



# **LOCAL HOUSING ALLOWANCE SAFEGUARD POLICY**

## **DENBIGHSHIRE COUNTY COUNCIL BENEFITS SERVICE POLICY DOCUMENT**

## **Introduction**

The Local Housing Allowance is a scheme of Housing Benefit for people living in private rented sector accommodation, with some exceptions to the scheme including:

- Local Authority tenancies
- Housing Association tenancies
- 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

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 their rent.

## **Department of Work and Pensions Guidance**

The Department of Work and Pensions have 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, the LHA **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 Jobseekers Allowance to pay for rent arrears

## **Denbighshire Benefits Service Policy**

The policy will ensure that the safeguards in place are applied correctly, to prevent the risk of tenants falling into arrears with their rent and losing their home due to eviction and to 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 direct to a landlord are:

The tenant is unlikely to pay their rent because:

- They have rent arrears and have consistently failed to pay
- They have 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
- They 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
- Illiterate or unable 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 prevents the tenant from receiving direct payments of the Local Housing Allowance. Each and every case will be considered on its own merit and there will not be a blanket policy approach to cases of vulnerability.

The aim of the policy is intended to

- Provide a safeguard for vulnerable tenants and reassure them 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 receiving direct payments of LHA, where appropriate
- Help to signpost tenants to other agencies where necessary and give people the opportunity and support to manage their own 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
- To work closely with the statutory and voluntary sector in supporting vulnerable members of our communities, to contribute towards the prevention of homelessness
- To help people with the transition from non working to working and to support and advise people through the process
- Compliment the work that other sections/departments undertake within the LA – housing allocations, environmental health etc

The policy is not intended to

- Replace support that may be being provided to tenants in managing their affairs and finances
- Be used by landlords to avoid and abuse the aims and objectives of the LHA

- Be a blanket policy for organisations 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 tenants to receive payment directly to themselves

## **Decision making process – Arrears/unlikely to pay**

### **a. Receiving an application**

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

The tenant, landlord or tenants representative will make a request for direct payment of LHA to be made to the landlord.

Where a request for direct payment on the grounds of rent arrears is made, evidence from the landlord and agreement from the tenant will need to be provided.

### **b, Gathering evidence**

The Assessment officer will gather any further information and evidence necessary to make an informed decision.

Both the landlord and the tenant 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 tenant; 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.

### **c. Making a decision**

Based on all the evidence gathered, a panel of senior team leaders will meet and decide whether the payment of benefit directly to the landlord is in the best interest of the tenant.

The panel 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 input onto the Academy system via a case note and diary date should be entered to review the case at an appropriate time by the vulnerability panel.

The panel will refer all agreed cases to the Assessment Officer to complete the assessment on Academy, issue payments direct to the landlord, ensure the appropriate review date is set. The 'rent arrears' option for payee reason will be chosen in order to be included on any LHA reports.

*See appendix B for 8 weeks in arrears procedures*

### **Payment of LHA will be made to the landlord**

- For those tenants where arrears have been established or they are deemed unlikely to pay their rent to their landlord
  - Payments will be made direct to their landlord
  - This decision will be reviewed at a timescale set by the vulnerability panel
  - The tenant will be signposted to support and advice with regard financial help

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

### **Payment of LHA will be made to the tenant**

- If the panel decide that the tenant does not have rent arrears or it is not felt that they would not pay their rent then payments will be made to the tenant themselves.
  - Tenants will be advised of the importance of paying their rent to their landlord and the consequence if they do not.
  - Tenants are also signposted to other organisations that could offer support and advice in other arrears appropriate to their needs or the needs of their families.

## **d. Notifying affected parties**

When a decision has been made, affected parties will be notified in writing using the notification letters developed on the Academy system alongside the standard notification letters. Appeal rights should be clearly stated.

## **Decision making process – Vulnerable tenants / Financial difficulties**

### **a. Receiving an application**

The tenant, landlord or tenants representative will make a request for direct payment of LHA to be made 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 authority 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 accepted evidence and sources in support of a request on the grounds of vulnerability.*

If acceptable proof of evidence is provided and the assessor is happy that proof of vulnerability or financial difficulty has been determined, the assessor can proceed with the assessment, making payment direct to the landlord.

If there is a doubt over the tenant's vulnerability or financial difficulty the case should be passed to the Team Leader immediately for the panel to decide on who will be paid directly.

