

**The Highland Council
Housing Benefit – Local Housing Allowance**

Safeguard Policy

1	Introduction
1.1	Local Housing Allowance (LHA) affects any tenant who entered into a deregulated private tenancy from 7 April 2008 or thereafter. (A deregulated tenancy is one that commenced after January 1989.)
1.2	Local Housing Allowance rules do not apply to: <ul style="list-style-type: none">  Local Authority tenants;  tenants of registered social landlords (Housing Associations);  tenants who have a registered or 'fair' rent;  tenancies which commenced before January 1989; and  protected cases such as supported housing provided by social landlords, charities or voluntary organisations, which also provide care, support or supervision or tenancies in caravans, houseboats or hostels.
1.3	Local Housing Allowance removes the right from claimants to choose to have their Housing Benefit payments made directly to their landlord. This change in national policy is a fundamental part of the reform of Housing Benefit and will support the Department for Work and Pensions' (DWP) specific aims of personal responsibility and financial inclusion.
2	LHA Aims
2.1	The Department for Work and Pensions' fundamental aims of the LHA scheme are detailed in the paragraphs below.
2.1.1	Fairness LHA bases the maximum amount paid to claimants on size, composition and locations of the household. Therefore, two households in similar circumstances in the same area are entitled to similar amounts of benefit.
2.1.2	Choice Claimants can take greater responsibility and choose how to spend their income in a similar way to tenants who are not in receipt of benefits. Like other tenants, LHA claimants are able to choose whether to rent a larger property, or to spend less on housing costs and increase their available income.
2.1.3	Transparency A clear and transparent set of allowance rates helps claimants and landlords know how much financial help is available from the state. LHA claimants are able to compare how much support is available towards their housing costs in different areas and for different property sizes.

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2.1.4	<p>Personal responsibility Empowering people to budget for and to pay their rent themselves, rather than having it paid for them, helps develop the skills unemployed tenants will need as they move into work. The Government believes that, wherever possible, Local Housing Allowance should be paid to claimants, similar to other benefits and tax credits.</p>
2.1.5	<p>Financial Inclusion Wherever possible, we encourage claimants to have their housing payments paid into a bank account and to set up a standing order/direct debit to pay their rent to their landlord. This has the advantage of being a safe and secure method of payment and provides certainty for landlords that the rent will be paid.</p>
2.1.6	<p>Improved administration and reduced barriers to work For working age claimants, LHA provides greater certainty about what help is available in and out of work. A simpler system also speeds up administration of housing payments giving claimants more confidence when starting a job as any in-work benefit will be paid quickly. A more transparent system may also improve the ability of individuals to move between areas and to take advantage of employment opportunities.</p>
3	<p>Risks</p>
3.1	<p>DWP’s specific aims of personal responsibility and financial inclusion bring with them increased risks that some claimants may not or will not use their Housing Benefit entitlement to pay their rent.</p>
3.2	<p>Research has shown that claimants</p> <ul style="list-style-type: none"> 🏠 <i>“who are being paid Housing Benefit appear to hold the view that it represented such a large amount of their income, that should they fall behind with it, catching up would prove very difficult indeed.”¹</i> 🏠 <i>“who had been in rent arrears most commonly cited the following reasons:</i> <ul style="list-style-type: none"> ○ <i>problems in connection with their Housing Benefit payment;</i> ○ <i>other debts and responsibilities; and</i> ○ <i>unemployment.”²</i>
3.3	<p>The Highland Council believes that it should not be assumed at any time that Housing Benefit recipients place any less importance on paying their rent than non-Housing Benefit recipients. There is no evidence within Highland to demonstrate that LHA claimants are</p>

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	choosing to use their Housing Benefit entitlement for purposes other than rent.
4	Purpose of Safeguard Policy
4.1	The purpose of this policy is to protect claimants within the Highland Council by making payments of LHA direct to the landlord in prescribed circumstances.
4.2	Direct payments to landlords will be made in cases where the Highland Council determines it unlikely, based on all the factors and evidence provided that claimants will themselves pay their rent to their landlord.
4.3	This policy, in accordance with DWP guidance, ensures that claimants, who simply would prefer the ease of not having to pay their rent to their landlord, are not excluded from their personal responsibility. In these circumstances, LHA will be paid direct to the claimant rather than to their landlord.
5	Adherence to Policy
5.1	<p>Successful adherence to this policy will:</p> <ul style="list-style-type: none">  provide protection for our most vulnerable claimants by providing reassurance that their rent will be paid direct to their landlord;  help prevent rent arrears and the risk of eviction;  reassure landlords that Local Housing Allowance will be paid if they have or are approached by vulnerable claimants; and  promote and support the aims of personal responsibility and financial inclusion.
6	LHA Safeguard
6.1	<p>In recognition of the risk that some claimants may struggle with the responsibility of budgeting for, and paying, their rent, the Highland Council has the discretion to make payment to the landlord if we consider:</p> <ul style="list-style-type: none">  that the claimant is likely to have difficulty managing their financial affairs; and  it is improbable that the claimant will pay their rent. <p>For example, if the claimant is known to have learning difficulties or a drug/alcohol dependency that would present difficulties for them to manage a budget and the Highland Council has evidence that the claimant has consistently failed to pay their rent in the past, payment will</p>

