

# **Local Housing Allowance Safeguards For Tenants and Landlords**

## **Policy Document**

April 2008

## **1. Introduction**

The Local Housing Allowance is a new way of working out Housing Benefit for people living in privately rented accommodation. It is based on the number of rooms people are allowed, not how much the rent is. The number of rooms allowed depends on who lives with the tenant.

There are a number of exemptions to the scheme including the following:

- Local Authority tenancies
- Housing Association tenancies
- Supported accommodation provided by local authorities, social landlords, charities or voluntary organisations
- Tenancies that started before 1989
- Tenancies in caravans, houseboats, mobile homes and hostels
- Tenancies with substantial board and attendance

Local Housing Allowance is usually paid to the tenant. Under Local Housing Allowance a tenant cannot simply request that payment is made to a landlord to cover their rent.

Local Housing Allowance affects any landlord who enters into a deregulated private tenancy agreement with a person awarded Housing Benefit. A deregulated tenancy is one that commenced after January 1989.

## **2. DWP Guidance**

The Department for Works and Pensions has provided guidance on when direct payments to the landlord may be appropriate, where a tenant cannot pay or is unlikely to pay their rent.

In most cases the council decides whether it is appropriate to pay the landlord the Local Housing Allowance. However payments must be paid to the landlord where

- The tenant is 8 full weeks or more in arrears with their rent
- The tenant is having deductions made from their Income Support or Job Seekers Allowance to pay for rent arrears.

## **3. Warrington Borough Councils Safeguard Scheme.**

In recognition that some tenants may struggle with the responsibility of paying their rent, Warrington's payment team has developed a safeguard scheme.

This Scheme will ensure that the safeguards in place are applied correctly, to help minimise the risk of tenants falling into arrears with the rent and losing their home and also to reassure landlords that their rent will be paid.

The payments team will use their discretion in identifying cases where Local Housing Allowance should be paid to the landlords. We will not use a blanket policy to identify those claimants who would have difficulty handling a budget or who would be unlikely to pay their rent.

In what circumstances will we consider paying the Local Housing Allowance to the Landlord?

The tenant is **unlikely** to pay their rent because he or she

- Has consistently failed to pay rent and has fallen into rent arrears.
- Has previously absconded from a property leaving rent arrears.

How will we investigate an unlikely payer?

When we receive a verbal or written notification that the tenant will not pay their rent we will try to substantiate this by considering the following

- Past behaviour and evidence of bad debts
- Ask for written evidence of sustained periods of non payment
- Ask for evidence that the landlord has tried to obtain missing payments e.g. possession or court orders

The tenant is **unable** to pay their rent because

- The claimant has financial difficulties/severe debts or has been declared bankrupt which means they are unable to open a bank/building society account.

They are considered to be vulnerable and unable to manage their own financial affairs, this may include people with medical conditions such as:

- Learning Disability
- Medical Conditions i.e., Mental health problems
- Addiction problems i.e., Drugs, Gambling and Alcohol
- Fleeing Domestic Violence
- Care Leavers/ Single and under 25's and Homeless
- Prison Leavers
- Severe Debt Problems
- Undischarged Bankruptcy
- Inability to open a Bank Account
- Where the Department Of Works and Pensions is making deductions from benefit
- Tenant is in receipt of Supporting People funding

This list is not exhaustive and there may be other causes that prevent the tenant from receiving direct payments of the Local Housing Allowance.

Each case will be considered on its own merit and there will not be a blanket approach for claimants meeting the above criteria.

How will we investigate a claimant potentially unable to pay?

We will ask for written evidence from any party identified as relevant.

We will accept without question evidence from

- Social Services
- GP's
- Department of Works and Pensions

- Reputable financial institutes and courts
- Welfare groups such as Citizens Advice Bureau

We will also consider evidence from landlords; however their evidence alone will not be regarded as sufficient for a decision on direct payment to be made.

The aim of the policy is intended to

- Provide a safeguard for tenants and Landlords and reassurance that their benefit and rent will be paid on time
- Prevent rent arrears and tenants being put at risk of eviction
- Help to sustain tenancies for vulnerable tenants
- Help tenants to take responsibility for receiving direct payments of Local Housing Allowance,

And where appropriate

- Help to put tenants in touch with other agencies where necessary and give people the opportunity and support to manage their own financial affairs
- Reassure landlords that their rent will be paid if they have vulnerable tenants
- Work with landlords where the tenant consistently fails to pay the rent.
- To make reasonable, fair and consistent decisions
- Promote a transparent and simple process that is understood widely
- To treat each case individually and not make assumptions about people's situations

The policy is not intended to

- Supersede support that is being received to allow tenants the opportunity to be responsible tenants and be in control of their own income and expenditure
- Supersede the services already available in the city for tenants who require money or debt advice
- Be used by landlords to circumvent the aims of Local Housing Allowance
- Be a blanket policy for agencies providing support to private tenants

## 4. Decision making process

### Receiving an application

The tenant, landlord or tenants representative will make a request for payment of Local Housing Allowance to the landlord. This will normally be using the standard proforma. (See appendix A)

Where a request for direct payments on the grounds of **vulnerability** or **financial difficulties** is received from a representative of the tenant, the third party must have written authority to act on behalf of the tenant.

