

LOCAL HOUSING ALLOWANCE SAFEGUARD POLICY

Document control

Date	Review action	Reviewed by
3.2.11	First draft received from project team.	Lisa Parker
4.2.11	Comments from TDC Housing Options included. Broader definitions included where we would consider direct payment.	Andrew Stevens

Glossary of Terms

For the purposes of this policy it is important to provide an explanation of some of the terms used:

“Fit and proper” means the test contained in law that prevents certain landlords from receiving Housing Benefit payments because of impropriety.

“Improbable” means that it is unlikely that the tenant will pay their rent. This will generally be shown where arrears have accrued following payment of benefit to the claimant. It is not sufficient to conclude that there is a *possibility* that the tenant may not pay their rent as many tenants, regardless of their benefit status, carry a *risk* that they may not pay their rent.

“Is likely” means there is a reasonable expectation that the tenant will be unable to manage their affairs. It is not sufficient to conclude that it is *possible* that the claimant will have difficulty managing their affairs or to make a presumption that tenants in certain circumstances carry a *risk* that they *may* be unable to manage their affairs.

“LHA” means Local Housing Allowance.

“Safeguard grounds” means a reason, other than rent arrears, on which East Kent Services agrees that ‘payment to landlord’ is appropriate.

“We” means East Kent Services.

1. Introduction

- 1.1 The aims of the Local Housing Allowance are: *Fairness, Choice, Transparency, Personal Responsibility, Financial Inclusion and Improved Administration and Reduced Barriers to work.*
 - 1.2 In line with these aims, Local Housing Allowance will mainly be paid to the claimants direct. The provision in Housing Benefit Regulations 2006 for claimants to choose to have their allowance paid direct to their landlord has been removed. As a result most claimants will have their LHA paid directly into their bank account and will therefore be responsible for managing their own finances and paying their own rent.
 - 1.3 In recognition that some claimants may have difficulty with the responsibility of budgeting for, and paying their rent, a system of safeguarding has been put into place.
 - 1.4 Being safeguarded means that a decision is made to make payments to the landlord, not the claimant.
 - 1.5 The intention of safeguarding is to prevent tenants who are likely to experience difficulties in managing their finances from falling into rent arrears and ultimately facing the risk of eviction.
 - 1.6 Most claimants are capable of managing their financial affairs. We must assume that our claimants can and will pay their rent unless there is evidence to the contrary.
 - 1.7 This policy is not intended to be used by landlords to circumvent the aims of Local Housing Allowance or be a blanket policy for agencies providing support to private tenants.
- 2 Payment may be made to fit and proper landlords only where:
- **We consider the claimant is likely to have difficulty in managing their affairs**
 - **We consider it is improbable the claimant will pay their rent**
 - **The claimant has previously been 8 weeks in arrears with their rent during this claim for Housing Benefit**
 - **The local authority considers that it will assist the claimant in securing or retaining a tenancy.**

- 2.1 Consideration will be given to first payment to landlord where the first payment is unusually large and the claimant has been unable to pay the rent. Unusually large in this instance means either a payment over £1,000.00 or where the housing benefit represents multiple payments of rent liability.

3 Claimants that the authority considers will have difficulty managing their affairs

- 3.1 Payments may be made to the landlord where the *"relevant authority considers that the claimant is likely to have difficulty in relation to the management of his financial affairs"*.

- 3.2 The safeguard grounds we will consider include:

- Claimants with learning disabilities
- Claimants with medical conditions
- Claimants who are illiterate or an inability to speak English
- Claimants with an addiction to drugs, alcohol and gambling
- Claimants with mental illnesses that seriously impair their ability to manage on a day-to-day basis
- Claimants who are fleeing domestic violence
- Claimants who are recent care leavers or who have recently left supported accommodation.
- Claimants who have just left prison following a long sentence
- Claimants with severe debt problems/recent county court judgements
- Claimants taking on their first ever tenancy having moved out of the family home where there is a higher than average chance of them not being able to budget correctly.
- Claimants who are undischarged bankrupts
- Claimants who have previously had no experience of paying rent, or have difficulty in doing so.

This list is not exhaustive. We will consider other circumstances in which the claimant may have difficulty managing their financial affairs.

However, just because a claimant may display one of these characteristics does not mean they will automatically be safeguarded. We will consider the effect that these characteristics will have on their ability to pay their rent and then consider whether direct payments are likely to be in the claimant's best interest.

3.3 We will not pay LHA to a Landlord on safeguard grounds if:

Someone who is appointed to act on behalf of the claimant is 'unable for the time being to act'.

The landlord is considered to be 'not fit and proper' to receive payments.

Safeguarding would override support being given to the claimant to help them manage their own affairs.

4 Cases where the relevant authority considers that it is improbable that the claimant will pay his rent

If a claimant is unlikely to pay their rent we will consider paying their LHA to the Landlord on the same 'safeguard grounds' as those with difficulty managing their financial affairs.

