

LOCAL HOUSING ALLOWANCE:
SAFEGUARD POLICY

**Benefits Service
Policy Document**

Introduction

Local Housing Allowance (LHA) is a Housing Benefit scheme for private tenants on a low income. There are some exceptions to the scheme including:

- Local Authority tenancies
- Housing Association tenancies
- Most supported accommodation provided by local authorities, social landlords, charities or voluntary organisations
- Tenancies that started before 15/01/1989
- Tenancies in caravans, houseboats, mobile homes and hostels
- Tenancies with substantial board and attendance. (This decision will be made by the Rent Officer Service)

LHA is usually paid to the tenant and the tenant **cannot** decide to have their LHA paid to their landlord although we can pay the landlord if we decide a tenant is vulnerable.

What do we mean by vulnerable?

By vulnerable we mean someone who may have difficulty managing their money. We do not mean someone who does not want to pay their rent.

This policy will provide the safeguards required to prevent the risk of tenants falling into arrears with their rent and being evicted from their home and to allay any fears that landlords may have about potentially vulnerable tenants and those who are unlikely to pay their rent.

Guidance from the Department for Work and Pensions

The Department for Work and Pensions (DWP) provides guidance on when payments may be made directly to the landlord, e.g. where a tenant cannot pay or is unlikely to pay their rent. In most cases, the council's Benefit service decides whether it is appropriate to pay LHA directly to the landlord although, in some circumstances, LHA may be paid to the landlord, for example where the tenant has:

- Rent arrears of 8 weeks or more
- Deductions being made from their Income Support or Jobseekers Allowance to pay for rent arrears.

Rossendale Benefits Safeguard Policy

The Benefits service will consider paying LHA directly to a landlord in certain circumstances, for example:

- The tenant is unlikely to pay their rent because they have:
 - rent arrears and have consistently failed to pay
 - a history of arrears with previous landlords
- The tenant is unable to pay their rent because they:
 - have financial difficulties which mean they are unable to open a bank or building society account, have severe debt problems or are bankrupt

- are considered to be vulnerable and unable to manage their own affairs, this may include:
 - people with medical conditions such as mental ill health, terminal illnesses
 - people with a learning disability
 - people with a physical disability or who may be housebound
 - illiteracy or inability to speak English
 - people with an alcohol, drugs or gambling addiction
 - people fleeing domestic violence and have the support of either the police, or a statutory or voluntary agency
 - prison leavers being supported by an appropriate organisation or agency
 - people who have a temporary change in their life such as a relationship breakdown or bereavement which may mean they need support on a short-term basis.

This list is not exhaustive and there may be other causes of vulnerability that determine the need to pay LHA directly to the landlord. Each case will be considered on its merits to ensure that all vulnerable, or potentially vulnerable, people are treated fairly and correctly.

The main objectives of the council's safeguard policy are to:

- Provide security for vulnerable tenants and reassure them that their Housing Benefit and rent will be paid
- Prevent rent arrears and tenants being put at risk of eviction
- Help to sustain tenancies for vulnerable tenants
- Help tenants to take responsibility for managing their rent
- Help to direct tenants to other agencies where necessary and give people the opportunity and support to manage their own affairs
- Reassure landlords that rent will be paid if they have vulnerable tenants
- Work with landlords where the tenant consistently fails to pay their rent
- To make reasonable, fair and consistent decisions
- Promote a transparent and simple process that is widely understood
- Treat each case individually and not make assumptions about peoples' situations
- Work closely with the statutory and voluntary sector in supporting vulnerable members of our communities, to contribute towards the prevention of homelessness
- Help people with the transition back into work and to support and advise them through the process
- Compliment the work of other council services or departments – housing allocations, environmental health, etc.

The safeguard policy is not intended to:

- Replace support that may be provided to tenants in managing their everyday affairs and finances
- Be used by landlords to avoid and abuse the aims and objectives of the scheme
- Be a blanket policy for organisations providing support to private tenants
- Undermine the good work that is already being carried out by other council services or departments

- Undermine the rights of tenants to manage their own affairs.

SECTION 1: Rent arrears or unlikely to pay rent

1.1 Receiving an application

Landlords are encouraged to notify the Benefits service at the earliest opportunity if a tenant is not paying their rent.

The tenant, landlord or tenant's representative may make a request for LHA to be paid directly to the landlord.

Where a request is made for direct payment due to rent arrears, the Benefits service will ensure that the tenant's consent is obtained before approaching the landlord for evidence.

1.2 Gathering evidence

The Benefit officer making the decision will gather any further information and evidence necessary.

Both the landlord and the tenant will be given one calendar month to provide any information or evidence requested. Landlords will be expected to keep clear and precise records of rent payments.

