

## **Local Housing Allowance Safeguard Policy**

### **1. Background**

1.1 Local Housing Allowance (LHA) is a way of working out Housing Benefit for people who pay rent to a private landlord.

1.2 Under LHA rules, Housing Benefit is normally paid to the tenants, who are then responsible for paying the rent to their landlord themselves. Tenants who apply for Housing Benefit after April 2008, or who change address and fall to be paid under LHA rules can no longer request that Housing Benefits are paid directly to their landlord.

1.3 Some tenants may struggle with the responsibility of budgeting for and paying their rent. To help safeguard these tenants, the Council has discretion to make payments of benefit directly to their landlords where it considers this to be necessary.

### **2. Cheshire West and Chester Safeguard Policy.**

2.1 The Safeguard Policy sets out guidelines for deciding when it is appropriate to pay LHA directly to the landlord.

2.2 The aims of this policy are

- to safeguard the most vulnerable tenants and reassure them that their Housing Benefit will be paid.
- to minimise the risk of tenants falling into rent arrears and losing their home
- to prevent homelessness
- to help people who are homeless
- to reassure landlords who have vulnerable tenants
- to promote a simple and transparent decision making policy resulting in fair and consistent decisions.

### **3. When can LHA be paid to the landlord?**

3.1 The Benefits team will consider paying LHA to the landlord if

- The tenant is likely to have difficulty managing their own financial affairs, for example, they have a support worker helping them. This

may be due to a learning difficulty, which affects their ability to budget and to manage their rent payments.

- It is unlikely that the tenant will pay their rent. There will be some evidence that the tenant failed to pay their rent at their current or previous property.
- The tenant is being supported by the West Cheshire Homes team to prevent homelessness, qualifies for help under the rent bond scheme, and the application is supported by them.
- The landlord reduces the level of rent to at least the level of the appropriate LHA rate for the area, so that the tenant can afford to remain in the property.

#### **4. Identifying tenants who are likely to have difficulty in managing their own financial affairs.**

4.1 Each case will be considered on its merits as there are no specific circumstances to show that a person is unable to manage their own financial affairs. If any of the following apply this may indicate problems but many people in these circumstances are still able to manage their own financial affairs. The decision should therefore be based upon the ability of the individual to understand, to plan, to manage and to organise their rent payments. In each case we will consider whether payments to the landlord would be in the best interests of the tenant.

- The tenant has a medical condition affecting their mental or physical health
- The tenant has a learning disability or a physical disability
- The tenant has difficulty in understanding English, either due to literacy or because English is not their first language
- The tenant is dealing with problems caused by addictions ( ie. drugs or alcohol).
- The tenant has severe debt problems, or is bankrupt and therefore unable to open a bank account.
- The tenant is experiencing a traumatic life event, which is causing a temporary inability to deal with his or her own financial affairs, such as bereavement, fleeing from violence.
- The tenant has a history of being homeless
- The tenant has presented as homeless, is being supported by West Cheshire Homes, and qualifies for help under the rent bond scheme.

This is not a definitive list.

#### **5. Identifying tenants who are unlikely to pay their rent.**

5.1 Each case should be considered upon its own merits. There are no prescriptive conditions to be met.

5.2 There are some indicators that a tenant may be unlikely to pay their rent, although even when these do apply, many people in these circumstances will still pay their rent. The decision should therefore be based upon the likelihood of the tenant using their Housing Benefit to pay their rent. We would also need to consider whether it is the tenant's best interest to pay Housing Benefit to the landlord.

- The tenant has been evicted from a previous property due to failure to make rent payments
- The tenant is homeless
- The tenant has absconded from a property leaving rent arrears
- The tenant has a history of bad debts
- The tenant has failed to co-operate with an investigation suggesting they are unlikely to pay their rent.

This is not a definitive list.

## **6. Rent Arrears and the 8- week Rule.**

6.1 Housing Benefit will in most cases be paid to the landlord if a tenant has rent arrears equivalent to the total of 8 weeks rent or more, or in anticipation of rent arrears reaching this level. The landlord will have to provide evidence of the rent arrears, showing when the rent was due and what payments have been made.

6.2 If this rule is satisfied, we will pay the landlord unless they fail to satisfy the "fit and proper landlord" test, or it is in the overriding interest of the tenant not to make payments to the landlord.

6.3 We encourage landlords to contact us as soon as possible when the tenant fails to pay their rent, and not to wait until after the arrears stand at 8 weeks or more. We will ask for proof of any rent arrears.

6.4 Payment will also be made to the landlord where the tenant is having deductions from other DWP benefits to pay off rent arrears.

6.5 It is recognised that rent arrears may be the first indication that customers are vulnerable and require additional help and support. These cases will be referred for a home visit, so that claims can be reviewed, a welfare check completed and any additional support needs can be identified and signposted as early as possible.

## **7. Requesting Payment to the Landlord.**

7.1 Unless there is clear evidence to the contrary we will normally assume that a tenant is able to manage their own financial affairs and will be able to pay their own rent. Payments will be made to the tenant until it has been established that this is not appropriate. It is up to the landlord to make an

application for direct payments, by completing the appropriate form and providing sufficient evidence to support the application.

