



# LOCAL HOUSING ALLOWANCE

**SAFEGUARD  
POLICY**



## Hertfordshire Benefits in Partnership

### LOCAL HOUSING ALLOWANCE SAFEGUARD POLICY

#### Introduction

Local Housing Allowance (LHA) is the name for housing benefit (HB) **for tenants in privately rented accommodation** from 7th April 2008.

Local Housing Allowance (LHA) is the cornerstone of the Government's HB reform programme which aims to simplify housing benefit and ensure it supports the wider objectives for welfare reform.

The fundamental aims of the LHA scheme are to promote:

- **Fairness:** LHA bases the maximum amount paid to tenants on the size, composition and location of the household. Therefore, two households in similar circumstances in the same area will be entitled to similar amount of benefits.
- **Choice:** tenants are able to take on greater responsibility and choose how to spend their income in a similar way to tenants who are not in receipt of benefits. Like other tenants they are able to choose whether to rent a larger property, or spend less on housing and increase their available income.
- **Transparency:** The current link between Housing Benefit and individual rents is complex and does not set out clearly what level of state support is available for people on low incomes. A clear and transparent set of allowance rates helps tenants (and landlords) know how much financial help is available from the state. Tenants are able to compare how much support is available towards their housing costs in different areas and for different property sizes.
- **Personal responsibility:** Empowering people to budget for and to pay their rent themselves, rather than having it paid for them, helps develop the skills unemployed tenants will need as they move back into work. The Government believes that, where possible, local housing allowance should be paid to tenants, as are most other benefits and tax credits.
- **Financial inclusion** – Ideally, people should have their housing benefit paid into a bank account and set up a standing order to pay

the rent to their landlord. This has the advantage of being a safe and secure method of payment and provides certainty for landlords that rent will be paid.

- Improved administration - For working age tenants, LHA provides a simpler system and also helps speed up administration of housing payments, giving tenants more confidence when starting a job that any in-work benefit will be paid quickly. A more transparent system may also improve the ability of individuals to move between areas and to take advantage of employment opportunities.

LHA is a flat rate allowance based on the size of household and the area in which a person lives. There are no changes to the entitlement rules – this will be based on a person's income and savings and proof of a valid tenancy. Payment will normally be to the tenant, who will then pay the landlord.

Each local authority is divided into Broad Rental Market Areas (BRMA). Rent Officers set individual LHA rates for each BRMA. These are published by the local authority so that landlords and prospective LHA customers can be clear about the amount of rent that LHA will cover.

Prospective tenants will be able to shop around with their allowance. If they find a property they like, with a rent that exceeds their LHA, they will need, as they do now, to make up the difference themselves. But if they find somewhere with a rent below their allowance, they will be able to keep the difference up to a maximum of £15.00 per week.

LHA is used to work out housing benefit for all new claims received on or after 7th April 2008, except for the cases in the 'who will not be affected by LHA listed below. LHA also applies to claimants already on housing benefit who move home after 7th April 2008 or have a break in their claim.

**The new rules will not apply to:**

- Local Authority tenants
- Tenants of registered social landlords (Housing Associations)
- Tenants who have a registered or 'fair' rent
- Tenancies which commenced before January 1989
- Protected cases such as supported housing provided by social landlords, charities or voluntary organisations
- Tenancies in caravans, houseboats or hostels

## **LHA will normally be paid to the claimant rather than the landlord.**

Claimants will no longer have the choice of direct payments to the landlord, and will need to make arrangements to receive their benefit direct and to then make payments to their landlord. The Council will not talk to the landlord about a claim unless the claimant has given written permission to do so.

