



## ***COPELAND BOROUGH COUNCIL***

### **INTRODUCTION OF LOCAL HOUSING ALLOWANCE:**

**SAFEGUARD POLICY:**

***DIRECT PAYMENT TO LANDLORD***

## 1. Introduction

The Local Housing Allowance is a new scheme of Housing Benefit for people living in privately-rented sector accommodation, with some exceptions to the scheme, including:

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

Local Housing Allowance is usually paid to the tenant. Under LHA a tenant cannot simply request that payment is made to a landlord to cover their rent, but authorities have the discretion to make payments to the landlord when certain criteria are met.

## 2. DWP Guidance

The Department for Work and Pensions has provided guidance on when direct payments to the 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 Local Housing Allowance. However the 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 Jobseeker's Allowance to pay for rent arrears.

## 3. Copeland Borough Council Policy

The policy will ensure that the safeguards in place are applied correctly, to help minimise the risk of tenants falling into arrears with the rent and losing their home and also to reassure landlords that their rent will be paid. All staff will be made aware of the policy and when direct payments should be made on the grounds of vulnerability.

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

- ◆ The tenant is **unlikely** to pay their rent because he or she
  - \* has rent arrears and consistently failed to pay
  - \* has previously absconded from a property leaving rent arrears.
- ◆ The tenant is **unable** to pay their rent because
  - \* they have financial difficulties which mean they are unable to open a bank/building society account, have severe debt problems or are bankrupt.
  - \* they are considered to be vulnerable and unable to manage their own financial affairs, this may include:
    - \* People with medical conditions such as mental ill health, Alzheimer's disease or a terminal illness
    - \* People with learning difficulties
    - \* People with physical disabilities and are housebound
    - \* Illiteracy or inability to speak English
    - \* A person who lives alone with no support
    - \* A person receiving assistance from a homeless charity
    - \* A person with alcohol/substance/gambling addiction
    - \* A person receiving funding from the Supporting People Grant

- \* A person who has recently experienced changes in their lifestyle that means they are temporarily unable to deal with their financial affairs. e.g. bereavement, fleeing a violent relationship, leaving prison, leaving care, homelessness.

This list is not exhaustive and there may be other causes of vulnerability that prevents the tenant from receiving direct payments of the Local Housing Allowance.

Each case will be considered on its own merit and there will not be a blanket approach for claimants meeting the above criteria.

The aim of the policy is intended to:

- \* Provide a safeguard for vulnerable tenants and reassure them that their benefit and rent will be paid
- \* Prevent rent arrears and tenants being put at risk of eviction
- \* Help to sustain tenancies for vulnerable tenants
- \* Help tenants to take responsibility for receiving direct payments of LHA, where appropriate.
- \* Help to put tenants in touch with other agencies where necessary and give people the opportunity and support to manage their own financial 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.
- \* To make reasonable, fair and consistent decisions
- \* Promote a transparent and simple process that is understood widely
- \* To treat each case individually and not make assumptions about people's situations

The policy is not intended to:

- \* Supersede support that is being received to allow tenants the opportunity to be responsible tenants and be in control of their own income and expenditure
- \* Supersede the services already available in the area for tenants who require money or debt advice
- \* Be used by landlords to circumvent the aims of LHA
- \* Be a blanket policy for agencies providing support to private tenants

## 4. Decision making process

### Receiving an application

The tenant, landlord or tenants representative will make a request for payment of the LHA to the landlord. This will normally be using the standard proforma provided free of charge by the Authority.

However a letter from the tenant, landlord or tenants representative requesting payment to the landlord will also be accepted.

Where a request for direct payments on the grounds of **vulnerability** or **financial difficulties** is received from a representative of the tenant, the third party must have written authority to act on behalf of the tenant.

In all cases the pro-forma or letter should include evidence to support the application.

## **Gathering evidence**

The relevant member of staff will consider the information and evidence that has been received and whether this is sufficient to make an appropriate decision. The member of staff making the decision will have access to guidance on acceptable evidence.

Where appropriate a visiting officer or the welfare officer will visit the tenant to gather more information in support of the application.

If the evidence is not sufficient, further information will be requested from the tenant, the tenant's representative, the landlord or all parties by telephone. A discussion with the tenant or their representative may also assist in making a decision.

