**Cyngor Sir**

**CEREDIGION**



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**County Council**

**LOCAL HOUSING ALLOWANCE**

**SAFEGUARD POLICY**

**Ceredigion Benefits Service**

**Policy Document**

**Introduction**

The Local Housing Allowance (LHA) is a scheme of Housing Benefit for people living in privately rented accommodation. The scheme does not include:

* Local Authority tenancies
* Housing Association tenancies
* Supported accommodation provided by local authorities, social landlords, charities or voluntary organisations
* Tenancies that started before 15/01/1989
* Tenancies in caravans, houseboats, mobile homes and hostels
* Tenancies with substantial board and attendance.

LHA is usually paid to the tenant. Under LHA a tenant cannot simply request that payment is made to a landlord to cover their rent.

**Department for Work and Pensions Guidance**

In its guidance on the operation of LHA the Department for Work and Pensions (DWP) advise that direct payments to a landlord may be appropriate where a tenant cannot pay or is unlikely to pay their rent. In most cases the council decides whether it is appropriate to pay the landlord the LHA.

Also from 01 April 2011 Local Authorities can make payment direct to a landlord where they consider that it will assist the tenant in securing or retaining a tenancy. For a tenancy to be secured or retained it is implicit that the rent should be affordable to the tenant.

However Housing Benefit legislation states that LHA **must** be paid to the landlord where:

* The tenant is 8 full weeks or more in arrears with their rent
* The tenant is having deductions made from their Income Support or Jobseekers Allowance to pay for rent arrears

**Ceredigion Benefits Service Policy**

This policy will ensure that safeguards are in place and are applied correctly to reduce the risk of tenants falling into arrears with their rent and losing their home due to eviction and to allay any fears that landlords may have regarding potentially vulnerable tenants and those who are unlikely to pay.

The policy also includes the safeguard provision for direct payment to a landlord that was introduced to exert a downward pressure on rents for Housing Benefit customers after April 2011.

The circumstances where we will consider paying the Local Housing Allowance directly to a landlord are:

* The tenant is unlikely to pay their rent because:
* they have rent arrears and have consistently failed to pay
* they have a history of arrears with previous landlords.
* The tenant is unable to pay their rent because:
* they have financial difficulties which mean they are unable to open bank/building society account, have severe debt problems or are bankrupt.
* They are considered to be vulnerable and unable to manage their own affairs, this may include:
* people with medical conditions such as mental ill health, terminal illnesses
* people with a learning disability
* people with a physical disability or who may be housebound
* illiteracy or inability to speak English
* people with an alcohol/drugs or gambling addiction
* people fleeing domestic violence and have the support of either the police, or a statutory or voluntary agency
* prison leavers being supported by an appropriate organisation or agency
* people who have a temporary change in their life such as a relationship breakdown or bereavement which may mean they need support on a short-term basis.

This list is not exhaustive and there may be other causes of vulnerability that prevents the tenant from receiving direct payments of the LHA. Each and every case will be considered on its own merit and there will not be a blanket policy approach to cases of vulnerability.

* From 1 April 2011 where it will assist the tenant in securing or retaining a tenancy:
* contractual rent being at a level which is affordable to the tenant whilst in receipt of Housing Benefit

The aim of the policy is intended to:

* provide a safeguard for vulnerable tenants and reassure them their Housing Benefit and rent will be paid
* prevent rent arrears and tenants being put at risk of eviction
* help sustain tenancies for vulnerable tenants
* help tenants to take responsibility for receiving direct payments of LHA, where appropriate
* help signpost tenants to other agencies where necessary and give people the opportunity and support to manage their own affairs
* reassure landlords that their rent will be paid if they have vulnerable tenants
* work with landlords where the tenant consistently fails to pay the rent
* make reasonable, fair and consistent decisions
* promote a transparent and simple process that is understood widely
* treat each case individually and not make assumptions about people's situations
* work closely with the statutory and voluntary sector in supporting vulnerable members of our communities, to contribute towards the prevention of homelessness
* help people with the transition from non-working to working and to support and advise people through the process
* compliment the work that other sections/departments undertake within the Council in respect of housing allocations, private rented sector housing including Houses in Multiple Occupation (HMOs), supporting people, environmental health etc

The policy is not intended to:

* replace support that may be being provided to tenants in managing their everyday affairs and finances
* be used by landlords to avoid and abuse the aims and objectives of the LHA
* be a blanket policy for organisations providing support to private tenants
* undermine the good work that is already being undertaken within other sections/departments of the Council
* undermine the rights of tenants to receive payment directly to themselves.

**Decision making process - Arrears/unlikely to pay**

1. **Receiving an application**

Landlords are encouraged to notify the service at the earliest opportunity if a tenant is not paying their rent.

The tenant, landlord, or tenant’s representative will make a request for direct payment of LHA to be made to the landlord.

Where a request for direct payment on the grounds of rent arrears is made, evidence from the landlord and agreement from the tenant will need to be provided.