When considering evidence, officers will take into account:

- The past behaviour of the tenant; any history of rent arrears, missed payments or other underlying indicators of debt or mismanagement
- Whether landlords are only making such requests for their own financial interest. Consideration will be given to other tenants of the landlord and their payment destination and recovery action taken by the landlord in an attempt to recover any arrears.

1.3 Making a decision

Based on all the evidence gathered the Benefits service will decide whether the payment of benefit directly to the landlord is in the best interests of the tenant.

The Benefits service will calculate how many weeks it would take the tenant to clear any arrears through either any excess LHA or through an alternative payment plan to establish a realistic review period.

The reasons for any decision will be recorded on the Benefits system as a case note and diary date will be set to review the case at the appropriate time by the Benefits service.

The Benefits service will refer all agreed cases to an appointed Officer to complete the assessment on the Benefits system, issue payments direct to the landlord and ensure the appropriate review date is set. The 'rent arrears' option for payee reason will be set for monitoring through any LHA reports.

See Appendix B for the procedures for 8 weeks, or more, in rent arrears.

1.3.1 LHA paid to the Landlord

- For those tenants where arrears have accrued or they are deemed unlikely to pay their rent to their landlord:
 - payments will be made directly to the landlord
 - this decision will be reviewed at a timescale set by the Benefits service
 - the tenant will be directed to support and advice with financial matters.

If the LHA is above the tenants' contractual rent, a split payment will occur and the tenant will receive the 'excess' amount.

1.3.2 LHA paid to the tenant

- If the Benefits service has decided that the tenant does not have rent arrears or it is considered that they would take responsibility for their rent then payments will be made to the tenant:
 - tenants will be advised of the importance of paying their rent to the landlord and the consequences if they do not
 - tenants will also be directed to other organisations that could offer any support and advice in other areas appropriate to their needs or the needs of their families.

1.4 Notifications

All persons affected by the decision will be notified in writing and reasons for the decision will be given, where applicable. Appeal rights will be clearly stated.

SECTION 2: Vulnerable tenants - Financial difficulties**2.1 Receiving an application**

The tenant, landlord or tenant's representative may make a request for LHA to be paid directly to the landlord.

Where a request for direct payment on the grounds of vulnerability or financial difficulty is received from a representative of the tenant, the third party must have written consent from the tenant to act on their behalf.

In all cases the request must include written evidence, from an appropriate source, to support the application.

See Appendix A for a list of acceptable evidence and sources in support of a request on the grounds of vulnerability. The list is not exhaustive, and should be used for information.

All requests for payment directly to the landlord and based on the grounds of vulnerability or financial difficulty will be passed immediately to the Benefits service's decision-maker.

2.2 Gathering Evidence

Evidence will usually be in writing and the Benefits service will gather sufficient evidence to make a decision as quickly as possible if a tenant is vulnerable. In most circumstances, LHA will continue to be paid to the tenant while evidence is being gathered.

If necessary, the Benefits service may arrange to interview the tenant, their representative, landlord, or other parties to gather the evidence needed to reach the correct decision.

In some circumstances there may only be limited evidence available. In these cases the final decision will be at the discretion of the Benefits service taking a 'common sense' approach. The decision will always be made in the best interests of the tenant.

This process allows for a prompt and efficient process, consistency of decisions and a degree of continuity for vulnerable people.

2.3 Making a decision

The Benefit service will take account of all the available evidence to make a decision on whether or not the tenant is vulnerable and that payment should be made directly to the landlord. The reasons for the decision will be recorded and kept under regular review by the Benefits service.

All agreed cases will be referred to the Benefit service to complete the assessment, issue payments directly to the landlord and ensure the appropriate review date is set.

Each application will result in one of the following decisions:

2.3.1 Payment of LHA will be made to the Landlord

- For those tenants who have financial difficulties and have not been able to open a bank account or have severe debt problems, County Court Judgments or are bankrupt:
 - the tenant should be directed to other organisations such as Citizens Advice, Age Concern, Welfare Rights to seek money advice and support. Other organisations such as the Credit Union can also consider provision of affordable loans for tenants with rent arrears. The Benefits service will set a review period, usually 6 months, in order to allow the tenant time to access any advice and support in managing their affairs.

- For those tenants where it has been decided that they are vulnerable and unable to manage their own affairs:
 - the Benefit service, through consultation with all parties involved and in consideration of the type and length of support provided to a tenant, will decide whether the vulnerability is short-term or long-term. This will determine the period for review. In any event, cases will be reviewed on an annual basis.

If the LHA is above the tenant's contractual rent, a split payment will occur and the tenant will receive the 'excess' amount.

