

Subject:	Local Housing Allowance Safeguarding Policy	Status:	For Publication
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Report of:	Head of Customer Services & I.C.T.	Lead Member:	Communities, Housing and Health
Key Decision:	<input type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	General Exception	<input type="checkbox"/> Special Urgency <input type="checkbox"/>
Equality Impact Assessment:	Required:	No	Attached: No
Biodiversity Impact Assessment:	Required:	No	Attached: No
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1. RECOMMENDATION(S)

1.1 The Overview and Scrutiny Committee consider the draft Local Housing Allowance (LHA) Safeguarding Policy as set out in this report and make recommendations to Cabinet.

2. EXECUTIVE SUMMARY

2.1 LHA was introduced in April 2008 for private tenants claiming Housing Benefit.

2.2 To encourage personal responsibility and financial inclusion, Housing Benefit is paid to the customer rather than the landlord when a claim is assessed according to Local Housing Allowance rules. The provision for customers to choose to have their benefit paid to the landlord was removed when LHA was introduced.

2.3 It is accepted that some tenants may struggle with the responsibility of budgeting and paying their rent. To help safeguard those tenants, the Council has discretion to make payments of benefit directly to the landlord where necessary. The Safeguard Policy sets out guidelines for deciding when it is appropriate to do so.

3. BACKGROUND

3.1 When LHA was introduced in 2008 all housing costs for low income customers was met through Housing Benefit. This changed with the introduction of Universal Credit in 2018 meaning customers can only apply for Housing Benefit if they have reached state retirement age, live in supported accommodation or temporary accommodation. In all other instances they must make a claim for Universal Credit to meet their housing costs. Due to this restriction we only receive approximately 30 new claims for Housing Benefit each month.

3.2 At present 919 working age customers are in receipt of Housing Benefit. Unless the customer is living in supported or temporary accommodation they will be invited to make the move to Universal Credit in the next couple of months reducing the current caseload.

3.3 Restrictions on who can apply for Housing Benefit and the migration of our working age caseload means this policy will affect fewer customers moving forward. DWP estimate our working age caseload will reduce by 45% over the next six months.

3.4 At present 100 customers have their Housing Benefit paid directly to the landlord as a result of the LHA safeguarding policy, 79 of those are working age.

3.5 Universal Credit is paid directly to the tenant by default. Landlords can request direct payment if rent arrears accrue, this is known as an APA (alternative payment arrangement). So those

customers migrating to Universal Credit will automatically be paid the housing element unless the landlord requests direct payment.

- 3.6 The Council needs to maintain an LHA safeguarding policy for as long as Housing Benefit remains, but over time this will affect a diminishing number of customers. This policy may eventually become obsolete and it is unlikely that any new LHA legislation will be enacted that will require a review of local policy.
- 3.7 Local Housing Allowance payment regulations have not changed since its introduction in 2008. A light touch review has been regularly undertaken however the current policy has not been updated since December 2007. There are no significant changes to the existing policy other than format and presentation.
- 3.8 It is essential for Rossendale Borough Council to demonstrate that we make objective, reasonable, fair and consistent decisions based on the circumstances of each case.

4. DETAILS

- 4.1 This policy will act as a guide for staff. Decisions will be documented and an appropriate review date determined.
- 4.2 Having a current and relevant policy ensures the Council;
- Provides reassurance to tenants that payments can be made to the landlord if appropriate.
 - Help sustain tenancies by preventing rent arrears evictions.
 - Demonstrates a reasonable, fair and consistent decision making process.
 - Ensure the process is not used to supersede support that tenants are receiving to help them manage day-to-day budgeting or circumvent the aims of the LHA.

5. RISK

Not having policy may result in our most vulnerable residents being at risk of not being able to manage their tenancy effectively and the Council suffering reputational damage if decisions are not applied consistently.

6. FINANCE

There are no financial implications for the Council.

7. LEGAL

Each case must be considered on its own merits and this policy has been drafted for guidance, in order to ensure that the authority acts in a transparent and consistent manner.

8. POLICY AND EQUALITIES IMPLICATIONS

All policy implications are included within the body of the report. This policy will be applied in a fair and equitable manner.

9. REASON FOR DECISION

Councils have a duty to ensure payments of Local Housing Allowance are made appropriately to safeguard tenancies. This policy sets out the Councils commitment to this as laid down by The Housing Benefit Regulations 2006.

No background papers

Local Housing Allowance Safeguarding Policy

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Local Housing Allowance Safeguarding Policy

1. Introduction

- 1.1 Local Housing Allowance (LHA) is a Housing Benefit scheme for private tenants on a low income.
- 1.2 Under LHA rules, Housing Benefit is paid to the tenant, who is then responsible for paying the rent to their landlord themselves unless the tenant satisfies the criteria to pay the landlord direct.
- 1.3 Tenants who apply for Housing Benefit after April 2008, or who change address and will therefore be paid under LHA rules can no longer request that Housing Benefit be paid directly to their landlord.
- 1.4 Some tenants may struggle with the responsibility of budgeting for and paying their rent. To help safeguard these tenants from rent arrears eviction, the Council has discretion to make payments of benefit directly to their landlord where it considers this necessary.
- 1.5 The Safeguard Policy sets out guidelines for deciding when it is appropriate to pay LHA directly to the landlord.