## **LHA direct payments – Safeguard Policy**

Payments will be paid directly to the claimant, rather than the landlord. However, in recognition of the risk that some claimants may struggle with the responsibility for budgeting for and paying their rents, safeguards will be in place within the assessment process to enable payment to be made direct to the landlord. This is for the protection of both tenants and landlords. The term “Safeguard” is used where direct payments to the landlord helps ensure that rent is paid on time and the claimant and his family can continue to maintain their home. The overriding consideration is to act in a way that is in the best interests of the claimant. We can make payments direct to the landlord where we consider that the claimant is likely to have difficulty in paying their rent and it is in the interest of the claimant to do so.

### **This safeguard policy deals with:-**

- **claimants who are likely to have difficulty paying their rent and**
- **claimants who are unlikely to pay their rent**

### **Identifying claimants who are likely to have difficulty paying their rent**

We may receive requests for consideration from the claimant, landlord or a third party such as DWP, Social Services, Advice Agencies, GP, friend or family member. The request should normally be made in writing using a Direct Payment Application Form from the Council’s benefit offices or website. If it comes from anyone other than the claimant we may contact the claimant to find out what their issues are.

We may already be aware that a claimant will have difficulty paying their rent from previous contact with the Council. In these circumstances a statement can be made by the officer to support a request from the claimant.

We will only respond to the landlord or third party if there is written consent from the claimant to do so. If no consent is given then the other person should be told that we will investigate the matter.

There are two indicators to consider when trying to identify whether a claimant is potentially in need of safeguard action - the cause and the effect. It is necessary to consider either or both when making a decision.

## **Causes**

Each case must be considered on its own merits taking into account any supporting evidence. Many circumstances may affect a person's ability to manage their financial affairs. For example;

- Learning Disabilities - These can range from mild to severe. In more severe cases, the claimant is likely to have an appointee to act on their behalf, in which case a decision not to pay the landlord should be made.
- Medical Conditions - Those which seriously impair someone from managing their affairs on a day-to-day basis, eg mental illness (schizophrenia, Alzheimer's, senile dementia). However, again, there may be an appointee acting on a claimant's behalf in most of these situations.
- Illiteracy or an inability to speak English.
- Addiction to drugs, alcohol or gambling.
- Fleeing domestic violence; single homeless (care leavers); people leaving prison.
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## **Cause - examples of evidence required**

Description	Examples of evidence required
Learning Disability	Written evidence from GP, Social Services, Care Workers, DWP, Supporting People Teams, and other qualified medical practitioners.
Medical Condition	Written evidence from GP, Social Services, Care Workers, Supporting People Teams, and other qualified medical practitioners.

Description	Examples of evidence required
Illiteracy / inability to speak English	Written evidence from support organisations, etc
Addiction to drugs / alcohol / gambling	Written evidence from GP, Social Services, Care Workers, Supporting People Teams, and other qualified medical practitioners, support organisations for people with addictions, Probation Services.
Fleeing domestic violence / single homeless / leaving prison	Written evidence from support organisations, probationary service, social services, etc.

The above list is not exhaustive

## Effects

People unable to pay their own rent will often have difficulty managing financial affairs more generally. This inability to manage financial affairs may be demonstrated by;

- Severe debt problems, recent County Court Judgements, or substantial overdrafts
- Undischarged bankruptcy
- Inability to obtain a bank account - in practice everyone should be able to obtain a basic bank account at one of the High Street banks or building societies.
- DWP making deductions from IS/JSA IB to pay utility companies directly to clear outstanding arrears - should only be considered if part of the debt is still outstanding.
- In receipt of Supporting People help.
- In receipt of help from a homeless charity.
- If the claimant fails to provide the information / evidence required, this may in itself demonstrate difficulty in managing their own affairs, especially when coupled with other factors.

## Effect - examples of evidence required

Description	Examples of evidence required
Severe debt problems / recent CCJ's	Evidence from help groups, creditors, court orders, solicitors etc.
Undischarged bankrupt	Evidence of insolvency
Inability to open a bank account	Letters from banks or money advisers.
DWP making deductions from IS/JSA IB to pay utility companies directly to clear outstanding arrears - should only be considered if part of the debt is still outstanding.	Evidence from DWP
In receipt of Supporting People help.	Evidence from social services and support providers.
Homeless charity	Evidence from charity or homelessness section

## Identifying claimants who are unlikely to pay their rent

We may receive requests from claimants or persons acting on their behalf that they are unlikely to pay their rent. We may also hold information already that suggests that a claimant is unlikely to pay their rent, for example information provided by Housing Departments or Social Services.

