



Local Housing Allowance

Safeguard Policy

Introduction

The Local Housing Allowance (LHA) is a new way of working out Housing Benefit (HB) for private sector tenants. The scheme will be introduced from April 2008. LHA will usually be paid to the tenant and a tenant can not simply request that payment is made to their landlord.

However, the Department of Work and Pensions has provided guidance on when direct payments can be made to landlords to protect vulnerable tenants. Where a tenant is likely to have difficulty managing their affairs or is unlikely to pay their rent, direct payments to landlords may be appropriate. Based on evidence and facts the Local Authority will decide if LHA needs to be paid direct to the landlord. ***However, the LHA must be paid direct to the landlord where the tenant is 8 weeks or more in arrears with their rent.***

The Aims and Objectives of the Safeguard Policy

- To provide a safeguard for the most vulnerable tenants by reassuring them that their benefit is being paid towards their rent.
- To help prevent rent arrears and tenants being put at risk of eviction.
- To help sustain tenancies for vulnerable tenants.
- To reassure landlords that their rent will be paid if they have vulnerable tenants or are approached by vulnerable tenants.
- To work in co-operation with landlords where tenants consistently fail to pay their rent.
- To help tenants contact other agencies where necessary and provide opportunity and support to manage their own affairs.
- To treat each case individually and not to make assumptions about peoples' situations and to ensure that officers make reasonable, fair and consistent decisions.
- To promote a transparent and simple process that is understood by everyone.
- To work closely with other statutory and voluntary organisations to support vulnerable tenants in order to prevent homelessness.

The policy is not designed to :

- Be used by landlords to undermine the aims and objectives of the LHA scheme, which includes encouraging financial management and independence among low income groups.
- Replace support and advice that may be being provided to tenants in managing their financial affairs.
- Be a blanket policy for organisations to provide support to private tenants.
- Undermine the rights of any tenants to receive direct payment of LHA to themselves.

Direct Payment to Landlord

Housing Benefit (General) Regulation 96 (3A) & (3B) set out the circumstances where payment of LHA may be made direct to a tenants' landlord. Circumstances where the Local Authority may consider direct payments to landlords are:

1. Where a tenant is likely to have difficulty managing his affairs and is deemed to be a "vulnerable" tenant.
2. Where the tenant is unlikely to pay their rent because they have rent arrears and consistently failed to pay or if they have a history of arrears with a previous landlord.

Section 1 Tenant is likely to have difficulty managing affairs

Tenants who are likely to have difficulty managing their affairs are deemed to be vulnerable tenants. However, some tenants may wish to be classed as vulnerable simply because they would prefer to have payments sent direct to their landlord.

One of the main aims of LHA is to encourage tenants to take responsibility for their rent payments. Therefore we need to distinguish between tenants who simply do not want to take up the responsibility of managing their own affairs and those that genuinely have difficulty managing their affairs. In most cases we would request evidence from professional bodies such as doctors, social workers, welfare rights, etc.

Indicators that tenants may be “vulnerable”

By indicators we mean both causes and the effects of vulnerability. This list is not exhaustive and there may be other causes of vulnerability that prevents tenants from receiving direct payments of LHA. Each and every case will be considered on its own individual merits.

- **People with learning disabilities**, ranging from mild to severe problems. In all cases where there is a representation that a tenant is suffering from learning disabilities and is likely to have difficulty managing their affairs, we should seek confirmation from a support worker or from a doctor.
- **Tenant has a medical condition** that is likely to seriously impair their mental and physical conditions which may make it difficult for a person to manage their affairs. We will seek confirmation from a GP or social worker.
- **Difficulty in reading and writing, financial illiteracy or inability to speak English.** In order to determine whether a person may be illiterate in any of these ways, we will look at how the current claim or any other recent claim was made. The application might have been completed by another person on the tenant's behalf or by the tenant with incomplete information. However, a person who is unable to complete their claim form may be entirely capable of dealing with their finances or have adequate support in place to help them when needed.
- **Addiction to drugs, alcohol or gambling.** We will request evidence from GP, hospital, care workers, social services or support organisations to establish vulnerability in these areas.
- **Severe debt problems/recent County Court judgement.** We will look for evidence from help groups, creditors, courts, solicitors etc.
- **Undischarged bankruptcy.** The court order should be sufficient evidence.

- **People fleeing domestic violence** and have the support of the police or a statutory or voluntary agency.
- **Prison leaver** being supported by an appropriate organisation or agency.
- **An inability to obtain a bank account.** We will ask for copies of letters from banks or evidence from money advisors.