If there is no phone number, further information will be requested giving one month to respond. If there is no response within a month, further enquiries will be made. A visit to the tenant may be arranged or the case will be considered on the information available. In some situations where it is felt that less evidence is required or it would be impossible to collate further information, a judgement will be made on the evidence available. Where such a decision is made a report will be completed and recorded with the reasons for the decision.

In all cases, where the tenant has rent arrears or consistently fails to pay the rent, written evidence is required.

## **Making a decision**

Using the information and evidence available it will be decided if it is in the best interest of the tenant to pay the Local Housing Allowance to the landlord.

A standard report will be completed by the member of staff making the decision with details of the application, the decision made and the reasons. The report will be stored on the Anite Document Imaging System.

Each application will result in one of the following decisions:

### **Payment of LHA will be made to the Landlord:**

In all cases the decision will be reviewed.

#### **For tenants who are**

- 8 full weeks in arrears with their rent
- having deductions made from their Income Support or Jobseekers Allowance to pay rent arrears

A review period of six months will be set and the decision will be reviewed to see if the arrears are reducing or have reduced below 8 weeks or the deductions from the tenants income support or Jobseekers Allowance have ceased.

#### **For tenants considered unlikely to pay**

A review period of six months will be set and the decision will be reviewed to see if circumstances have changed and the tenant is now able to accept the responsibility of receiving direct payments and pay the rent to their landlord.

### **For tenants unable to pay because:**

- **they have financial difficulties which means they are unable to open a bank account, have severe debt problems or are bankrupt**

A review period of six months will be set to allow time for the tenant to receive support and advice, which will enable them to accept direct payments of the Local Housing Allowance.

- **they are considered to be vulnerable and unable to manage their own affairs**

It will be considered between the tenant and/or their representative and the council whether the tenant has a short-term situation and with help can overcome any problems, for these cases an appropriate review period will be set for the decision to be reviewed. For tenants with long-term situations, payments to the landlord will be ongoing and we will only review these cases periodically to ensure that it remains in the interest of the tenant to continue paying the landlord the Local Housing Allowance on behalf of the tenant.

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

If the LHA is above the tenant's contractual rent, a split payment will occur and the tenant will receive the excess (top up). To receive this, tenants will be encouraged to open bank accounts if they do not already hold one.

### **Payment of LHA will be made to the tenant:**

If the tenant has issues that are not deemed to be serious enough to qualify for payments to the landlord, LHA will be paid to the tenant. LHA Direct Payment Advice and/or referral to appropriate support services will be considered.

### **Notifying affected parties**

When a decision has been made, affected parties will be notified in writing using standard notification letters produced by the Anite system.

#### ***a) Where payment of the LHA will be made to the Landlord we will:***

Write to the **tenant** and /or their representative advising them of:

- \* The decision
- \* Reasons for the decision
- \* If and when this decision will be reviewed
- \* Appeal rights
- \* Any advice agencies, voluntary or statutory organisations that offer help and support

Write to the **landlord** advising that:

- \* LHA up to the contractual rent will be paid directly to them on behalf of the tenant
- \* Request bank details if not previously received
- \* The minimum length of time that this arrangement will stand if the decision is to be reviewed

**b) Where payment of LHA will be made to the tenant we will:**

Write to the **tenant** and / or their representative advising them of:

- \* The decision
- \* Reasons for the decision
- \* Appeal rights
- \* Any advice agencies, voluntary or statutory organisations that offer help and support

**Updating the systems**

The standard report completed for all decisions will be recorded on the Anite system.

The following details will be recorded against the LHA claim on the Housing Benefit system:

- \* The payment method details of the claim will be updated accordingly
- \* Review date, where appropriate will be recorded
- \* Diary entries will be recorded with details of the decision made and the action taken.

**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 the standard application form again. In the first instance we will write to them or their representative / support worker to get an update of the situation.

Payment will continue to the landlord until the review is completed.

If the situation has not changed, a further review period will be set on the claim.

It will be considered if the tenant requires further help or assistance to help them manage their own affairs and where appropriate the LHA direct payment advice team will contact the tenant to offer further assistance.

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 and will:

Write to the **tenant** and / or their representative advising them of:

- \* The decision
- \* Reasons for the decision
- \* The date the first payment will be made to them
- \* Appeal rights
- \* Any advice agencies, voluntary or statutory organisations that offer help and support

Write to the **landlord** advising of

- \* The new decision
- \* The date payment to the landlord will cease
- \* Appeal rights

## **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 for 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.