2. Aims of the Policy

- Identify customers who may need the safeguard provisions, thereby reducing the need to resort to the eight-week arrears rule
- Help to sustain tenancies by preventing rent arrears evictions
- Provide reassurance to people who are likely to satisfy the safeguarding criteria that their benefit can be paid to their landlord
- Provide reassurance to landlords that direct payments will be made when needed where tenants are likely to have difficulty managing their rental payments or are failing to pay over benefit payments
- Make reasonable, fair and consistent decisions
- Ensure a transparent process that is easy to understand
- Deal with each case on its merits and not operating blanket policies
- Ensure the process is not used to supersede support that tenants are receiving to help them manage day-to-day budgeting or circumvent the aims of the LHA

3. Tenants who may have difficulty managing their own financial affairs

- 3.1 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. The following circumstances may indicate a tenant would have difficulty to plan, manage and organise their rent payments:
 - Fleeing or subject to domestic violence
 - Homeless, at risk of homelessness or history of homelessness
 - Language difficulties
 - Literacy issues

- Person with a physical and/or sensory disability
- Person affected by mental illness
- Person with a learning disability
- Person suffering a serious illness
- Person affect by addiction issues
- Prisoners and detainees
- Young people leaving care

3.2 This list is not exhaustive or prescriptive. A person may not automatically be unable to manage their own financial affairs if they can be identified from the list above. Relevant and appropriate support may be in place.

4. Tenants who are unlikely to pay their rent

4.1 Each case should be considered on its own merits. Whilst there are no prescriptive conditions to be met, 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.

- Person with financial difficulties such as severe debt, IVA or bankruptcy
- Previously evicted due to failure to make rent payments
- Person is homeless
- Person has absconded from a property leaving rent arrears
- Person has a history of bad debts
- Person affect by addiction issues

4.2 The decision should be based upon the likelihood of the tenant using their Housing Benefit to pay their rent, and whether it is the tenant's best interest to pay Housing Benefit to the landlord.

This is not a definitive list.

5. Rent arrears and the 8 week rule

5.1 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.

5.2 The landlord will have to provide evidence of the rent arrears, showing when the rent was due and what payments have been made.

5.3 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.

5.4 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.

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

6. Gathering information and evidence

- 6.1 Requests for direct payment can be submitted by the landlord, tenant or person acting on their behalf.
- 6.2 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. Usually one month will be permitted for additional information or evidence to be provided or collected from either party.
- 6.3 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 departments
 - Housing and Homelessness teams
 - Support or care workers
 - Probation or youth offending officers
 - GP, Hospital or Consultants
 - Advisory services, such as CAB, Welfare Rights, Age Concern
 - Solicitor or courts
 - Bank, Building Society or financial help groups
 - Family or friends supporting the tenant
 - Landlords and managing agents

This list is not exhaustive.

7. Making a decision

- 7.1 Decisions on whether to pay the landlord will be made by the Housing Benefit assessment team, and any reconsideration requested will be completed by a second assessment officer. In the event of this being escalated the Benefits Manager will make the final decision.
- 7.2 One of two decisions will be made:
- The tenant is vulnerable and payment of LHA will be made to the landlord
 - The tenant is not vulnerable and payment of LHA will be made to the tenant
- 7.3 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, taking into account whether the need for payment to the landlord is likely to be short or longer term. For example, less frequent contact with the customer may be appropriate if they have a chronic or age related condition. If the tenants circumstances are unlikely to change there will be no requirement to review the decision.

7.4 Decisions will be recorded on the claim notes and a diary reminder set where applicable.

8. Notifying affected parties

8.1 The authority will write to the tenant and / or their representative and advise them of the following:

- The decision and reasons for it
- If and when the decision will be reviewed
- Their appeal rights

8.2 The customer is likely to agree to direct payments to their landlord, if the alternative is losing their tenancy or not being able to secure a new tenancy. If the customer is against direct payments (for example, if the customer has not initiated the request), it is for the authority to make a decision that is in their best interests. The authority will write to the landlord and advise them of the following:

- If their tenant satisfies the safeguarding criteria
- Amount of benefit to be paid direct to the landlord
- If and when the decision will be reviewed
- Request bank details if not previously received
- The landlord's appeal rights against the decision

8.3 Both the tenant and landlord can appeal against the decision made by the assessment team. An appeal must be in writing and state the reasons for the appeal. The appeal must be submitted within one month of the date of the decision letter. Appeals are heard by an independent tribunal administered by the HM Courts and Tribunals Service (HMCTS).

9. Policy review

9.1 This Policy will be reviewed on a periodic basis in order to ensure it remains valid, effective and relevant. This will normally be every 3 years or when a change in legislation occurs.