4.1 We will additionally consider the following circumstances:

Claimants with a proven and sustained history of rent arrears

Claimants who have previously left a property leaving substantial rent arrears

Consideration will be given to direct payment to landlord where the payment is substantially late.

4.2 We will not pay LHA to a Landlord when:

A claimant has simply stated they will not pay their rent. Other factors will need to be taken into consideration before making a decision

The landlord is considered to be 'not a fit and proper' person

5 Claimants who will be assisted to secure or retain a tenancy

5.1 We will make LHA payments direct to the Landlord where we consider that it will assist the claimant in securing or retaining a tenancy.

5.2 This provision is designed to aid homelessness prevention work.

5.3 It is also intended to provide landlords with an incentive to reduce rents to a level that is affordable to customers.

6 How to request 'payment to landlord' on safeguard grounds

6.1 We will consider all requests to pay LHA to a Landlord that are received from the claimant, the claimant's representative or the landlord.

6.2 Any request must be made in writing and should be accompanied with as much supporting evidence as possible for us to make a decision. A safeguard request form will be available to collect from all council offices and will be available to download from each client council's website.

6.3 Whilst we are making a decision we have the following options:

- pay the claimant
- pay benefit to the landlord for up to eight weeks, or
- suspend payment to both the claimant and landlord

In most circumstances payment will be made to the landlord whilst we are making a decision.

6.4 There are no indicators that will determine definitively that a person may have difficulty in paying their rent but the types of information and evidence we will ask to see are as follows:

<u>Possible safeguard grounds</u>	Examples of information and evidence required
Claimants who are unable to open a bank or building society account	Letters from banks, building societies and credit unions. Letters from debt/money Advisors.
Claimants with severe debt problems or Recent County Court Judgments	Letters from banks, building societies and credit unions. Letters from debt/money advisors or solicitors. Copy of court order
Claimants who are undischarged Bankrupts	Copy of court order
Claimants who get help from Supporting People	Written evidence from social services

Claimants who have previously no experience of paying rent, or have difficulty in doing so	Written evidence from a homeless charity or the local authority homeless unit
Claimants with learning disabilities	Written evidence from care workers, GP's, other qualified medical practitioners, social services, government departments, etc
Claimants with mental illnesses that seriously impair their ability to manage on a day to day basis (e.g. schizophrenia, depression, age related mental deterioration such as the early stages of Alzheimer's disease or senile dementia)	Written evidence from care workers, GP's, other qualified medical practitioners, social services, government departments, etc
Claimants who are illiterate	Written evidence from support organisations. Interview with Claimant.
Claimants who cannot speak English	Written evidence from support organisations Interview with Claimant.
Claimants with an addiction to drugs, alcohol or gambling	Written evidence from care workers, GP's, support organisations, government departments, etc
Claimants who are fleeing domestic violence	Written evidence from women's refuges, support organisations, care workers, Social Services, etc
Claimants who have just left prison following a long sentence	Written evidence from The Probation Service
Claimants who are recent care leavers	Written evidence from care workers, social services, support organisations, etc

6.5 This list is not exhaustive. We will accept written information and evidence from other sources including the claimants' landlord and the Councils' Housing Options Service.

6.6 We will treat each case individually and not make assumptions about peoples' situations. One of the aims of the Housing Benefit reforms is to encourage and assist claimants in managing their own rent payments so the authority must balance the provisions to pay the

landlord direct with the need to promote the aims of the Local Housing Allowance scheme.

Landlord's evidence alone will not be sufficient to make a decision to safeguard and further evidence will be requested. However if the claimant refuses to respond to our requests for information we will make a decision based on the existing evidence.

7 Making and notifying the decision

- 7.1 Having gathered the necessary evidence, we aim to make our decision within fourteen days.
- 7.2 The Claimant, their representative and any relevant person, will be notified of the decision in writing. The notification will detail the reasons for the decision and right of appeal.
- 7.3 If the landlord notifies us of a tenant's possible vulnerability we will also notify the landlord of our decision regardless of the outcome.
- 7.4 Any case where a decision is made to safeguard will be reviewed at least once a year to establish whether safeguarding is still appropriate.

8. Appeal rights of persons affected by a decision of direct payment

- 8.1 Any person affected by a decision relating to the direct payment of LHA may appeal against that decision. Persons affected include the claimant or the landlord.
- 8.2 If the claimant or landlord disagrees with our decision about whom to make payments of LHA to they can ask for a 'statement of reasons' for the decision, or ask us to look at the decision again, or appeal against the decision.
- 8.3 Appeals can only be made in writing and must be signed by the claimant or the landlord. Appeals must normally be made within one month of the decision.
- 8.4 If we receive an appeal we will look at our decision again. If we cannot change our decision the appeal will be passed to The Tribunals Service.

