

# Local Housing Allowance Direct Payment Policy



All applications to be treated as new claims or change of address for benefit received on or after the 7th 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 previous 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.

## 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
- Completing 8 weeks in arrears proforma

### 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 Council has decided to pay the landlord and the LHA is above the level of the contractual rent, a split payment will occur and the tenant will continue receive the excess LHA, up to the maximum rate appropriate.

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 its 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 - Long Term	Example evidence
The tenant has a learning disability that prevents them from managing on a daily basis.	<ul style="list-style-type: none"> <li>• Care/Support workers</li> <li>• GP</li> <li>• Adult Social care</li> <li>• DWP benefits</li> </ul>
The tenant suffers from a medical condition that makes it hard for them to cope with routine tasks e.g. schizophrenia, dementia, terminal illness	<ul style="list-style-type: none"> <li>• Care/Support workers</li> <li>• GP</li> <li>• Adult Social care</li> </ul>

	<ul style="list-style-type: none"> <li>• Hospital</li> </ul>
The tenant has a physical disability that means that they are often housebound making it difficult for them to manage their affairs	<ul style="list-style-type: none"> <li>• Care/Support workers</li> <li>• GP</li> <li>• Adult Social care</li> <li>• Hospital</li> </ul>
<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	<ul style="list-style-type: none"> <li>• Care/Support workers</li> <li>• GP</li> <li>• Adult Social Care</li> <li>• Hospital</li> <li>• Probation officers</li> <li>• Family/Friends</li> <li>• Police</li> </ul>
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	<ul style="list-style-type: none"> <li>• Support Organisations</li> <li>• GP</li> <li>• Adult Social Care</li> <li>• Hospital</li> <li>• Care/Support Worker</li> <li>• Supporting People</li> </ul>
The tenant has a history of homelessness and/or rough sleeping and is receiving help to sustain a tenancy in the private sector	<ul style="list-style-type: none"> <li>• Housing Advice</li> <li>• Advice/Welfare Agencies</li> <li>• Homelessness Teams</li> </ul>
Financial  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	<ul style="list-style-type: none"> <li>• Creditors</li> <li>• Court Orders</li> <li>• Solicitors</li> <li>• Money Advisor</li> <li>• DWP deduction in benefit to pay utility company</li> </ul>
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