

Local Housing Allowance

Direct Payments

Safeguards Procedure

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1. Introduction

The default position for all payments of Housing Benefit under the Local Housing Allowance will be that the tenant will receive the payments as opposed to the landlord. The only exception to this will be either:

- The tenant is eight weeks or more in arrears with his rent, or
- The tenant is likely to have difficulty paying his rent, or
- The tenant is unlikely to pay his rent

A tenant cannot be considered for direct payment to landlord if they are an appointee for someone or they have an appointee acting for them. The reason for this is that the appointee is by definition, someone who deals with the tenant's affairs, which would include payment of bills etc.

This procedure will outline how requests for direct payment should be handled.

2. Tenant is eight weeks or more in arrears with his rent / deductions are being made from Income Support or JSA to clear rent arrears

This continues to apply as it did with "mainstream" Housing Benefit and is governed by Regulation 95 of the Housing Benefit Regulations. The wording used states "shall", so it is mandatory "unless it is in the overriding interests not to..."



Regulation 95

95. —(1) *Subject to paragraph (2) and paragraph 8(4) of Schedule A1[178] (treatment of claims for housing benefit by refugees), a payment of rent allowance shall be made to a landlord (and in this regulation the "landlord" includes a person to whom rent is payable by the person entitled to that allowance)—*

(a) where under Regulations made under the Administration Act an amount of income support or a jobseeker's allowance payable to the claimant or his partner is being paid direct to the landlord; or

(b) where sub-paragraph (a) does not apply and the person is in arrears of an amount equivalent to 8 weeks or more of the amount he is liable to pay his landlord as rent, except where it is in the overriding interest of the claimant not to make direct payments to the landlord.

In cases where the tenant is 8 weeks or more in arrears, the landlord should contact us, ideally with evidence of payments due and missed so that we can determine that the tenant is 8 weeks or more in arrears.

Even then we need to make sure that the tenant is genuinely in arrears with his rent as opposed to “withholding rent” due to a dispute with the landlord. A HB14 DIP letter should be sent to the tenant with a deadline of 14 days.

If the tenant and landlord are in dispute, consider suspending payment or paying to a nominated third party (intermediary) until the dispute is resolved.

If there is no response or it is clear that the tenant is 8 weeks or more in arrears then payment should be made to the landlord.

If payment is made to a landlord because the tenant is in rent arrears then any excess LHA (i.e. the additional £15.00) can also be paid to the landlord until the rent arrears are cleared.

The case should be reviewed by setting a diary date so that a fresh decision can be made when the tenant’s arrears are less than 8 weeks. However consideration will have to be given as to whether the tenant is still unlikely to pay his rent (point 4)

3. The tenant is likely to have difficulty paying his rent



Regulation 96 (3A)(b)

(b) payment of a rent allowance to a person's landlord may be made where—

- (i) the relevant authority considers that the claimant is likely to have difficulty in relation to the management of his financial affairs;*
- (ii) the relevant authority considers that it is improbable that the claimant will pay his rent; or*
- (iii) a direct payment has previously been made by the relevant authority to the landlord in accordance with regulation 95 in respect of the current award of housing benefit.*

This could be for a variety of reasons. The following could cause the tenant to be unable to manage:

- Learning Disabilities
- Medical Conditions
- Illiteracy or inability to speak English
- Addiction to drugs, alcohol or gambling
- Fleeing domestic violence, young single homeless or people recently released from prison.

Other effects of the tenant having difficulty in paying his rent:

- Severe debt problems including recent county court judgements
- Undischarged bankrupt
- Inability to open a bank account
- DWP deductions for utility charges
- In receipt of Supported People help
- In receipt of help from a homeless charity

3.1 Identifying potential claimants

Although claimants themselves may tell us that they are having difficulty in paying their rent, you can also take into account information that we already hold. This may take the form of information passed to us by social services or even cases identified through face-to-face contact, for example a home visit or interview at the Council Offices.

You can also accept a request from:

- The claimant's family and/or friends
- The claimant's landlord
- The claimant's GP or Probation Officer

3.2 Making a request

There is no prescribed format for such a request although we have designed a form that encourages the claimant to explain why they would have difficulty in paying their rent and suggests the type of evidence that they should provide to support their request.

You can consider evidence from any of the following:

- Local Housing Officers, Homeless or Housing Advice Officers, e.g. Homechoice
- Welfare organisations, e.g. CAB, Oxford Welfare Rights
- Social Services / Money Management
- DWP, Jobcentre Plus, Pension Service
- Homeless Charities

- Supported People Teams
- Other Support Organisations e.g. Connexions

The list is not exclusive.

3.3 Making a decision

In making a decision, there are three factors to take into account.

- Is the claimant likely to have difficulty in paying their rent? If the evidence suggests that they are, then it may be appropriate to make direct payment to the landlord.
- Is it in the interests of the claimant to make direct payments? In most cases, it is in the long-term interests of the claimant to be able to manage their affairs but there will be cases where this is not a reality.
- Could the claimant pay their rent if they had the appropriate help and support? Some claimants may be able to manage their affairs if given initial help. In these cases you can consider referring the claimant to an advice agency for help. However, you should not decline the request for direct payment just because advice has been suggested.

