



## **Local Housing Allowance – Direct Payment to Landlords Safeguard Policy**

### **1. Introduction**

- 1.1 From April 2008 Local Housing Allowance (LHA) is a new way of working out new claims for Housing Benefit (HB) for tenants renting accommodation from a private landlord. It also affects tenants already getting HB who move into accommodation rented from a private landlord. LHA does not affect people living in Council accommodation or rented from the Orkney Housing Association.
- 1.2 One of the main changes is that payment of LHA will normally be made to the tenant, who is then responsible for paying the rent to their landlord. Tenants will no longer be able to simply ask for their benefit to be paid direct to their landlord.
- 1.3 There are a range of safeguards to protect the interests of benefit claimants and landlords. There may be instances where a tenant is unable to manage their affairs; is unlikely to pay the rent; or is in rent arrears; and where the Council may use its discretion in identifying where payment should be made to the landlord. This document sets out the main circumstances under which these safeguards may apply.

### **2. Circumstances where payment of LHA direct to landlords is required**

- 2.1 Payment should be made to the landlord in the following circumstances:
  - the tenant has built up rent arrears of eight weeks or more; or
  - the tenant is having deductions from their Income Support or Jobseekers Allowance to pay off rent arrears;
- 2.2 Where the tenant has built up rent arrears of eight weeks or more, the landlord will be asked to complete an application form for direct payments to provide information and evidence on the level of rent arrears.
- 2.3 If the tenant is having deductions from their Income Support or Jobseekers Allowance to pay off rent arrears, it will be the responsibility of the landlord, or tenant, to provide evidence that the Department of Work and Pensions (DWP) are making such deductions.
- 2.4 The Council will make a decision on direct payments based on the information and evidence provided. Cases where direct payment is made should be reviewed regularly to check if the arrears have been cleared. Rarely should direct payment be made in perpetuity.

### **3. Circumstances where payment of LHA to landlords is discretionary**

- 3.1 The Council may use its discretion in identifying if payment should be made to the landlord in the following circumstances:

- the tenant is likely to have difficulty in relation to the management of their financial affairs, for example difficulty in managing a budget; or
  - it is considered unlikely that the claimant will pay their rent, for example the claimant has consistently failed to pay the rent on past occasions without good reason.
- 3.2 The DWP consider that most benefit claimants are capable of managing their own financial affairs and making payments to their landlord on time unless there is evidence to the contrary. Where there is evidence that the claimant is not, or is no longer, paying their rent the Council may make payments to the landlord unless it is in the overriding interests of the claimant or his family not to do so. Direct payment will act as a *safeguard* to ensure that rent is paid on time and that the claimant and his family can continue to maintain their home.
- 3.3 There are three main factors to consider when reaching a decision:
- Is the claimant likely to have difficulty in paying their rent?
  - Is it in the interests of the claimant to make direct payments?
  - Could the claimant pay the rent themselves with appropriate help and support?
- 3.4 The following list contains some of the factors that might determine if someone may have difficulty in paying their rent (the list is to be used as guidance and is not exhaustive).
- learning difficulties;
  - medical condition;
  - illiteracy, or has an inability to speak English;
  - addiction to drugs, alcohol or gambling;
  - fleeing domestic violence/single homeless/leaving prison;
  - severe debt problems;
  - is unable to open a Bank or Building Society account;
  - undischarged bankrupt.
- 3.5 Wherever possible the evidence should be in writing, although consideration should be given to the knowledge that some claimants most in need of safeguard action might have difficulty in making representation on their own behalf and be less able to provide evidence to support that need.
- 3.6 Claimants, or persons acting on their behalf, may make representations to the Council that they are having difficulty paying their rent. Representations and evidence will be considered from the following sources (the list is to be used as guidance and is not exhaustive):
- the claimant;
  - family and/or friends;
  - the landlord;
  - General Practitioner
  - Probation Officer

- Council rent deposit scheme administrators, homeless or housing advice officers;
  - Welfare organisations;
  - Social Services Departments;
  - Department for Work and Pensions;
  - Homeless charities/organisations.
- 3.7 The Council should in the first instance seek the completion of an application form for direct payment from the tenant. If it is considered necessary to obtain more information the tenant should also be interviewed. There may also be instances where there is already satisfactory written evidence to make a decision without the need to obtain more information. Individuals or organisations will not be approached for evidence without the claimant's consent.
- 3.8 Advice agencies such as Citizens Advice Bureau (CAB) can also provide advice and support for claimants. If the Council is considering making direct payments on the basis of debt/financial problems consideration should be given to making an appointment for the claimant with the CAB to encourage further advice to be sought.
- 3.9 When sufficient information and evidence has been gathered the Council should make a decision without delay and no more than eight weeks should elapse between starting and concluding enquiries. Ultimately the decision should rest on what is in the best interests of the claimant. Failure to establish the facts, perhaps due to a failure to provide supporting evidence, could in itself prove that the customer has an inability to manage their affairs.

#### **4. Recording decisions**

- 4.1 All decisions taken by the Council to make direct payment of the Local Housing Allowance to the landlord should be recorded on a central document, along with the reasons for the decision. This central document should be reviewed by a senior member of staff to ensure that decisions are consistent and that the rules are being applied evenly, taking account of individual circumstances.
- 4.2 The central document is not a public document and is intended for internal review and monitoring procedures only.

#### **5. Review of decisions**

- 5.1 Where the Council have decided to take safeguard action and make payments direct to the landlord a review of that decision should be made at appropriate intervals not exceeding 12 months, unless the condition is likely to be of a long-term nature.
- 5.2 Where direct payment to the landlord was made because the tenant was in rent arrears of eight weeks or more the Council have the discretion to continue direct payments when the level of arrears drops below eight weeks. A review of the decision should be undertaken at regular intervals, or where arrears have been cleared.

#### **6. Appeals**

- 6.1 If the tenant or landlord disagrees with the decision to pay or not to pay the landlord they can ask us to look at the decision again. Any dispute of the decision will go

through an internal review of the decision before progressing onto the Appeals Service and an independent Appeal Tribunal.

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