

Direct Payments Policy

From 7 April 2008 new claims for benefit or those from existing claimants who change address or have a break of a week in their claim, will be processed using the Local Housing Allowance (LHA) rules and any benefit awarded will normally be paid directly to the claimant.

Direct payments will only be made to landlords where it is considered that the claimant is likely to have difficulty managing their money and safeguards need to be put in place. This is a significant change to the other Housing Benefit schemes, where a claimant can request that payment is made directly to their landlord.

This policy sets out the guidance that Rushcliffe Borough Council will use to make decisions concerning safeguards that may be applied.

The Council's Direct Payment Policy

The circumstances where we will consider paying the claimant's LHA directly to the Landlords are as follows:

1. If the tenant is unlikely to pay their rent because they: -
 - Have rent arrears and have consistently failed to pay their rent.
 - Have previously absconded from a property leaving rent arrears.
 - Have multiple debts or a history of failing to manage their money.
2. If the tenant is unable to pay their rent because they are classed as unable to manage their money.
3. If the Council considers that it will assist the customer in securing or retaining a tenancy, by the landlord agreeing to a reduction in the contractual rent.

The Department for Work and Pensions have provided guidance on when direct payments to the landlord may be appropriate, where a tenant 'can't pay' or 'won't pay' or if a tenant is eight or more weeks in arrears.

Decisions for the 'won't pay' and 'eight or more weeks in arrears' categories will be based on evidence of arrears from both the landlord and the claimant.

Deciding whether a person 'can't pay' is more sensitive, and therefore the decision-making process is more complicated. It will have to be decided whether a claimant is unable to manage their money, before the LHA can be paid directly to the landlord.

Deciding whether a tenancy could be retained or secured will be based upon evidence provided from both the landlord and claimant, as well as the Strategic Housing Department at the Council.

See [Appendix 1](#) for guidance.

In making such decisions the Council will also take into account any Commissioners decisions and any relevant case law. This includes Commissioners Decision CH/2986/2005, which refers to a case in which the LA and the tribunal had applied the DWP's guidance on 'vulnerability' instead of the legal test of 'the claimant being likely to have difficulty managing his affairs'.

Aims and Objectives

- To provide a safeguard for claimants that can not manage their money and reassure them that their LHA will be paid direct to their landlord.
- To help prevent rent arrears and tenants being put at risk of eviction.
- To help sustain tenancies for tenants that can not manage their money.
- To reassure landlords that their rent will be paid if they have (or are approached by) tenants that can not manage their money.
- To ensure Council officers make reasonable, fair and consistent decisions.
- To promote a transparent and simple process that is widely understood.
- To treat each case individually and to avoid making assumptions about people's situations.
- To help to put claimants in touch with other agencies where necessary and allow people the opportunity and support to manage their own financial affairs.
- To help claimants to secure or retain a tenancy through negotiation with the landlord to reduce rents, in return for the landlord to receive direct payments of LHA.

The policy is not designed to: -

- Supersede support that is being received by claimants to help them be responsible for their own income and expenditure.
- Be a blanket policy for agencies providing support to private tenants.
- Be used by landlords to circumvent the aims of the LHA.

Procedure

Alerting the Council to difficulty in managing money and/or non payment

The claimant (or their representative) should make the Council aware that they would prefer their LHA to be paid direct to their landlord. This can be on the grounds that either the claimant has difficulty managing their affairs or the fact that they are unlikely to pay their rent. This can be done by letter, e-mail or by a phone call. Our contact details are given at the end of this document.

In such cases, the Council will talk to the claimant face to face. If the request is made at the council's Customer Services Centre, the claimant will be seen by the appropriate officer immediately. Otherwise, we will make arrangements for a Visiting Officer to call at the claimant's home to gather information and evidence in support of the request to pay benefit direct. During the interview, the officer will ask a series of questions and will complete a form based on the discussions with the claimant and their representative, if there is one present. The officer will also require evidence to support the request. The information on the form and the evidence will then be used to help make the decision as to whether payments can be made direct to the landlord.

