

# LHA:

## Direct Payment Policy

All applications to be treated as new claims or change of address for benefit received on or after the 7<sup>th</sup> April 2008 will normally be paid directly to the tenant under the new Local Housing Allowance scheme (LHA). Direct payments will only be made to landlords where it is considered that the tenant is vulnerable. This is a significant change to the current scheme where a tenant can request that payment is made directly to their landlord.

This policy sets out the guidance that Gedling Borough Council will use to make all the appropriate decisions concerning payments of LHA and Vulnerability.

### Council's Direct Payment Policy

The circumstances where we will consider paying the claimant's LHA directly to the Landlord is as follows:

1. If the tenant is unlikely to pay their rent because they: -
  - Have rent arrears and has consistently failed to pay their rent.
  - Have previously absconded from a property leaving rent arrears.
  - Have multiple debts or a history of failing to manage their affairs.
2. The tenant is unable to pay their rent because they are classed as a 'vulnerable' tenant.
3. It would assist the tenant in securing or retaining their tenancy.

The Department for Work and Pensions have provided guidance on when direct payments to the landlord may be appropriate, where a tenant 'can't pay' or 'won't pay' or if a tenant is eight or more weeks in arrears.

Decisions for the 'won't pay' and 'eight or more weeks in arrears' categories are fairly straightforward. They will be based on evidence of arrears from both the landlord and the claimant.

Deciding whether a person 'can't pay' is more sensitive, and therefore the decision-making process more complicated. It will have to be decided whether a tenant is 'vulnerable' and 'can't pay' so the LHA should be paid directly to the landlord.

**(See Appendix 1)**

## Aims and Objectives

- To provide a safeguard for the most vulnerable tenants and reassure them that their LHA will be paid direct to their landlord.
- To help prevent rent arrears and tenants being put at risk of eviction.
- To help sustain tenancies for vulnerable tenants.
- To reassure landlords that their rent will be paid if they have vulnerable tenants or are approached by vulnerable tenants.
- To ensure Council officers make reasonable, fair and consistent decisions.
- To promote a transparent and simple process that is widely understood.
- To treat each case individually and to avoid making assumptions about people's situations.
- To help to put tenants in touch with other agencies where necessary and allow people the opportunity and support to manage their own financial affairs

The policy is not designed to: -

- Supersede support that is being received by tenants to help them be responsible for their own income and expenditure.
- Be a blanket policy for agencies providing support to private tenants.
- Be used by landlords to circumvent the aims of LHA.

## Procedure

### Alerting the Council of potential vulnerability

The tenant or their representative makes the Council aware that they would prefer their LHA to be paid to the landlord. The request needs to be supported with written evidence from a third party (**See Appendix 1**), but initially can be by: -

- A letter / e-mail
- A phone call
- Completing the application form for direct payment of LHA to the landlord (**Appendix 2**)
- Completing 8 weeks in arrears proforma (**Appendix 3**)

## **Gathering information and evidence**

Officers will consider the information that has been received and whether there is enough evidence to make an appropriate decision. Evidence can be from: -

- Social Workers, Probation Officers, Support Workers
- GP/Hospital
- A tenant
- Homelessness or Housing officers
- Support or advisory services like the Citizens Advice Bureau and Shelter
- A tenant's family or friends
- Letter from a bank confirming that the tenant is unable to open a bank account
- Copy of a Court Order or County Court Judgement
- Rent records and letters proving attempts to collect monies or evidence from a previous landlord
- Letter from debt recovery agencies

**Where the evidence is supplied by the landlord the council requires supporting evidence from the tenant or relevant party to collaborate the vulnerable status.**

If the evidence is not sufficient, check the claim history for any further indication of vulnerability. Then request further information from the tenant or their representative by telephone or in writing.

In exceptional cases, following a written application for direct payment and based on the claimant's circumstances, the authority will consider making payments directly to the landlord while additional evidence is being gathered.

## **Making a decision**

One of the following decisions will be recommended and approved by a senior officer.

1. The tenant is vulnerable and payment of LHA will be made to the landlord

In some cases the Council may decide to review the decision at an appropriate date in the future. This will usually be the case if it has been decided to pay the landlord and the tenant has rent arrears or is receiving advice and support with the aim of helping them to manage their own affairs in the future.

If the landlord has provided evidence of rent arrears, the Council may pay the excess LHA directly to the landlord until the arrears have been cleared.

2. The tenant is not vulnerable and payment of LHA will be made to the tenant

If the tenant has issues that you do not feel are serious enough to warrant 'vulnerable status' there may be support that they can receive. The Council will supply contact details for other agencies who will give help and advice on financial affairs.

