

# Local Housing Allowance Safeguard Policy

**Please contact us if you need a copy of this policy in  
Braille, large print, on audio tape or in another language.**

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## Local Housing Allowance Safeguard Policy

### Contents

<b>Background</b>	<b>Page 3</b>
<b>When can housing benefit be paid to the landlord?</b>	<b>Page 3</b>
<b>Identifying tenants who are likely to have difficulty managing their own financial affairs</b>	<b>Page 4</b>
<b>Identifying tenants who are unlikely to pay their rent</b>	<b>Page 4</b>
<b>Rent Arrears and the 8-week rule</b>	<b>Page 5</b>
<b>Decision making process</b>	<b>Page 5</b>
Requesting payment to the landlord	Page 5
Information and evidence	Page 6
Making a decision	Page 6
Written notification	Page 7
Reviewing a decision	Page 7
Reconsiderations & Appeals	Page 7
<b>Money Advice</b>	<b>Page 7</b>
<b>Appendix A</b>	
<b>Request for Local Housing Allowance to be paid to the landlord</b>	

## Local Housing Allowance Safeguard Policy

### Background

Local Housing Allowance (LHA) is a new way of working out Housing Benefit for tenants who pay rent to a private landlord and comes into effect from 7<sup>th</sup> April 2008.

Under the LHA rules, housing benefit is normally paid to the tenant. The tenant is then responsible for paying their rent to the landlord. It is no longer possible for the tenant to simply request that the housing benefit payments are sent to their landlord.

However it is recognised that there are some tenants who may struggle with the responsibility of budgeting for and paying their rent. To safeguard these tenants the council has discretion to pay the landlord where it considers this is necessary.

Further information about Local Housing Allowance can be found on the Council's website at [www.richmond.gov.uk/home/housing/housing\\_benefits](http://www.richmond.gov.uk/home/housing/housing_benefits), or by contacting the Revenues & Benefits office. Our contact details are on the front cover.

### London Borough of Richmond Safeguard Policy

This safeguard policy sets out the guidelines for deciding when it is appropriate to pay housing benefit to a landlord.

The aims of this policy are;

- to provide a safeguard for the most vulnerable tenants and reassure them that their housing benefit and rent will be paid,
- to help minimise the risk of tenants falling into rent arrears and losing their home,
- to reassure landlords that the rent will be paid if they have vulnerable tenants,
- to promote a transparent and simple decision making process that results in fair and consistent decisions.

In applying this policy we will:

- encourage the aims of the LHA in promoting financial inclusion for all tenants,
- take into account any other support that is already being received by a tenant in helping them to be responsible for their own income and expenditure,
- refuse any requests for a blanket policy to apply to an individual agency or landlord.

### When can housing benefit be paid to the landlord?

The Revenues & Benefits service has discretion to make payment to the landlord if they consider:

**a) that the tenant is likely to have difficulty managing their own financial affairs.**

For example, if the tenant is known to have a learning disability that would affect their ability to budget and to manage their rent payments.

**b) it is unlikely that the claimant will pay their rent.** For example, if there is evidence that the tenant failed to pay their rent at a previous property.

## **Local Housing Allowance Safeguard Policy**

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

There are no set circumstances that show a person is unable to manage their own affairs. Each case will be considered individually and no judgements will be made about particular illnesses or circumstances.

It may be considered that a tenant will have difficulty managing their own affairs if one of the following circumstances apply. Many people in these circumstances will still be able to manage their own financial affairs and the focus of our decision will be on the person's ability to plan, remember and organise their rent payments. We will also consider whether payments to the landlord are likely to be in the tenant's best interest.

If the tenant:

- has a medical condition that affects their mental or physical health
- has a learning disability or a physical disability
- has difficulty understanding and/or writing English, either due to illiteracy or because English is not their first language
- is experiencing a life event that means they are temporarily unable to deal with their own affairs (for example; bereavement, leaving prison, fleeing domestic violence)
- is dealing with an addiction problem (for example; alcohol, drugs or gambling)
- has severe debt problems (for example; a recent County Court Judgement, bankruptcy, or a bad credit rating that prevents them from opening a bank account).

This is not a complete list – there may be other reasons that a person is unable to manage their financial affairs.

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

There are no set conditions that must be met to show that a person is unlikely to pay their rent. Each case will be considered individually and no judgements will be made about particular circumstances.

It may be considered that a tenant is unlikely to pay their rent if one or more of the following circumstances apply. Many people in these circumstances will still pay their rent and the focus of our decision will be on how unlikely it is that the tenant will use their housing benefit payments to pay the rent. We will also consider whether payments to the landlord are likely to be in the tenant's best interest.

If the tenant:

- was evicted from their previous property due to a failure to make rent payments
- has a past history of bad debts
- has previously absconded from a property leaving rent arrears
- fails to co-operate with an investigation which suggests they are unlikely to pay their rent.

This is not a complete list – there may be other indicators that a tenant is unlikely to pay their rent.

## Local Housing Allowance Safeguard Policy

### Rent arrears and the 8-week rule

There is still a requirement to pay housing benefit to the landlord once a tenant is in rent arrears equivalent to 8 weeks rent or more. This regulation has not changed and is not part of the safeguard policy. The landlord will need to provide evidence of the rent arrears, showing when the rent was due and what payments have been made.