Evidence can be from: -

- Social Workers, Probation Officers, Support Workers
- GP/Hospital
- The claimant
- Homelessness or Housing officers
- Support or advisory services like the Citizens Advice Bureau and Shelter
- A claimant's family or friends
- Letter from a bank confirming that the claimant is unable to open a bank account
- Copy of a Court Order or County Court Judgement
- Rent records and letters proving attempts to collect monies or evidence from a previous landlord
- Letter from debt recovery agencies

Where the evidence is supplied by the landlord, the Council requires supporting evidence from the claimant or relevant party to collaborate their difficulty in managing their money.

The Council may also use information it already holds about the claimant, such as the claim history, in making the decision to pay benefit directly to the landlord.

In exceptional cases, following a request for direct payment where the necessary evidence is not readily available, the authority will consider making payments to the landlord whilst additional evidence is being gathered. This would be for a maximum period of 8 weeks.

Landlords may also alert the Council to non payment of rent by completing the form at [Appendix 2](#), where their tenant owes 8 weeks rent or more. In these circumstances, the Council will not interview the claimant, but may contact them as part of the decision making process.

Direct Payments to landlord to secure or retain a tenancy

Changes to LHA rates from April 2011 will mean that some claimants will have a new shortfall between their entitlement to Housing Benefit and their contractual rent. It may be possible for the claimant to negotiate with the landlord a reduction in the rent to a level that the claimant can afford. A new safeguard provision introduced from April 2011 could facilitate the negotiation, as some landlords may agree to a reduction in the contractual rent in exchange for receiving direct payments.

Direct payment to the landlord will be considered in cases where it can be proven that the contractual rent has been reduced to a level that the Council considers the claimant can reasonably afford while in receipt of Housing Benefit. Direct payments can continue under this safeguard unless the rent becomes unaffordable in the future.

Making a decision

One of the following decisions will be recommended and approved by a senior officer.

EITHER: The claimant is unable to manage their money or unlikely to pay their rent and payment of the LHA will be made to the landlord

In some cases the Council may review the decision at an appropriate date in the future. This will usually happen if it has been decided to pay the landlord because the tenant has rent arrears or is receiving advice and support, with the aim of helping them to manage their own affairs in the future.

If the Council has decided to pay the landlord and the LHA is above the level of the contractual rent, a split payment will occur and the tenant will continue to receive the excess LHA, up to the maximum rate appropriate.

If the landlord has provided evidence of rent arrears, the Council may pay the excess LHA directly to the landlord until the arrears have been cleared.

OR: The claimant is able to manage their money or likely to pay their rent and payment of LHA will be made to the claimant

If the claimant's circumstances are such that the Council does not feel that they are having difficulty managing their affairs, there may be support that they can receive. The Council will supply contact details for other agencies who will give help and advice on financial affairs.

If the Council is satisfied that the contractual rent has been reduced to a level that the claimant can reasonably afford while receiving Housing Benefit, direct payments can be made to the landlord.

Or : For existing tenancies, if the Council is not satisfied there has been a genuine reduction in the contractual rent then payment of LHA will be made to the claimant. For new tenancies, if the property has routinely been let to HB claimants at an affordable rent without direct payments, payments of LHA will be made directly to the claimant.

Notifying affected parties

The claimant and/or their representative will be written to and advised of the following: -

- The decision
- The reason for the decision
- If and when the decision will be reviewed
- If applicable, the decision to pay the excess LHA to the landlord
- Their appeal rights

The landlord will also be written to and advised: -

- The decision
- If their tenant has been found unable to manage their money, that the Council will pay them LHA up to the contractual rent.
- If and when the decision will be reviewed.
- To provide bank details if not previously received.
- Their appeal rights.

Reviewing a decision

Each individual case will be judged on its own merits when considering whether to review the decision. Where it is decided that a review is appropriate, the Council will contact the Claimant after a period of time to see whether their circumstances have changed. Officers will seek to get an update of the situation but it will not always be necessary to complete a form again.

In some circumstances more written support will be requested so that the officer can undertake a fair review. If no responses are received following such a request, individual decisions will be made based on the information available. This decision will be influenced by whether the claimant's difficulty in managing their affairs was considered to be long or short-term.

Appeals

The person who has made the claim or is affected by this decision (the claimant, their representative or their landlord) can appeal against any decision made in relation to direct payments of Housing Benefit.

Contact details

Revenues Services
Rushcliffe Borough Council
Rushcliffe Arena
Rugby Road
West Bridgford
Nottingham
NG2 7YG

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