### **Notifying affected parties**

The tenant and/or their representative will be written to and advised of the following: -

- The decision
- The reason for the decision
- If and when the decision will be reviewed
- If applicable the decision to pay the excess LHA to the landlord
- Appeal rights
- Contact details for advice if they don't have a bank account and will be receiving excess LHA themselves

The landlord will also be written to and advised: -

- If their tenant has been found vulnerable that the Council will pay them LHA up to the contractual rent.
- If and when the decision will be reviewed.
- Request bank details if not previously received.
- If their tenant has been found not to be vulnerable. The landlords appeal rights against this decision will only be issued if the landlord is involved in the vulnerability application.

### **Reviewing a decision**

Each individual case will be considered on it's own merits when considering whether to review the decision. The Council will contact the tenant again after a period of time to see whether their situation has changed. Officers will seek to get an update of the situation and it will not always be necessary to complete a form again.

However in some circumstances more written support will be requested so that the officer can make a fair review. If no responses are received following such a request, and we are unable to obtain the information that we need, individual decisions will be made. This decision will be influenced by whether the vulnerability was long or short-term.

### **Appeals**

The person who has made the claim or is affected by this decision can appeal against any decision made in relation to direct payments of Housing Benefit.

## Grounds on Vulnerability (Appendix 1)

<b>Grounds</b>	<b>Example Evidence</b>
<b>Long-Term</b>	
The tenant has a learning disability that prevents them from managing on a daily basis.	Care/Support workers GP Adult Social Care DWP (evidence of benefits)
The tenant suffers from a medical condition that makes it hard for them to cope with routine tasks e.g. schizophrenia, dementia, terminal illness	Care/Support Workers GP Adult Social Care Hospital
The tenant has a physical disability that means that they are often housebound making it difficult for them to manage their affairs	Care/Support Workers GP Adult Social Care Hospital
<b>Temporary/Short-Term</b>	
The tenant 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, leaving care, police protection	Care/Support workers GP Adult Social Care Hospital Probation officers Family/Friends Police
The tenant speaks English only as a second language, presenting obstacles to them in opening and running bank accounts, reading and dealing with invoices and bills.	Written Evidence from Support Organisations that arrears/debts have occurred as a result of not understanding correspondence
The tenant 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 relapse	Support Organisations GP Adult Social Care Hospital Care/Support Worker Supporting People
The tenant has a history of homelessness and/or rough sleeping and is receiving help to sustain a tenancy in the private sector	Housing Advice Advice/Welfare Agencies Homelessness Teams
<b>Financial</b>	
The tenant has severe debt problems e.g. County Court Judgement's (CCJ's), bad credit rating that prevents opening bank accounts, un-discharged bankruptcy	Creditors Court Orders Solicitors Money Advisor DWP deduction in benefit to pay utility company

The above list is not exhaustive and there may be other causes of vulnerability that may prevent the tenant from managing their affairs and coping with direct payments of LHA.

# Application for direct payments of LHA to your landlord

## What is this form for?

Gedling Borough Council has to make all payments of Local Housing Allowance (LHA) directly to you, but we can make payments directly to your landlord where you have difficulty managing your affairs.

The information you provide in this form will help us decide whether it is appropriate to pay LHA directly to your landlord. You may not need to complete all the questions, as some of these may not be relevant to you, but you should try to give as much information and evidence as possible to enable us to make an informed decision.

The Financial Assessment form should only be completed if you would like assistance with money advice issues.

## Who should complete this form?

This form should be completed by the tenant, but it can also be completed on behalf of the tenant by:

- Family or friends
- Main carer
- An advice or welfare agency
- The landlord or letting agent
- Another service within the Council

The tenant or their representative must always sign the form, and be fully aware that it may lead to their Local Housing Allowance being paid directly to the landlord.

## What should be sent with this form?

Written evidence needs to be provided to support the evidence given in this form. This can be from various sources depending on a person's individual circumstances, for example:

The tenants: -

- Family and/or friends
- Landlord
- General Practitioner (GP)
- Probation Officer
- Social Worker
- Main carer
- Welfare Groups
- Department for Work & Pensions

Please note this list is not exhaustive.

**Claim  
Ref:**

**Issue  
date:**

Tenant's Name	
Address	

Person completing the form if not the tenant	
Contact address and telephone number, if the above is not the tenant	
Please tell us your relationship to the tenant and the reason for completing the form on their behalf	