1. **Gathering evidence**

The Assessment Officer will gather any further information and evidence necessary to make an informed decision.

Both the landlord and the tenant will be given one calendar month to provide any information / evidence requested.

When considering any evidence, officers will take into account:

* the past behaviour of the tenant; for example, have they had previous arrears, do they continually miss payments or do they have any other known underlying debt indicators.
* whether landlords are only making such a request for their own financial interest.
1. **Making a decision**

Based on all the evidence gathered the Assessment Officer will decide whether the payment of benefit directly to the landlord is in the best interest of the tenant.

The Assessment Officer will calculate how many weeks it would take the tenant to clear any arrears through an alternative payment plan to establish a realistic review period.

The reasons for any decision will be input onto the Comino system via a case note and diary date should be entered on the Academysystem to review the case at the appropriate time by the Assessment Officer.

The 'rent arrears' option for payee reason will be chosen in order to be included on any LHA reports.

Payment of LHA will be made to the Landlord.

* For those tenants where arrears has been established or they are deemed unlikely to pay their rent to their landlord:
* payments will be made directly to the landlord
* the decision will be reviewed at a timescale set by the Assessment Officer
* the tenant will be signposted to support and advice with regard to financial help.

Payment of LHA will be made to the tenant

* If the Assessment Officer has decided that the tenant does not have rent arrears or it is not felt that they would not pay their rent then payments will be made to the tenant.
* Tenants will be advised of the importance of paying their rent to their landlord and the consequences if they do not.
* Tenants are also signposted to other organisations that could offer support and advice in other areas appropriate to their needs or the needs of their families.
1. **Notifying affected parties**

When a decision has been made, affected parties will be notified in using the notification letters developed on the Comino system alongside the standard notification letters. Appeal rights should be clearly stated.

**Decision making process – Vulnerable tenants / Financial difficulties**

1. **Receiving an application**

The tenant, landlord, or tenant’s representative will make a request for direct payment of LHA to be made to the landlord.

Where a request for direct payment on the grounds of vulnerability or financial difficulty is received from a representative of the tenant the third party must have written authority from the tenant to act on their behalf.

In all cases the request must include written evidence, from an appropriate source, to support the application.

*See appendix A for accepted evidence and sources in support of a request on the grounds of vulnerability.*

**b**. **Gathering Evidence**

The Assessment Officer will gather further evidence, interview (if necessary), make a decision, monitor, and review all cases. This process allows for a fast-tracking process, consistency of decisions and a degree of continuity for vulnerable people.

Further information may be necessary and will be requested from the tenant, the tenant’s representative, or the landlord by telephone in the first instance. However, either or all parties may be written to in order to provide further information to support any request giving one calendar month to respond. If there is no response within this time then follow up action may be taken as no response could be indicative of a tenant’s vulnerability.

If it is felt necessary, an interview will be arranged with the tenant, the tenant’s representative, the landlord, or all parties to satisfy the evidence required to make the appropriate decision.

In some circumstances there may only be limited evidence available. In these cases the final decision will be at the discretion of the Assessment Officer with a 'common sense' approach. Any decision will always be in the best interest of the tenant.

* + 1. **Making a decision**

Based on all the evidence gathered the Assessment Officer will decide whether the payment of benefit directly to the landlord is in the best interest of the tenant.

The reasons for any decision will be input onto the Comino system via a case note and diary date should be entered on the Academysystem to review the case at the appropriate time by the Assessment Officer.

Each application will result in one of the following decisions:

Payment of LHA will be made to the Landlord.

* **For those tenants who have financial difficulties and have an inability to open a bank account, severe debt problems, CCJ's or bankruptcy.**

The tenant will need to be signposted to other organisations, such as, CAB, National Debtline to seek advice and support. The Assessment Officer will set a review period, usually 6 months, in order to allow the tenant time to access any support and advice in order for them to reach a situation where they may be able to accept direct payments of LHA in the future.

* **For those tenants where it has been established that they are vulnerable and unable to manage their own affairs.**

The Assessment Officer through consultation with all parties involved and consideration of the type and length of support provided to a tenant, decide whether the vulnerability is short-term or long-term. This decision will determine the period at which the case is reviewed. However, in some cases the situation will not change and therefore cases may only be reviewed on an annual basis.

Payment of LHA will be made to the tenant

If the Assessment Officer has decided that the tenant does not have issues serious enough to warrant direct payment being made to their landlord then payments will be made to the tenant. Tenants will be advised of the importance of paying their rent to their landlord and the consequences if they do not. Tenants are also signposted to other organisations that could offer support and advice in other areas appropriate to their needs or the needs of their families.

* + 1. **Notifying affected parties**

When a decision has been made, affected parties will be notified in writing using the notification letters developed on the Comino system alongside the standard notification letters. Appeal rights should be clearly stated.

**Decision making process – assisting in securing or retaining a tenancy**

1. **Receiving an application**

The tenant, landlord, or tenant’s representative will make a request for direct payment of LHA to be made to the landlord.