In all cases the pro-forma or letter should include evidence to support the application. (See appendix B)

### Arrears

As now payment will be made direct to landlord if a tenant

- Has built up eight weeks or more of rent arrears or
- Is having deductions from their IS/JSA to pay off rent arrears

In these instances we will have discretion to continue paying direct to landlord when the level of arrears drops to below eight weeks. This eight weeks period is linked to the period of eight weeks in which the tenant can fail to pay the rent without facing eviction action.

We may also pay the landlord if it is improbable that the claimant will pay their rent. For example, if we are aware that the tenant has consistently failed to pay the rent on past occasions without good reason or has left the previous address without paying.

If a tenant is failing to make rent payments to their landlord, resulting in arrears, we may make payments to the landlord. Failing to make payments may demonstrate vulnerability when there are problems obtaining other evidence.

Arrears may have accumulated over a long period of time for example, the tenant may have failed to meet the top-up payments, resulting in arrears that total more than eight weeks; this may be evidence of a poor payment history and budgeting/financial problems.

If the tenant is in arrears and their benefit entitlement is higher than the rent, it is our decision whether to pay any excess to the landlord towards the arrears.

In all cases we require proof of the arrears in the form of a rent book or rent account showing the date the last payment was made and the amount of arrears. Bank Statements, Copies of Legal documentation, eviction notices.

## **Gathering evidence**

The payment team will consider the information and evidence that has been received and whether this is sufficient to make an appropriate decision.

Where appropriate the payments team or a visiting officer will visit the tenant to gather more information in support of the application.

If the evidence is not sufficient, further information will be requested from the tenant, the tenant's representative, the landlord or all parties by telephone. A discussion with the tenant or their representative may also assist in making a decision.

If there is no phone number, further information will be requested giving one month to respond. If there is no response within a month, further enquiries will be made. A visit to the tenant may be arranged or the case will be considered on the information available.

In some situations where it is felt that less evidence is required or it would be impossible to collate further information, a common sense judgement will be made to reach a decision. Where such a decision is made a report will be completed and recorded with the reasons for the decision.

In all cases, where the tenant has rent arrears or consistently fails to pay the rent, written evidence is required.

## **Making a decision**

Using the information and evidence available it will be decided if it is in the best interest of the tenant to pay the Local Housing Allowance to the landlord. This decision will be made within a reasonable timescale of all the evidence being provided. A copy of our decision will be sent to the claimant, Landlord and any other relevant person, explaining our decision and rights of appeal against our decision.

A standard report proforma will be completed with details of each application, the decision made and the reasons.

## **Reviewing a decision**

There are two types of review we may undertake

- An appeal from a relevant person
- A review of circumstances some time after the decision to establish whether it is still appropriate

The procedure relating to appeals has not changed in regard to Local Housing Allowance, The Person Affected may still appeal regarding direct payments and in such cases the normal Decision-Makers Appeal rules apply.

In cases where the safeguard policy has been applied a review of those circumstances will be undertaken, this review will not exceed twelve months. The review will look again at the decision made, to see if the circumstances have now changed and if the tenant is now is able to accept the responsibility of receiving direct payments and pay the rent to the landlord.

## **Notifying affected parties**

When a decision has been made, affected parties will be notified in writing using standard notification letters.

## **LHA Direct Payment Advice**

In all cases, the Warrington Payments Team will be available to tenants who require information or assistance to help them obtain and manage a basic bank/building society account. The Payments Team will offer additional advice on any aspects of Local Housing Allowance such as understanding their liability to pay Rent and managing the excess.

Where a tenant has severe financial or debt problems a referral to an appropriate Money/Debt Advice agency will be offered to the tenant. The aim being a move towards the claimant eventually managing their own affairs.

## **Updating the systems**

The standard report pro-forma completed for all decisions will be recorded on the Comino system.

The following details will be recorded against the LHA claim on the Housing Benefit system:

- The payment method details of the claim will be updated accordingly
- Review date, where appropriate will be recorded, Diary entries will be recorded with details of the decision made and the action taken.

Any advice agencies, voluntary or statutory organisations that offer help and support

Write to the landlord advising of:

- The new decision
- The date payment to the landlord will cease
- Appeal rights

## **Contact us**

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