

Local Housing Allowance Safeguards for Claimants and Landlords

Birmingham Benefits Service
Policy Document

Introduction

The Local Housing Allowance (LHA) is a new scheme of Housing Benefit for most people living in private rented accommodation, with some exceptions including:

- Tenancies that started before 15 January 1989
- Tenancies in caravans, houseboats, mobile homes and hostels
- Tenancies with substantial board and attendance

The scheme also does not affect

- Local Authority tenancies
- Housing Association tenancies
- Supported accommodation provided by local authorities, registered social landlords, charities or voluntary organisations

A central element of the Local Housing Allowance is that it will usually be paid to the claimant. Only in certain exceptional circumstances will payments be able to be made directly to a landlord. Under LHA a claimant will no longer be able to simply request that payment is made to a landlord to cover their rent.

DWP Guidance

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

In most cases the Benefit Service will decide whether it is appropriate to pay the landlord the Local Housing Allowance. However, LHA must be paid to the landlord where:

- We have been advised that a claimant is 8 full weeks or more in arrears with their rent; or
- The claimant is having deductions made from their Income Support or Jobseekers Allowance to pay for rent arrears

Birmingham Benefits Service Safeguard Policy

The policy will ensure that the safeguards in place are applied correctly and appropriately within the scheme, to minimise the risk of claimants falling into arrears with their rent and losing their home due to eviction, and to help allay any fears that landlords may have regarding potentially vulnerable tenants and those who are unlikely to pay.

The circumstances where we will consider paying the Local Housing Allowance directly to a landlord are:

- Where we are satisfied that they are unlikely to pay their rent; or
- Where we are satisfied that they cannot get access to facilities to have their Housing Benefit paid; or
- We are satisfied that they cannot pay their rent because they are unable to manage their own affairs

We may be satisfied that a claimant is unlikely to pay their rent because, for example:

- They have rent arrears and have consistently failed to pay
- They have a history of arrears with previous landlords
- They have previously absconded from a property leaving rent arrears.

A claimant may be unable to receive Housing Benefit payments themselves because:

- They have financial difficulties which mean they are unable to open a bank/building society account, have severe debt problems or are bankrupt

A claimant may be unable to manage their own affairs because of illness or vulnerability, for example:

- Claimants with medical conditions such as mental ill health, terminal illnesses
- Claimants with learning difficulties
- Claimants with a physical disability or who may be housebound
- Illiteracy or inability to speak, read or write English
- Claimants with an alcohol/drugs or gambling addiction
- Claimants fleeing domestic violence and have the support of either the police, or a statutory or voluntary agency
- Claimants being supported by a statutory or voluntary agency, such as young care leavers/single homeless adults and families
- Prison Leavers being supported by an appropriate organisation or agency
- Claimants 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 prevents the claimant from receiving direct payments of Local Housing Allowance. However, the vulnerability must lead to an inability to manage their own affairs. Many people in the categories described above, whilst vulnerable will be both perfectly willing and able to manage their rents.

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

The policy is intended to

- Provide a safeguard for vulnerable claimants and reassure them that their Housing Benefit and rent will be paid
- Prevent rent arrears and claimants being put at risk of eviction
- Help to sustain tenancies for vulnerable claimants
- Help claimants to take responsibility for receiving direct payments of LHA, where appropriate
- Help to put claimants in touch with other agencies where necessary and give them 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 their 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

- Replace support that may be being provided to claimants in managing their everyday affairs and finances
- Be used by landlords or claimants to avoid the aims and objectives of the LHA
- Be a blanket policy for agencies providing support to private tenants
- Undermine the good work that is already being undertaken within other sections/departments of the LA
- Undermine the rights of claimants to receive payment directly to themselves

DECISION MAKING PROCESS

Receiving an application

The claimant, landlord or claimant's representative will make a request for payment of the LHA to the landlord.

This can be made via the standard application form or a letter.

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

In all cases the request should include evidence to support the application.

Gathering information

Benefit Officers will consider the information that has been received and if there is enough evidence to make an appropriate decision.

Evidence can be from:

- Social Services
- LA records
- Customer
- GP
- Support or advisory services like CAB.
- Claimant's family or friends
- Evidence from a landlord will not be accepted alone

If the evidence is not sufficient then further information can be requested either by telephone or letter.

Both the landlord and the claimant will be given one calendar month to provide any information / evidence requested.

When considering any evidence, officers will take into account:

- The past behaviour of the claimant; have they had previous arrears? Do they continually miss payments? Or do they have any other known underlying debt indicators?
- Whether landlords are only making such a request for their own financial interest. Caution and 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.

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 should be made to reach a decision. Where such a decision is made a report must be completed and recorded with the reasons for the decision.

In all cases, where the claimant 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 claimant to pay the Local Housing Allowance to the landlord.

Each application will result in one of the following decisions:

Payment of LHA will be made to the Landlord.

In all cases the decision will need to be reviewed.

For claimants who are

- 8 full weeks in arrears with their rent
- Having deductions made from their Income Support or Job Seekers Allowance to pay rent arrears.