Evidence of vulnerability – Possible sources

Reason for vulnerability	Suitable sources of evidence
learning disabilities	<ul style="list-style-type: none"> • GP • Social services • Care workers • DWP
Medical conditions	<ul style="list-style-type: none"> • GP & Hospital • Social services • Care workers • DWP • Support organisations
Difficulty in reading and writing English	<ul style="list-style-type: none"> • Letter from support workers
Addiction to drugs, alcohol or gambling	<ul style="list-style-type: none"> • GP & Hospital • Social services • Care workers • DWP • Support organisations • Police
Severe debt problems	<ul style="list-style-type: none"> • Courts • Banks / Building Societies • Solicitors • Creditors • Support organisations
Undischarged bankruptcy	<ul style="list-style-type: none"> • Court order documents
People fleeing domestic violence	<ul style="list-style-type: none"> • GP • Social services • Support organisations • DWP • Police
Prison leaver	<ul style="list-style-type: none"> • Probation services • Social services • Support organisations
An inability to obtain a bank account	<ul style="list-style-type: none"> • Letter from bank • Letter from money advisor

Decision making process

Receiving an application

Where a request for direct payment on the grounds of vulnerability or financial difficulty is received from the tenant, the landlord or from a representative of the tenant, the request must be made in writing and an application form for direct payment to landlord must be completed. Any representative (third party) of the tenant must have written authority from the tenant to act on their behalf.

In all cases the request must include appropriate written evidence to support the application.

Gathering evidence

Any application for direct payments to landlord will be dealt with by **a case officer, who will investigate and gather all the relevant information. Recommendation made by the Case Officer will then be passed to the Benefits Co-ordinator for the final decision to be made.** This will ensure that the process of decision making for vulnerable people is consistent.

If required, further information will be requested. The tenant, the landlord and any representative will be granted one month to respond.

If needed an interview will be arranged with the tenant, the landlord or any third party to gather any further evidence required before making the final decision. In cases where limited evidence is available, the final decision will be made with a reasonable and practical approach by the Benefits Co-ordinator.

Making a decision

Based on the evidence gathered a decision will be made by the Benefits Co-ordinator as to whether direct payment to landlord is in the best interest of the tenant. A written copy of the reason for any decision will be kept in our electronic filing system. An appropriate review date will also be set.

Direct payment to landlord

Tenants with financial difficulties (severe debt problems, CCJ's, bankruptcy or inability to open a bank account) will be referred to other organisations such as CAB or National Debt line to seek support and advice. The case will be reviewed usually in 6 months to allow the tenant time to seek support and advice to reach a position where they may be able to accept direct payments of LHA.

Where it has been established that a tenant will be vulnerable or unable to manage their affairs, a thorough consultation with all parties will take place to determine if the vulnerability is short term or long term. This will determine the period at which the case should be reviewed. However in some cases where it is anticipated that the situation will not change the case will be reviewed on an annual basis.

If the LHA is above the tenants contractual rent, the tenant will receive the excess payment.

Direct Payment to Tenant

If after reviewing all the evidence it is decided that the tenant is not vulnerable, then payments will be made direct to tenants themselves. Tenants will be advised of the importance of paying their rent and the consequences if they do not pay. Tenants will also be signposted to other organisation to seek support and advice appropriate to their needs.

Notification

When a decision has been made, all affected parties will be notified in writing by the Benefits Co-ordinator. Appeal rights will be stated clearly.

Section 2 It is improbable that the tenant will pay his rent

Direct payment can be made to the landlord where the Local Authority considers that it is unlikely that the tenant will pay his rent. The intention is to protect the tenants, who are likely to act irresponsibly, from falling into rent arrears.

One of the main aims of LHA is to encourage tenants to take responsibility for their rent payments; therefore we need to balance the provisions to pay the landlord direct with the need to promote the aims of the HB reforms. Each case would be thoroughly investigated when considering representations that it is improbable that the tenant will pay his rent.

Possible Indicators that a tenant is unlikely to pay their rent

Where a representation is received, but with no supporting evidence that the tenant is unlikely to pay their rent, possibly due to the fact that until now the tenants landlord has been in receipt of direct payments, we will make payments to the tenant. The action taken by the tenant once this payment has been received may be treated as further evidence to determine whether the tenant is likely to pay his rent or not.

