

Local Housing Allowance Safeguards

Local Guidance Policy

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Introduction

The Local Housing Allowance (LHA) is a new scheme of Housing Benefit for people living in private rented sector accommodation which will come into effect from 7th April 2008.

Local Housing Allowance will affect you and your tenant if you entered into a de-regulated tenancy after 1989 (unless your tenancy falls into a specified category below). Existing customers will continue to receive Housing Benefit under the current rules unless they:

- change address, or
- have a break in their claim of one week.

All new claims for Housing Benefit will be affected by Local Housing Allowance unless the tenancy type is listed below:

Some exceptions to the scheme include:

- 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 LHA a tenant cannot simply request that payment is made to a landlord to cover the rent.

For further information on LHA log onto our website

www.sefton.gov.uk/benefits

Or contact the Benefit Service via the following:

In writing: Sefton MBC
Benefits Section
PO Box 21
Bootle
L20 3US

By telephone: 0151 934 4328
(Lines open Monday to Thursday 9am to 5pm,
Fridays 9am to 4.15pm)

By fax: 0151 934 3620

By e-mail: lhaenquiries@finance.sefton.gov.uk

In person at: Sefton Plus Offices

Bootle One Stop Shop
324 – 342 Stanley Road
Bootle
Liverpool
L20 6ET

Southport One Stop Shop
Cambridge Arcade
Southport
PR9 1DA

One Stop Shop opening times: 8am - 6pm Monday - Friday

Sefton MBC Safeguard Policy

The policy 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 aim of the policy is intended to:

- Provide a safeguard for vulnerable tenants and reassure them that their 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 receiving direct payments of LHA, 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 Sefton for tenants who require money or debt advice.
- Be used by landlords to circumvent the aims of LHA set out by the Government.
- Be a blanket policy for agencies providing support to private tenants.

Paying LHA to landlords instead of the claimant.

As some tenants may struggle with the responsibility of budgeting for, and paying their rent, safeguards have been put in place, and comply with the Department of Works & Pensions (DWP) guidance and regulations. The Benefit Service will have discretion to make payment to the landlord if they consider:

- a) **that the tenant is likely to have difficulty managing their own affairs.** e.g. if the tenant is known to have a learning disabilities or a drug/alcohol problem that would mean they are likely to have difficulty handling a budget, payment could be made to the landlord (See section 1)
- b) **it is unlikely that the claimant will pay their rent.** E.g. if the Benefit Service is aware that the tenant has consistently failed to pay the rent on past occasions without good reason, payment might be made to the landlord. (See Section 2)
- c) The only other time payment will be made to a landlord is where there is rent arrears and the 8-week rule can be applied.

Tenants who are having deductions made from their Income Support or Jobseekers Allowance to pay rent arrears (See Section 3)

Section 1 - Identifying people who are likely to have difficulty managing their affairs

Introduction

This regulation allows for payments to be made directly to a landlord where the LA considers that the tenant '**is likely to have difficulty managing his affairs**'. The intention is to prevent tenants who are likely to experience difficulties from falling into rent arrears.

- The phrase '**is likely**' means that there must be a degree of certainty that the tenant will be unable to manage their affairs. It is not sufficient to assume that there is a **possibility** that the tenant **may** have difficulty managing their affairs or that tenants in certain circumstances carry a **risk** that they **may** be unable to manage their affairs. Each request will be thoroughly investigated.
- We must distinguish between tenants who choose to manage their finances in a less than organised way and those that genuinely have difficulty managing their affairs.

Tenants who are likely to have difficulty managing their affairs are deemed to be 'vulnerable' tenants. Some tenants may wish to be classed as vulnerable simply because they would prefer to have payments sent direct to their landlord. The 'vulnerability' provision cannot be used to get round that fact that there is no longer a provision for the tenant to request direct payments to landlords. In most cases we would be looking for evidence from professional bodies such as doctors, social workers, probation officers etc.

Dealing with representations

In most cases, we will identify potential vulnerable cases through representation (either in person, on the phone or in writing) by one or several of the following sources:

- The tenant.
- Friends and family of the claimant.
- The landlord.
- Welfare groups, Money advisors.
- Social Services, GPs, Probation officers.
- Jobcentre Plus, Pension Service or Bond Guarantee Scheme staff etc.