7.2 Although it is possible to check details from a previous claim to establish whether direct payments should be considered, in most cases we will respond to a request from the landlord, tenant, or someone acting on their behalf.

7.3 The request for Direct Payments should be made on the form “Application for payment of Local Housing Allowance to your Landlord” although requests can also be made in writing, by letter or e-mail. These requests need to be followed up with information and evidence described below.

7.4 All requests should include

- Clear reasons why the tenant is unable to receive their Housing Benefit payments and use this money to pay their rent.
- Evidence in support of the request.
- Written agreement from the tenant if possible

## **8. Providing Information and Evidence**

8.1 All requests will be considered on the information and evidence provided whenever possible. If additional information is required we will contact the tenant, or the person providing support, by telephone, letter or e-mail. Usually one month will be permitted for additional information or evidence to be provided or collected from either party or in the event of a disagreement between parties about whether or not direct payments should be made.

8.2 Evidence will be considered from a number of sources, but not all evidence will carry the same weight. Representations may be considered from the following:

- Social Services (including mental health, children’s services, care teams )
- Housing and Homelessness teams
- Support workers
- Probation officers
- GP, Hospital or Consultants
- Advisory services, such as CAB, Welfare Advice, Age Concern.
- Solicitor or court
- Bank, Building Society or Money Advisor
- Family or friends supporting the tenant
- Landlords and managing agents.

8.3 Staff will be able to accept a recommendation without the provision of supporting evidence from the West Cheshire Homes team as a trusted delivery partner.

8.4 Payments will be made direct to the landlord on recommendation from the West Cheshire Homes team on completion of the appropriate paperwork, if this is scanned and held correctly on the claim.

Direct payments for rent arrears or financial vulnerability will normally be made for a period of 26 weeks, unless a shorter period is recommended. Before the end of the 26 week period the West Cheshire Homes team will contact the Benefits department to advise on the current situation.

8.5 Requests for change in payments must be made in writing. The Council will require reasonable time to gather information evidence required. For security, payments will not be changed without a written request including full details of any account or payee changes (this excludes new claims and is only where the claim is already in payment and the decision has been made without review).

If payments are being made to the landlord and the customer requests payment to be amended back to themselves, the payment will not be changed without a letter from the landlord to confirm that they are in agreement to change payee. If the payments were made to landlord due to rent arrears, the letter from the landlord should also confirm the level of arrears, if any.

Benefits cannot be suspended until full details are supplied which must be provided in full before any change in payments can be made. This is in accordance with legislation relating to benefit suspensions.

## **9. Making a Decision.**

9.1 Decisions on whether to pay the landlord will be made by the Benefit's team, and any reconsideration requested will be completed first by a second Benefit Officer and in the event of this being disputed will be escalated to a Team Leader or Senior Benefit Officer.

9.2 A review date will be set, when this decision will be looked at again. The date of review will depend upon the circumstances of the individual. Where West Cheshire Homes recommend direct payments the review date will be set at 26 weeks unless they highlight a reduced timeframe. The maximum review date will be 12 months from the date of the decision. The decision to pay the tenant will not be reviewed before the review date unless we receive a request for reconsideration or appeal from the tenant or the claim has been cancelled and subsequently a new claim is received.

9.3 If a new claim is made where the landlord was receiving Housing Benefit for any previous award, we will not automatically re-award the benefit payment directly to the landlord. A review of the current circumstances will be made based on the evidence available.

9.4 Where a request for direct payments highlights that a customer may be vulnerable this will be referred for a visit, to ensure that all welfare needs are met as early as possible.

## **10. Amount to be paid to the landlord.**

10.1 Local Housing Allowance will be made payable to the customer unless the decision has been made to pay the landlord. The amount of payment will be based in accordance with the Local Housing Allowance rules. Tenants will be encouraged to open a bank account if they do not have one.

10.2 Cheshire West and Chester Council will make payment to the landlord by BACS. As the facility for making payment by cheque costs more to administer we will no longer offer this provision. If any landlord does not wish to accept Housing Benefit by way of BACS, we will automatically arrange payment of Housing Benefit to the tenant.

## **11. Written Notification.**

11.1 The tenant or their representative, and the landlord will be notified of the decision in writing. The decision notice will include details of:

- The decision
- The reason for the decision
- The review date
- Any appeal rights

## **12. Reconsiderations and Appeals.**

12.1 There is a right of appeal about the payment of Local Housing Allowance to “any person affected” by the decision, including the Housing Benefit claimant and the landlord. They can request a further explanation of the decision, for the decision to be looked at again, or can request an appeal to the Tribunal Service. An appeal must be made in writing, within one month of the date of the decision. Full details of appeal rights will be included in the notification letter.

Policy reviewed and amended at Equality Impact Assessment February 2010.  
Policy revised 17<sup>th</sup> May 2010 following meeting with Housing Solutions ( see minutes 17/5/10). Revised 13<sup>th</sup> January 2011.  
Policy reviewed 26.09.2016 and impact assessment completed.