### **b. Gathering Evidence**

The panel will gather further evidence, interview (if necessary), make a decision, monitor and review all cases. This process allows for a fast-tracking process, consistency of decisions and a degree of continuity for vulnerable people.

Further information may be necessary and will be requested from the tenant, the tenant's representative or the landlord by telephone in the first instance. However, either or all parties may be written to in order to provide further information to support any request giving one calendar month to respond. If there is no response within this time then follow up action may be taken as no response could be indicative of a tenant's vulnerability.

If it is felt necessary, an interview will be arranged with the tenant, the tenant's representative, the landlord, or all parties to satisfy the evidence required to make the appropriate decision.

In some circumstances there may only be limited evidence available. In these cases the final decision will be at the discretion of the vulnerability panel with a 'common sense' approach. Any decision will always be in the best interest of the tenant.

### **c. Making a decision**

Based on all the evidence gathered the vulnerability panel will decide whether the payment of benefit directly to the landlord is in the best interest of the tenant. The reasons for any decision will be input onto the Academy system via a case note and diary date should be entered to review the case at the appropriate time by the panel.

The panel will refer all agreed cases to the assessment officer to complete the assessment on Academy, issue payments direct to landlord, ensure the appropriate review date is set.

Each application will result in one of the following decisions:

#### **Payment of LHA will be made to the landlord**

- For those tenants who have financial difficulties and have an inability to open a bank account, severe debt problems, CCJ's or bankruptcy.

The tenant will need to be signposted to other organisations, such as C.A.B to seek advice and support. The panel will set a review period, usually 6 months, in order to allow the tenant time to access any support and advice in order for them to reach a situation where they may be able to accept direct payments of LHA in the future.

- For those tenants where it has been established that they are vulnerable and unable to manage their own affairs.

The panel, through consultation with all parties involved and consideration of the type and length of support provided to a tenant, will decide whether the vulnerability is short-term or long-term. This decision will determine the period at which the case is reviewed. However, in some cases the situation will not change and therefore cases may only be reviewed on an annual basis.

If the Local Housing Allowance exceeds the tenants contractual rent charge, a split payment will occur and the tenant will receive the 'excess' amount direct.

### **Payment of LHA will be made to the tenant**

If the panel has decided that the tenant does not have issues serious enough to warrant direct payment being made to their landlord then payments will be made to the tenant themselves. Tenants will be advised of the importance of paying their rent to their landlord and the consequences if they do not. Tenants are also signposted to other organisations that could offer support and advice in other areas appropriate to their needs or the needs of their families.

### **d. Notifying affected parties**

When a decision has been made, affected parties will be notified in writing using the notification letters developed on the Academy system alongside the standard notification letters. Appeal rights should be clearly stated.

### **Reviewing a decision**

The tenant and/or representative will be contacted again 4 weeks from the end of the review period to determine whether their situation has changed and if they can receive payments of LHA directly

Tenants will not be required to complete an application form. In the first instance we will write to the tenant or their representative / support worker to get an update of the situation.

Payments will continue to be paid directly to the landlord until the review process is completed.

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

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

## **Appeals**

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

They can:

- Ask for an explanation of the decision
- Ask the council to reconsider the decision
- Appeal against the decision

In all cases the person must contact the council, in writing with their reasons within one month from the date of the decision. We will then look at the decision again.

## Vulnerability Indicators

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

## Appendix B

### 8 WEEKS IN ARREARS PROCEDURE

If a Landlord phones or writes to say their tenant is 8 weeks or more in arrears we will need official evidence before we can change the payee.

In these cases the letter "*LHA to Landlord – 8 weeks in arrears*" on Academy should be sent to the Landlord and "LHA to tenant – 8 weeks in arrears" should be sent to the tenant.

The payments may be suspended at your discretion.

When this evidence is received the payee can be changed.

If the Landlord provides official proof from the outset, suspend the payments and amend the 'suspend' letter to read "LHA to tenant – 8 weeks in arrears". If no response is received from the tenant within one month then consider making payments direct to the landlord.

#### **Changing payee to Landlord**

The payee should be changed to the Landlord using the paid to date as the effective date. **(Very important)**.

The payment frequency will be fortnightly this will have to be changed to monthly.

In the circumstances code choose "*you are more than 8 weeks arrears with your rent*"