- **Rent arrears.** Landlords are encouraged to notify the Local Authority at the earliest opportunity if a tenant is not paying his rent. Where a request for direct payment on the ground of rent arrears is made, evidence from the landlord and agreement from the tenant will need to be provided.
- **Records kept by the housing department, council tax office and the debtors section (HB overpayments) or a history of rent arrears.** In situations where records show persistent arrears or a failure to keep to arrangements that have been made, the tenant may be considered to be unlikely to pay his rent.
- **The credit history** could be a useful indicator. Arrears of utility charges, letters from the tenant's bank, evidence of unpaid orders/direct debits could all indicate that the tenant does not manage his money sufficiently well and is unlikely to do so in future.

Decision making process

Receiving an application

Landlords are encouraged to notify the Local Authority at the earliest opportunity if a tenant is not paying their rent. Any request for direct payments of LHA to landlord from the tenant, landlord or from a representative of the tenant, must be made in writing and an application form for direct payment to landlord must be completed. Any representative (third party) acting on the tenants behalf must have written authority from the tenant.

Gathering evidence

If necessary, further information and evidence will be requested. The tenant, landlord and any representative will be granted one month to respond. When considering any evidence we will take into account:

- The past behaviour of the tenant; have they had previous rent arrears, do they frequently miss payments or do they have any other known underlying debt indicators.
- Whether landlords are making such request for their own financial security.

Making a decision

Based on the evidence gathered a decision will be made by the Benefits Co-ordinator if direct payments to landlord is in the best interest of the tenant. If considered necessary an interview will be arranged with the tenant, the landlord or any third party to satisfy any evidence required before making the final decision. A written copy for the reason for any decision will be kept in our electronic filing system.

Direct payment to landlord

For tenants who are deemed unlikely to pay their rent, payment will be made directly to the landlord. This decision will be reviewed at a timescale set by a **Case Officer as advised by the Benefits Co-ordinator**. Tenants will also be signposted to appropriate organisations to seek financial help and support. If the LHA is above the tenants contractual rent, tenant will receive the excess payment, unless there are any rent arrears, where the excess payment can be used to clear the arrears.

Direct Payment to Tenant

Where there is insufficient evidence that it is unlikely that a tenant will fail to pay their rent, then payments will be made direct to the tenant. Tenants will be advised of the importance of paying their rent and the consequences if they fail to do so. Tenants will also be signposted to other organisations to seek support and advice appropriate to their needs.

Notification

When a decision has been made, all affected parties will be notified in writing by the Benefits Co-ordinator. Appeal rights will be stated clearly.

Section 3

8 weeks rent arrears cases

Housing Benefit (general) regulation 95 states that payment should be made to landlord where a person in arrears of 8 weeks or more of the amount they are liable to pay their landlord as rent, except where it is in the overriding interests of the claimant not to make payment to the landlord.

This is a mandatory provision for direct payment, unless it is in the overriding interest of the tenant not to do so. There is no other discretion in this matter.

All applications must be made in writing. Landlords must provide evidence or statements that show the rent is due and the tenant is 8 weeks or more in arrears with their rent.

Future payments may be suspended while we investigate the case and contact the tenant. If no response is received from the tenant within one month then we will consider making direct payments to the landlord.

The amount payable to the landlord is to be restricted to the rent charged and arrears that are outstanding. Where the LHA is greater than the rent charged, we will consider paying more than the rent charged, up to the value of the LHA, where the landlord requests this. Such cases must be closely monitored to ensure any excess is not paid to the landlord once the arrears have been cleared.

All cases where the tenants are in arrears and additional LHA payments are being made to the landlord, will be reviewed on a regular basis.

Section 4

Appeals

The tenant, landlord or the representative of the tenant can ask the Council to review the decision regarding direct payments of LHA. They can:

- Ask for an explanation of the decision
- Ask for a reconsideration of the decision
- Appeal against the decision

In all cases an appeal must be submitted in writing within one month of the date of the decision to the Revenues Manager.

Any appeal received in relation to this matter would be dealt with under the normal appeal provision that apply to benefits.

Section 5

Special Circumstances

Where it appears that circumstances may have been contrived in order to secure direct payment of LHA to the landlord, the normal provisions outlined in this procedure will not apply.

Any decision made regarding direct payment to landlord will be reviewed by the Benefits Co-ordinator where it appears that the tenant, the landlord or any third party collectively created a contrived arrangement.

The revised decision will take into account the requirements of the Housing Benefit regulation, the circumstances of the individual case and the aims of governments' welfare reform agenda.

The decision will be communicated to persons affected in writing by the Benefits Co-ordinator.

Any person affected may request a review of the decision and if not satisfied with the revised decision they may appeal to the Revenues Manager.