We will contact the tenant to confirm the rent arrears. Payment will be made to the landlord, *unless* the landlord is not considered to be 'a fit and proper' person to receive the payments or it is in the overriding interest of the tenant not to make payments to the landlord.

We would encourage landlords to contact the Revenues & Benefits office as soon as they become aware that a tenant is not using their housing benefit to pay the rent. They do not have to wait until 8 weeks rent arrears have built up. But we will still need evidence of the rent arrears, showing when the rent was due and what payments have been made. We will then contact the tenant to confirm the rent arrears and ask why they are not paying the rent.

Payment must also be made to the landlord if the tenant is having deductions made from their Income Support or Jobseekers Allowance to pay off rent arrears.

All decisions to make payment to the landlord because of rent arrears will be reviewed after six months to check whether the rent arrears have been paid or reduced.

### Decision making process

#### Request for payment to the landlord

In most cases we will assume that a tenant is able to manage their own affairs and will pay their rent unless we receive a request to pay the landlord direct. In exceptional circumstances we may decide it is appropriate to pay the landlord without receiving a request, for example from details held on a previous housing benefit claim.

The request to pay the landlord should come from the tenant or someone acting on their behalf. This request can be made on the initial housing benefit claim form or our form

**Request for Local Housing Allowance to be paid to the Landlord (LHA4).**

A request can also be made by letter, email or telephone but will need to be supported by further information or evidence as described below.

All requests must include;

- Clear reasons why the tenant is unable to receive their housing benefit payments and/or use this money to pay their rent.
- Evidence to support the request (more details below).
- If the request is from a representative or third party (such as the landlord) it must be supported by a signed statement from the tenant agreeing to the request. In exceptional cases we may waive this requirement, for example if the tenant is in hospital.

## **Local Housing Allowance Safeguard Policy**

### **Information and evidence**

We will try to make a decision based on the information and evidence provided with the request, wherever possible. If more information or evidence is needed, we will contact the tenant or representative, either by telephone, email or in writing. One month will be allowed to provide this further information or evidence. If there is no response within a month we will reach a decision based on the details provided.

Payments will continue to be made to the tenant until we have sufficient information to decide that that this is no longer appropriate.

If the tenant needs help to put together a request for payment to the landlord and/or to provide the necessary evidence, we will refer the tenant to an appropriate advice agency for help and support. We may carry out a home visit to collect or confirm information and evidence.

Evidence can be provided from a number of sources but not all evidence may carry the same weight. Representations and evidence may be provided by the following sources.

- Housing Teams (e.g. Assessment & Advice, Rent Deposit scheme, Resettlement)
- Social Services Teams (e.g. Mental Health, Children's Services, Leaving Care)
- Support workers
- GP, Hospital or Consultant
- Advice services like the CAB, RAID, Age Concern, EMAG
- Solicitor or Court
- Bank, Building Society or Money Advisor
- The tenant's family or friends
- A landlord or managing agent

This is not a complete list and we may also accept evidence from other sources.

### **Making a decision**

Decisions on whether to pay LHA to the landlord will be made by a Revenues & Benefits Officer and approved by a Team Leader or Manager. A standard form will be completed with details of the request, the decision made and the reasons.

Where a decision is made to pay the landlord, a review date will be set so that the decision can be looked at again. The review date will usually be between 6 to 12 months from the date of the decision. The exact date and nature of the review will depend on the individual circumstances of the case. Some situations will clearly be short term and require close monitoring while others may be on-going and need less scrutiny.

Decisions to continue paying the tenant will not be reviewed unless we receive a request for a reconsideration or appeal.

## Local Housing Allowance Safeguard Policy

### Written notification

The tenant, any representative and the landlord (if applicable) will be notified of the decision in writing. The decision notice will include:

- The decision
- Reasons for the decision
- If and when the decision will be reviewed
- Appeal rights
- Information about any advice agencies, voluntary or statutory organisations that offer help and support (where appropriate).
- Leaflet on opening a basic bank account (where appropriate).

### Reconsiderations & Appeals

The right to appeal will apply to all decisions about the payment of Local Housing Allowance. This gives the right of appeal to any 'person affected' by the decision, including the housing benefit claimant and the landlord. They can ask for a further explanation of the decision, for the decision to be looked at again or they can request an appeal to the Tribunals Service. An appeal must be made in writing within one month of the date of the decision.

The notification letter will explain the appeal rights and the time limits that apply. Further details are also available in the leaflet 'What to do if you think the decision about your Benefit is wrong' or on the Revenues & Benefits pages of the Council website at [www.richmond.gov.uk/home/housing/housing\\_benefits](http://www.richmond.gov.uk/home/housing/housing_benefits).

### Money advice

In all cases where we receive a request to pay the landlord we will encourage tenants to seek money advice and help in managing their financial affairs. In cases where we decide that the tenant's circumstances are not serious enough to qualify for payment to the landlord, money advice can help the tenant manage and organise their rent payments. Where we decide it is appropriate to pay the landlord, advice on handling money and budgeting will help the tenant towards eventually receiving their own housing benefit.