2.3.2 Payment of LHA will be made to the tenant

If the Benefit service decides that the tenant does not have serious difficulties managing their affairs, sufficient to warrant payment directly to their landlord, then payments will continue to be made to the tenant.

Tenants will be advised of the importance of paying their rent and the consequences if they do not. Tenants will also be directed to other organisations that could offer money advice and support.

2.4 Notifications

All persons affected by the decision will be notified in writing and reasons for the decision will be given, where applicable. Appeal rights will be clearly stated.

SECTION 3: Reviews and appeals

Reviewing a Decision

Following a decision that the tenant is a vulnerable person, the Benefit service will contact them and or their representative 4 weeks before the end of the review period to determine whether their situation has changed and if they can receive payment of LHA.

Tenants will not be required to complete an application form. In the first instance the Benefit service will write to the tenant, their representative or support worker to gather information on the current situation.

Payments will continue to be paid directly to the landlord until the review action is complete.

If the situation has not changed, a further review period will be set. However, if at any point during the review process it is established that the tenant may require further money advice or support, then they will be directed to the relevant organisations.

Where the circumstances of the tenant have changed and they can take responsibility to pay rent to their landlord, the Benefit service will make a new decision to pay the tenant.

All persons affected by the decision will be notified in writing and reasons for the decision will be given, where applicable. Appeal rights will be clearly stated.

Appeals

The tenant or the person who has made the application or referral can ask the Benefit service to review any decision made regarding direct payments of LHA.

They can:

- Ask for an explanation of the decision
- Ask that the decision be reconsidered
- Appeal against the decision.

In all cases the person must contact the Benefit service, in writing, with their grounds of appeal within one calendar month from the date the decision was made. The Benefit service will then look at the decision again.

Vulnerability Indicators

Vulnerability Criteria	Written evidence required
Learning Disability	<ul style="list-style-type: none"> • GP • Social Services • Care Workers • DWP
Medical Condition e.g. Mental health problems	<ul style="list-style-type: none"> • GP • Social Services • Care Workers • Hospital • DWP • Support Organisations
Addiction problems e.g. Drugs, Gambling, Alcohol	<ul style="list-style-type: none"> • GP • Social Services • Hospital • Police • Care Workers • Support Organisations
Fleeing Domestic Violence	<ul style="list-style-type: none"> • GP • Police • Social Services • Support Organisations • DWP
Care Leavers / single < 25 homeless	<ul style="list-style-type: none"> • GP • Social Services • Homeless Team • Support Organisations / Homeless charities
Discharged Prisoners	<ul style="list-style-type: none"> • Social Services • Probation Service • Support Organisations
Severe Debt Problems e.g. CCJs	<ul style="list-style-type: none"> • Courts • Banks / Building Societies • Solicitors • Creditors • Support Organisations ie CAB,
Undischarged Bankruptcy	<ul style="list-style-type: none"> • Court Order documents
Inability to open a Bank Account	<ul style="list-style-type: none"> • Evidence from banks or building societies • Money Management, Welfare and Information Centres
Where DWP is making deduction from benefits and paying direct to utility company	<ul style="list-style-type: none"> • DWP • RATS • Job Centre Plus
Tenant is in receipt of 'Supporting People' funding	<ul style="list-style-type: none"> • Support Organisation • GP • Social Services • SP section

This list is not exhaustive, and should be used for information.

Procedure: 8 Weeks in arrears

If a Landlord or tenant contacts the Benefits service to say the tenant is 8 weeks or more in arrears with their rent, the Benefits service will need evidence before it can change the payment arrangements.

In these cases a standard letter '*Letter to Landlord – LHA 8 weeks in arrears*' should be sent to the Landlord and '*Letter to tenant – LHA 8 weeks in arrears*' should be sent to the tenant to gather evidence required to decide if the tenant is a vulnerable person.

Payments may be suspended at the discretion of the Benefits service.

When acceptable evidence is received the Benefits service may then decide to change the payment arrangements.

If the Landlord provides sufficient evidence at the outset, the Benefits service will consider suspending the payment and send the letter '*Letter to tenant – LHA 8 weeks in arrears*' to the tenant. When the tenant responds the Benefits service will consider what action is required to support them in managing their affairs. This may include referring them to other organisations for money advice or support. The Benefits service will also consider whether payment should be made directly to the landlord to ensure continuing tenancy.

If no response is received within one month the Benefits service will consider making payment directly to the landlord.

All persons affected by the decision will be notified in writing and reasons for the decision will be given, where applicable. Appeal rights will be clearly stated.

Changing payee to Landlord

The payee should be changed to the Landlord using the 'paid to' date as the effective date.

The payment frequency will be four-weekly, in arrears, as before.