More commonly we will receive representations either in person, on the phone or in writing from one or several of the following sources: -

- The claimant
- The claimant's
  - Landlord
  - Family and/or friends
  - Probation officer
  - Local/council rent deposit schemes, homelessness or housing advice officers.
- Welfare organisations, including money advisors
- Social Services departments

- Department for Work and Pensions
- Homeless charities/organisations
- Supporting People teams

We should where possible obtain evidence that will allow us to make an informed decision on whether the customer is unlikely to pay their rent. There are 3 main factors that we will consider :-

1. Is the claimant unlikely to pay their rent? – *does the claimant have a history of not paying rent, this may indicate that they may not do so in the future*
2. Is it in the interests of the claimant to make direct payments? – *we will ultimately make a decision based on what is in the best interest of the claimant not the landlord.*
3. Would the claimant be likely to pay their rent themselves with appropriate help and support?

### **Tenants with rent arrears of eight weeks or more**

Payments will be made direct to the landlord where the tenant has built up rent arrears of eight weeks or more. The landlord will have to provide documented evidence of rent arrears and any recovery action taken. We may decide to continue paying the landlord even after the arrears have fallen below eight weeks.

### **Fit and Proper test**

We are not obliged to make direct payments where we are not satisfied that the landlord is a 'fit and proper person' to receive payment of benefit direct. This may apply even where we are satisfied that the claimant would otherwise meet the safeguard criteria for making direct payments.

A landlord may be considered not to be 'fit and proper' where it is proven that they have engaged in financial impropriety. Factors that may be taken in to account are :-

- Committing housing benefit fraud
- Knowingly failing to declare changes in circumstances that affect the payment of benefit
- Failure to pay Council Tax or business rates

If we believe that a landlord is not a 'fit and proper person' we may still make direct payments to them if we believe that it is in the overwhelming interests of the claimant to do so and that they risk eviction if direct payments are not made.

## **Making a Decision**

A decision on whether a customer satisfies the safeguard criteria will normally be made within 8 weeks. In the interim, payments will be made to either the claimant or landlord having regard to the overriding interests of the claimant

It is important to note that just because a claimant falls into one or more of the above categories, this does not necessarily mean they satisfy the safeguard criteria. Each case must be treated on its own merit, based on the information and evidence collected. In some circumstances it may be appropriate to conduct an interview with the claimant, or at the very least a telephone call could be used in addition to paper evidence prior to making a final decision.

Information received from a non-independent source, such as landlord, friend or family member, does not carry as much weight as that received from an independent source, and should therefore be viewed in support of other evidence.

*Our main concern when making our decision is to ensure that rent is paid on time and that the claimant and his/her family can continue to maintain their home*

To ensure consistency with the decision-making, information and evidence should always be obtained and the decision on whether a claimant satisfies the safeguard criteria will be the responsibility of nominated officers.

A record will be kept of all decisions stating what information / evidence was taken into account and why it resulted in direct payment being granted or refused. This will assist with reviews of the decision and potential appeals.

## **Reviewing the Decision**

Two types of review can take place:

1. On appeal from a relevant person (the rules for appealing are the same as the rules for Housing Benefit).
2. A review of the claimant's circumstances, to establish whether the decision is still appropriate.

The decision to treat a claimant as satisfying the Safeguard criteria will be reviewed after an appropriate period of time as decided by the Council. The review period will be determined by nominated officers.

***This policy has been co-ordinated in a joint venture with all ten District and Borough Councils in Hertfordshire to ensure consistency across the county.***