If the tenant, landlord, or tenants representative make a request for payment of the LHA to the landlord the Benefit Service may follow this up by issuing a standard proforma to gather the evidence to support the application (appendix A). Any written request must include the required evidence.

Where a representation is received but with no actual evidence of vulnerability (possibly due to the fact that until now the tenant's landlord has been in receipt of direct payments) we will consider an individual's current circumstances in order to determine whether they satisfy the vulnerability test.

Tenants who maybe considered being vulnerable and unable to manage their own financial affairs, may include:

- People with learning disabilities.
- Tenant has a medical condition such as mental ill health, Alzheimer's disease or a terminal illness.
- Illiteracy or inability to speak English.
- A person with alcohol/substance/gambling addiction.
- Severe debt problems/ recent County Court Judgements.
- A person who has recently experienced changes in their lifestyle that means they are temporarily unable to deal with their financial affairs. e.g. bereavement, fleeing a violent relationship, leaving prison, leaving care, homelessness.

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

Appointees

Claimants who have an appointee will not be considered as vulnerable. This is because they have someone who has been appointed to act on their behalf.

Evidence of vulnerability - Possible sources

Reason for vulnerability	Suitable sources of evidence
Learning disabilities	Letter from support provider Letter from doctor Letter from social worker
Medical conditions	Letter from GP Letter from hospital
Illiteracy or Inability to speak English	Letter from support worker
Addictions to: Substance Gambling Alcohol	Letter from GP Letter from support worker Letter from hospital Letter from care worker Letter from social services
Severe Debt problems	Court order Letter from solicitors Letter from help groups Letter from creditors
Inability to open a bank account	Letter from Bank Letter from Money advisor

Section 2 – Identifying people who are unlikely to pay their rent

Introduction

This regulation allows for payments to be made directly to a landlord where the LA considers that **‘it is improbable that the claimant will pay his rent’**. The intention is to protect tenants from falling into rent arrears.

- The phrase **‘is improbable’** means that there must be a degree of probability that the tenant will not pay his rent. It is not sufficient to assume that there is a **possibility** that the tenant may not pay his rent. Many tenants, regardless of their benefit status, carry a **risk** that they **may** not pay their rent. Each request will be thoroughly investigated.
- We need to distinguish between tenants who are genuinely unlikely to pay their rent and those who may claim that they are not likely to pay their rent because they would prefer not to take responsibility.

We will assume that unless evidence to suggest otherwise is received that all tenants receiving the LHA will pay their rent and so payment will usually be made to the tenant unless any of the other criteria for making payment to the landlord are met.

Dealing with representations

If the tenant, landlord, or tenants representative make a request for payment of the LHA to the landlord under the above criteria, then the Benefit Service may follow this up by issuing a standard proforma to gather the evidence to support the application (Appendix A). Any written request must include the required evidence.

Indicators that a tenant may be unlikely to pay their rent.

- A past history of bad debts.
- Evidence of previous rent arrears.
- A claimant’s failure to co-operate with an investigation which may lead us to decide that they are unlikely to pay their rent.
- A tenant has previously absconded from a property leaving rent arrears.

Examples of evidence required:

- Rent book – which is up to date.
- Rent account statements (see Appendix B for example).
- Court document – confirming rent arrears.
- Eviction notification – due to rent arrears.

The landlord will need to provide evidence of rent arrears. Showing when the rent was due and what payments have been made, and signed by the tenant & landlord.

Appointees

Claimants who have an appointee will not be considered as vulnerable. This is because they have someone who has been appointed to act on their behalf.

Section 3 - Rent arrears and the 8-week rule

The Local Authority is still required to make a decision and pay the landlord where the tenant:

- Has arrears of the equivalent of 8 weeks or more.
- Is having deductions made from their Income Support or Jobseekers Allowance to pay off rent arrears.

Payment will be paid to the landlord – **unless the** landlord is deemed not a 'fit and proper' person to receive such a payment, or it is in the overriding interest of the tenant not to make payment to the landlord. This complies with Regulation 95 – Housing Benefit Regulations 2006.

