation:

There are currently no known outstanding effects for the The Rent Officers (Housing Benefit Functions) Order 1997, Paragraph 4.