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	<p>be made direct to their landlord.</p> <p>Note: In relation to LHA, the option for claimants to request/demand payment direct to their landlord has been removed.</p>
7	Deciding When Direct Payments Should be Made
7.1	<p>An outline of the circumstances and factors to be considered when making a decision following representations for direct payment to the landlord are contained later in this policy.</p> <p>It should also be noted that at no time will a blanket policy be applied to any claimant or group of claimants; all representations made will be decided individually and on their own merits.</p>
7.2	<p>In order to ensure the Highland Council correctly determines cases which genuinely warrant direct payments to landlords, the Council will take steps to establish how the claimant's personal affairs and finances are managed in general terms.</p>
8	Criterion
8.1	<p>The following details are used as guidance when making a decision and are only some examples of factors to be considered. This policy does not constitute a comprehensive guide to decision making or an exhaustive list of circumstances when direct payments to landlords will be made.</p>
8.2	<p>Learning disabilities Claimants with severe learning difficulties will normally have appointees to help manage their financial affairs. This includes dealing with all matters relating to direct payments to landlords for the purposes of LHA.</p>
8.3	<p>Medical conditions The Highland Council must consider any condition that may impair a person's ability to manage on a day to day basis.</p>
8.4	<p>Illiteracy This could take the form of reading, writing or financial illiteracy.</p> <p>The Highland Council must consider factors including how any previous claim was completed and whether the claimant has a history of delaying the provision of requested information.</p>
8.5	<p>Where English is not the claimant's first language The Highland Council is opposed to discrimination on the grounds of sex</p>

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	<p>or marital status, or racial grounds, or on grounds of disability, age, sexual orientation, language or social origin or other personal attributes including belief or opinions, such as religious beliefs or political opinion. The Highland Council will promote and practice equal opportunities in all their services and recognises this is central to the goals and values of the Council.</p> <p>The Highland Council does not believe that just because a tenant does not have English as their first language, they are unlikely to manage their financial affairs.</p>
8.6	<p>Debt problems This includes a large single debt, multiple debts, undischarged bankruptcy, inability to open a bank account etc. All these factors could demonstrate an inability to manage financial affairs and will be taken into account when determining payment of LHA.</p>
8.7	<p>Where a claimant has experienced difficulty in opening a bank account, support and guidance will be available from the Highland Council to assist in this process. This may be in the form of helping the claimant to open a basic bank account with a recognised financial institution or a budget account with a credit union or equivalent.</p>
8.8	<p>Representations for claimants unlikely to pay their rent mainly come from third parties (such as the landlord), rather than the claimant. When considering these representations the Highland Council will request and review evidence such as:</p> <ul style="list-style-type: none">  Rent arrears from the current or previous landlord(s)  Arrears of utility charges  Unpaid standing orders/direct debits  Arrears of priority debts (i.e. rent, mortgage, council tax, water rates, gas, electric)
9	<p>Representations</p>
9.1	<p>Representation must be made in writing for the Highland Council to consider whether a claimant is likely to have difficulty managing their financial affairs, or paying their rent. This representation does not have to be made by the claimant but must be signed by the claimant (or an appointee).</p>
9.2	<p>One of the key aims of the reform of Housing Benefit is to promote Personal Responsibility. Because of this it is important the Council ensures that only claimants who have or may have genuine difficulties have their Housing Benefit payments paid direct to the landlord.</p>

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10	Failure to provide supporting evidence
10.1	The circumstances in which a claimant fails to provide evidence to support their request must be considered carefully. Failure to provide supporting evidence could show that direct payments to landlords are not necessary as there is no genuine need. However, the failure to provide the requested evidence could in itself prove that the claimant has an inability to manage their affairs. When evaluating non provision of evidence, consideration should be given to the evidence requested, the efforts made to provide it and the possibility that a referral to an independent advisor may be appropriate.
11	Reviewing decisions
11.1	Most decisions made to pay the landlord direct will need to be reviewed at an appropriate interval. Some decisions where the claimant's situation is unlikely to change due to the long term nature of the situation may not warrant a review at all.
11.2	Most decisions should be reviewed after an appropriate period, for example, a decision to pay direct to the landlord made due to rent arrears in excess of eight weeks should be reviewed after eight weeks and if the arrears have reduced below the prescribed level, payment should revert to the claimant. Cases referred to independent advice agencies should also be reviewed, as the provision of professional advice may lead to the claimant being able to take on the responsibility of paying their rent.
11.3	All decisions following review will be made individually and on the merits of the case in question.
12	Appeal rights
12.1	Any decision made to pay or not to pay the landlord direct carries a right of appeal under The Housing and Council Tax Benefit (Decisions and Appeals) Regulations 2001. Both the landlord and claimant have the right to request a review of the decision or appeal directly against the decision of the local authority. Any dispute of the decision will go through the Council's reconsideration process before being treated as an appeal.

¹ Local Housing Allowance Final Evaluation: The qualitative evidence of claimants' experience in the nine pathfinder areas

² Local Housing Allowance Final Evaluation: The survey evidence of claimants' experience in the nine pathfinder areas