Where a request for direct payment on the grounds of assisting or retaining a tenancy is made, evidence from the landlord and agreement from the tenant will need to be provided.

**b**. **Gathering Evidence**

Both the landlord and the tenant will be given one calendar month to provide any information / evidence requested.

Existing Tenancies

The Assessment Officer will need to confirm that there has been a genuine reduction in the rent charged by the landlord and that the reduced contractual rent is affordable to the tenant.

What is an Affordable Rent level?

An affordable rent level would normally be the latest LHA rate or below.

In some exceptional cases the rent could be above the LHA rate, however, there would need to be clear indication that the rent had been reduced and that the tenant could afford the new rent.

New Tenancies

The Assessment Officer will need to confirm that the rent is charged at the latest LHA level, or less, and a higher rent was previously being charged for the accommodation. If the rent is higher than the latest LHA rate you have to be satisfied that the claimant can reasonably afford to make up the difference themselves.

**c**. **Making a decision**

Based on all the evidence gathered the Assessment Officer will decide whether payment of benefit directly to the landlord can be made on the grounds of assisting or retaining a tenancy.

If it is known that the landlord has routinely let to Housing Benefit customers at affordable rents without direct payments it would be reasonable to expect that they would continue to take on new tenants without direct payments. It is not the intention that the safeguard be used to make payment to the landlord as a matter of routine.

The Assessment Officer should not apply the safeguard unless they are satisfied that the rent has been reduced and is affordable or the letting would not have been made without direct payments and the rent charged is affordable.

The reasons for any decision will be input onto the Comino system via a case note.

Once direct payments are being made on the grounds of assisting or retaining a tenancy they will continue unless the rent becomes unaffordable. (Please see Reviewing a Decision).

**d. Notifying affected parties**

Once it is decided to pay Housing Benefit direct to the landlord on the grounds of assisting or retaining a tenancy, the customer and landlord should be notified in the normal way. Additionally, both the customer and landlord need to be aware that direct payments are conditional on the rent being kept at an affordable level whilst the customer remains at the address. Any increase in the rent could affect the decision to make payments to the landlord. (Please see Reviewing a Decision).

**Reviewing a Decision**

The tenant and/or representative will be contacted again 4 weeks from the end of the review period to determine whether their situation has changed and if they can receive payment of LHA directly.

Tenants will not be required to complete an application form. In the first instance we will write to the tenant or their representative / support worker to get an update of the situation.

Payments will continue to be paid directly to the landlord until the review process is completed.

If the situation has not changed, a further review period will be set. However, if at any point during the review process it is identified that the tenant may require further support or advice, then the tenant will be signposted to the relevant organisation.

Where the circumstances of the tenant have changed, which means they can accept the responsibility of direct payments and pay the rent to their landlord, we will make a new decision to pay the LHA to the tenant.

Where payments are made to the landlord on the grounds of assisting or retaining a tenancy, the Assessment Officer will immediately review the decision to pay direct where:

* There is an increase in the rent payable by the tenant; or
* There is a change in the household size that reduces the number of bedrooms needed which results in a shortfall in the rent

**Appeals**

The tenant or the person who has made the application or referral can ask the Council to review any decision made regarding direct payments of the LHA.

They can:

* ask for an explanation of the decision
* ask the council to reconsider the decision
* appeal against the decision.

In all cases the person must contact the Council, in writing with their reasons within one month from the date of the decision. We will then look at the decision again.

**Appendix A**

**Vulnerability Indicators**

|  |  |
| --- | --- |
| **Vulnerability criteria** | **Examples of written evidence required** |
| Learning Disability | * GP
* Social Services
* Care Workers
* DWP
 |
| Medical Condition ie, Mental health problems | * GP
* Social Services
* Care Workers
* Hospital
* DWP
* Support Organisations
 |
| Addiction problems ie, Drugs, Gambling, Alcohol | * GP
* Social Services
* Hospital
* Police
* Care Workers
* Support Organisations
 |
| Fleeing Domestic Violence | * GP
* Police
* Social Services
* Support Organisations
* DWP
 |
| Care Leavers / single < 25 homeless | * GP
* Social Services
* Homeless Team
* Support Organisations / Homeless charities
 |
| Prison Leavers | * Social Services
* Probation Service
* Support Organisations
 |
| Severe Debt Problems ie CCJ's | * Courts
* Banks / Building Societies
* Solicitors
* Creditors
* Support Organisations ie CAB,
 |
| Undischarged Bankruptcy | * Court Order documents
 |
| Inability to open a Bank Account | * Evidence from banks / building societies
* Money Management / Welfare and Information Centres
 |
| Where DWP is making deduction from benefits and paying direct to utility company | * DWP
* RATS
* Job Centre +
 |
| Tenant is in receipt of Supporting People funding | * Support Organisation
* GP
* Social Services
* SP section
 |