1	Tell us about any learning disabilities that may cause you problems in paying your rent	
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2	Tell us about any physical disabilities or medical conditions that may cause you problems in paying your rent	
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3	Tell us about any mental health problems that may hinder your ability to pay your rent	
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4	Are you affected by an addiction? E.g. alcoholism, substance misuse, gambling	
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5	Have you encountered difficulties in managing your affairs because you need assistance with understanding English?	
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6	Please tell us about any recent changes that mean you need additional support, or if you anticipate any in the near future?	
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7	<p>a Do you have rent arrears? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please tell us</p> <p>b How much are your rent arrears? <input style="width: 100%;" type="text"/></p> <p>c The period they cover <input style="width: 150px;" type="text"/> to <input style="width: 150px;" type="text"/></p> <p>d Are they a result of you not paying the difference between your Housing Benefit and your rent liability? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>e Has your landlord taken any action to recover the rent?  <b>(Please circle any action taken and send us any proof you have)</b></p> <p>Court action / Notice of seeking possession / Notice to quit / A letter / A payment plan</p> <p>Other (please specify) <input style="width: 100%;" type="text"/></p> <p>Have you tried to re-negotiate with your landlord about reducing the rent?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	
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8	Have you had any previous problems in maintaining rent payments and if so please explain why?	
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9	Do you have multiple debts and need assistance to resolve them?	
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10	Do you currently receive any ongoing support from an agency that can help you organise rent payments?	
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11	Can anyone else support you in managing your financial affairs or do you need help with this?	
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12	Are you having deductions made from your income to repay debts?	
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13	<p>How long might you need payments to be made to the landlord?</p> <p>26 weeks <input type="checkbox"/> 52 weeks <input type="checkbox"/></p> <p>If you require payments to be sent for a longer or shorter period of time, please specify the period and tell us why?</p>
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14	<p><b>Tenant's Declaration</b></p> <ul style="list-style-type: none"><li>• The information given is true and correct</li><li>• I agree for my LHA to be paid directly to my landlord</li><li>• I will contact the Council should I feel I am able to receive my benefit directly</li></ul> <p>Please sign and date the form below (if you have a partner they should also sign below)</p> <p>You <input type="text"/> Your Partner <input type="text"/></p> <p>Date <input type="text"/></p>
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15	<p><b>Person completing the form, if not the tenant</b></p> <ul style="list-style-type: none"><li>• The information given is true and correct</li><li>• I believe it to be in the best interest of the tenant to pay LHA directly to their landlord</li></ul> <p>I have read and understood the declaration. Please sign and date the form below.</p> <p>Name <input type="text"/> Signature <input type="text"/></p> <p>Date <input type="text"/></p>
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**Please use this space for any additional information indicating the question you are referring to.**

#### **How we collect and use information**

This Authority is under a duty to protect the public funds it administers. We may check information that you provide, or information provided by a third party, with other information we hold to check its accuracy; to prevent or detect crime; and to protect public funds in other ways, as permitted by law.

We may also share this information with other Council departments or bodies administering public funds for these purposes.

We may also use this information to put you in touch with council services that may be able to help you. We will not disclose information about you to anyone, unless the law permits us to.

Please return to: **Housing Benefit Section  
Gedling Borough Council  
Arnot Hill Park  
Arnold  
Nottingham  
NG5 6LU**

## LHA - 8 weeks in arrears pro-forma

Under the LHA scheme, benefit payments are normally made to the tenant.

It will be the tenant's responsibility to make payment of their rent to their landlord. If a tenant is 8 weeks or more in arrears with their rent, Regulation 95 of the Housing Benefit Regulations 2006 allows for payment of LHA to be made direct to the landlord. Please complete this form and return it to us, together with the evidence we need. We will send you our decision as soon as possible. Please note that if you cannot provide evidence, there may be a delay before a decision is made.

### Tenant Details

Name	
Address	
Telephone No.	Claim Ref No:

### Landlord Details

Name
Address
Telephone No.

### Rent Arrears

(A) Amount of rent charged £	Week / 4 Weekly / Calendar Month
(B) Total amount of arrears £	From ..... To .....

**You will need to provide evidence that the tenant is in rent arrears.** This should be a rent account statement, which shows the rent that is due and the rent that has been paid during the last 12 months, or since the tenancy started. The evidence you provide **must** prove the total amount of rent arrears outstanding.

Other types of evidence can be provided as detailed below, however we must see original documents not copies.

**(Please tick all the boxes that apply to tell us what evidence you are sending with this form).**

Rent Account Statement	<input type="checkbox"/>	Bank Statements (confirming transactions for rent payments)	<input type="checkbox"/>
Rent Book	<input type="checkbox"/>	Eviction Notice (due to rent arrears)	<input type="checkbox"/>
Rent Receipts (details of amounts & dates paid)	<input type="checkbox"/>	Court Documents (confirming rent arrears)	<input type="checkbox"/>

Please use this space to tell us any other information you would like us to consider. Please continue on a separate sheet of paper if you need more space.

**I declare** that the information given in this form is correct and **I authorise** you to make enquiries to check any of the information or evidence I have provided.

<b>Signature:</b>	<b>Date:</b>
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Please return to: **Housing Benefit Section  
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Arnold  
Nottingham  
NG5 6LU**

For office use only:	
Amount (£) at (B) ..... divided by ..... = ..... (No of weeks in arrears)	
Amount (£) at (A) .....	
Date of decision:	Decision maker:
Payment to Landlord: Yes / No	Date Review Decision:

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