A review period will be set and the decision will be reviewed to see if the arrears are reducing or have reduced below 8 weeks or the deductions from the tenants Income Support or Jobseekers Allowance have ceased.

Under LHA the Local Authority has the discretion to make payment of any excess LHA to the landlord in order to assist in the reduction of or repayment of rent arrears. If this decision is made the Council will continue making payment direct to the landlord until the arrears are cleared. Payment to the Landlord will remain under review in these circumstances.

Rent arrears

The DWP takes the view that a person cannot be in rent arrears in respect of a period that has not yet been served. In addition when the Local Authority is considering whether to make payment to the landlord they will take into account where there has been a shortfall between the amount of housing benefit paid and the rent charged, which has not been paid, and to which the landlord has not made any attempt to collect. It may be that lack of action from the landlord has contributed to the arrears. Therefore, more recent history of non-payment of rent will be considered in these circumstances.

Evidence required:

- Rent book – which is up to date.
- Rent account statements (see Appendix B).
- Court document – confirming rent arrears.
- Eviction notification – due to rent arrears.

The landlord will need to provide evidence of rent arrears. Showing when the rent was due and what payments have been made, and signed by the tenant & landlord. See Appendix A & B.

Section 4 - Making a decision

Notifying affected parties

When a decision has been made, affected parties will be notified in writing.

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

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

- The decision
- Reasons for the decision
- If and when this decision will be reviewed
- Appeal rights
- Any advice agencies, voluntary or statutory organisations that offer help and support
- Sefton Money Advice leaflet.

Write to the landlord advising that

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

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

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

- The decision
- Reasons for the decision
- Appeal rights
- Sefton advice leaflet on opening a basic bank account if they do not hold a bank account.
- Any advice agencies, voluntary or statutory organisations that offer help and support.
- We will write to the landlord if they have made a request for direct payment.
- We will inform the landlord via a schedule that the tenant is receiving housing benefit provided we receive permission from your tenant. (see sharing information with your landlord on the claim form).
- Of their appeal rights

Money Advice

In all cases, the Money Advice information will be available to tenants who require information or assistance to help them obtain and manage a basic bank/building society account and also to offer advice to tenants on daily budgeting and prioritising financial commitments, to help them manage their affairs.

Where a tenant has severe financial or debt problems a referral to an appropriate Money/Debt Advice agency will be offered to the tenant.

Appeals rights of persons affected by a decision of LHA.

As is currently the case, any person affected by a decision relating to the direct payment of HB may appeal against that decision. Persons affected may include the claimant or the landlord.

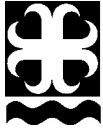
The affected person can ask the Local Authority to review any decision made regarding direct payments of the LHA.

They can

- ask for an explanation for the decision
- ask the council to reconsider the decision
- appeal against the decision

In all cases the person must contact us, in writing with their reasons within one calendar month from the date of the decision.

We will then look at the decision again and notify all affected persons.



Request for Local Housing Allowance to be paid to landlord

Reason For Request

- The tenant is 8 weeks or more in arrears with the rent
- The tenant is unlikely to pay the rent
- The tenant is likely to have difficulty paying the rent

Tenants details

Name	
Address	
Telephone Number	
Housing Benefit claim Number (if known)	

Landlords details

Name	
Address	
Telephone Number	

We will need evidence that the tenant is in rent arrears this could be a statement that shows the rent that is due and the rent that has been paid during the last 12 months or since the tenancy started:

The statement must include:

- Tenancy start date
- Rent charged
- Frequency that payments are due
- Current rent arrears outstanding
- Dates and amounts of all payments received in the last 12 months
- The statement must be signed and dated

Please explain below (or on a separate sheet) why you consider that Local Housing Allowance payments should be made to the landlord.

Signed

Dated

**Please provide any evidence that supports your request, If you cannot provide evidence there may be a delay before a decision is made.
(tick all evidence supplied)**

- Rent statement
- Tenants statement
- Letter from support worker
- Letter from GP / Hospital
- Letter from solicitor / CAB
- Other(please specify)
- Other(please specify)
- Other(please specify)