A review period of six months will be set and the decision will be reviewed to see if the arrears are reducing or reduced below 8 weeks or the deductions from the claimant's Income Support or Job Seekers Allowance have ceased.

For claimants considered unlikely to pay their rent

A review period of six months will be set and the decision will be reviewed to see if circumstances have changed and the claimant is now able to accept the responsibility of receiving direct payments and subsequently pay the rent to their landlord.

For claimants unable to pay because:

- they have financial difficulties which means they are unable to open a bank account, have severe debt problems or are bankrupt

A review period of six months will be set to allow time for the claimant to receive support and advice, which will enable them to accept direct payments of Local Housing Allowance.

- they are considered to be vulnerable and unable to manage their own affairs

Consideration will be given as to whether the claimant has a short-term vulnerability situation and with help, can overcome any problems.

For these cases an appropriate review period will be set for the decision to be reviewed.

For claimants with long-term vulnerability situations, payments to the landlord will be ongoing and we will only review these cases periodically to ensure that it remains in the interest of the claimant to continue paying the landlord Local Housing Allowance on behalf of the claimant.

Examples of Vulnerability

Long Term

- Claimant has learning difficulties that prevents them from managing their financial affairs on a daily basis
- Claimant suffers from a medical condition that makes it hard for them to cope with routine tasks e.g. Schizophrenia; dementia; terminal illness
- Claimant has a physical disability or infirmity that means that they are often housebound making it difficult for them to manage their affairs

Short Term

- Claimant has experienced recent changes that has meant they need additional support in managing their affairs e.g. bereavement; (violent) relationship breakdown; period in hospital; leaving prison;
- Claimant first language is not English, presenting obstacles to them in opening and running bank accounts; reading and dealing with invoices and bills
- Claimant is dealing with (or has a history of) addiction to drugs, alcohol, gambling, and a substantial monetary payment to them would present a risk of relapsing
- Claimant has a history of homelessness and/or rough sleeping and is receiving help to sustain a tenancy in the private sector

Financial

- Claimant has severe debt problems eg, CCJs; bankruptcy; bad credit rating preventing them from opening a bank account

Amount to be paid to the landlord

In the event that the LHA is above the claimant's contractual rent, a split payment will occur and the claimant will receive the excess (up to a maximum of £15.00). To receive this claimants will be encouraged to open bank accounts if they do not already hold one.

Payment of LHA will be made to the claimant

In all cases where vulnerability is not established LHA will be paid to the claimant.

Notifying affected parties

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

Where payment of LHA will be made to the landlord we will:

Write to the claimant and/or their representative advising them of:

- The decision
- Reasons for the decision
- If and when the decision will be reviewed
- Appeal rights
- Any advice agencies or organisations that offer support e.g.:
Neighbourhood Offices

Write to the landlord advising that:

- LHA up to the contractual rent will be paid directly to them on behalf of the claimant
- Request bank details if not previously received
- The minimum length of time that the arrangement will stand if the decision is to be reviewed

Where payment of LHA will be made to the claimant we will:

Write to the claimant and/or their representative advising them of:

- The decision
- Reasons for the decision
- Appeal rights
- Any advice agencies or organisations that offer support e.g.:
Neighbourhood Offices

LHA Direct Payment Advice

In all cases Neighbourhood Office staff will be available to claimants who require additional information or assistance to help them obtain and manage a basic bank/building society account and also to offer advice to claimants on daily budgeting and prioritising financial commitments, to help them manage their affairs. If appropriate, Neighbourhood Office staff may consider a referral to Money Advice or Debt Advice Team.

Reviewing a Decision

The claimant and/or representative will be contacted again four weeks before the end of the review period to determine whether their situation has changed and if they can receive payment of LHA directly.

Claimants will not be required to complete the standard application form again. In the first instance we will write to them or their representative to get an update of the situation.

Payment will continue to the landlord until the review is completed.

If the situation has not changed, a further review period will be set on the claim.

Consideration should be given to ascertain if the claimant requires further assistance to help manage their own affairs. If appropriate, claimant should be advised to contact their local Neighbourhood Office for guidance.

Where the claimant's circumstances have changed which means they can accept the responsibility of direct payments and pay rent to their landlord, we will make a new decision to pay LHA to the claimant and will:

Write to the claimant and/or their representative advising them of:

- The decision
- Reasons for the decision
- The date the first payment will be made to them
- Appeal rights
- Any advice agencies or organisations that offer support e.g.: CAB

Write to the landlord advising of:

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

Appeals

The claimant 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:

- Request an explanation for the decision
- Request the Benefit Service to reconsider the decision
- Appeal against the decision.

In all cases the person must contact the Benefit Service, in writing providing their reasons, within one month from the date of the decision.

We will then look at the decision again.

If the appeal is unsuccessful the claimant or the person who has made the application has the right to request a submission be made to the Appeals Service.

Author: LHA Team
Version: 1.0
Date: February 2008