There is no time limit for a tenant to make a request for LHA to be paid to their landlord, however, it is more than likely that this will be done at the same time as applying for assistance.

To help the process, an application for direct payment should be completed together with evidence to support the tenant's request.

When deciding if payment to the landlord is appropriate, the regulations will allow us to pay the landlord as opposed to the tenant for a period of no more than eight weeks whilst we gather further information.



Regulation 96(3B)

(3B) Where the relevant authority suspects that the grounds in paragraph (3A)(b)(i) or (ii) apply and is considering whether to make payments on one of those grounds, it may make a payment of a rent allowance to the person's landlord for a period not exceeding 8 weeks."

If the claimant has not responded to our requests for additional evidence this could be considered a factor suggesting that he will be unable to manage his affairs.

4. The tenant is unlikely to pay his rent

Past history may show that a tenant will be unlikely to pay his rent. Again this may be for a reason such as:

- Learning Disabilities
- Medical Conditions
- Illiteracy or inability to speak English
- Addiction to drugs, alcohol or gambling
- Fleeing domestic violence, young single homeless or people recently released from prison

but it may also be evident by the fact that the tenant has a history of non or late payments.

4.1 Identifying potential claimants

Although claimants themselves may tell us that they are unlikely to pay their rent, you can also take into account information that we already hold. This may take the form of information passed to us by social services or even cases identified through face-to-face contact, for example a home visit or interview at the Council Offices.

You can also accept a request from:

- The claimant's family and/or friends
- The claimant's landlord
- The claimant's GP or Probation Officer

4.2 Making a request

There is no prescribed format for such a request although we have designed a form that encourages the claimant to explain why they would have difficulty in paying their rent and suggests the type of evidence that they should provide to support their request.

Again evidence can be accepted from any of the following:

- Local Housing Officers, Homeless or Housing Advice Officers, e.g. Homechoice
- Welfare organisations, e.g. CAB, Oxford Welfare Rights
- Social Services / Money Management

- DWP, Jobcentre Plus, Pension Service
- Homeless Charities
- Supported People Teams
- Other Support Organisations e.g. Connexions

The list is not exhaustive.

4.3 Making a decision

In making a decision, there are three factors to take into account.

- Is the claimant unlikely to pay their rent? If the evidence suggests that they are, then it may be appropriate to make direct payment to the landlord.
- Is it in the interests of the claimant to make direct payments? In most cases, it is in the long-term interests of the claimant to be able to manage their affairs but there will be cases where this is not a reality.
- Could the claimant pay their rent if they had the appropriate help and support? Some claimants may be able to manage their affairs if given initial help. In these cases you can consider referring the claimant to an advice agency for help. However, you should not decline the request for direct payment just because advice has been suggested.

When you are given reason to believe that the claimant will not pay their rent, you should seek to substantiate this belief. One of the key considerations will be past behaviour. If a claimant has a history of not paying their rent, this may indicate to you that they may not do so in the future (although past behaviour does not necessarily determine future actions).

It will not be sufficient to make direct payments simply because the claimant has said that he will not pay his rent. You will need to consider factors such as

- Why they say they will not pay their rent
- Whether they have paid rent in the past to the same landlord or more generally
- How they would pay rent if they were working
- Whether rent arrears have built up and what action has been taken by the claimant or landlord
- Whether payment by BACS and then standing order would provide a solution
- Whether the landlord is likely to have exerted pressure on the claimant
- Whether other tenants renting from the same landlord have made similar representations

You should be cautious when considering evidence from a landlord, given their direct financial interest in the outcome. Landlords do however have a valid role to

play, but their evidence alone (or together with the claimant's) should not be regarded as sufficient to decide that the safeguard criteria have been satisfied and further evidence should be sought.

When considering past behaviour evidence must be compelling; occasional missed payments do not demonstrate that the claimant is unlikely to pay their rent in the future. Evidence must show a sustained period of non-payment, for example we have recently paid the landlord direct because the tenant fell into arrears of 8 weeks or more.

5. Reviewing decisions

Once a decision has been made to pay a landlord direct, a date should be set for the decision to be reviewed at a later date. The guidance manual suggest that this is set for no more than 12 months but each case may be treated differently.

Where the tenant has been referred to a money advice agency, you will need to evaluate whether direct payments are now appropriate given the support that they now receive.

You will be looking to see whether the circumstances that prompted a direct payment still remain and whether direct payment can be continued.

6. Appeals

As is currently the case, any person affected by a decision relating to the direct payment of HB may appeal against that decision. Persons affected may include the claimant or the landlord.

7. Decision Matrix

Situation	Evidence	Decision	Action	Review
Tenant 8 weeks in arrears	Rent Payments / Rent Due	Arrears Confirmed	Pay Landlord (1)	When arrears fall below 8 weeks
Tenant 8 weeks in arrears	Landlord / Tenant Dispute	Dispute confirmed	Consider suspension or paying to third party (intermediary)	Resolution of dispute
Claim stating tenant likely to have difficulty	Support from welfare organisation, etc	Likely to have difficulty paying rent	Pay Landlord. Consider referral to money advice agency / support organisation	Maximum 12 months
Claim stating tenant likely to have difficulty	None provided by tenant after request from OCC (2)	OCC records show tenant likely to have difficulty	Pay Landlord. Consider referral	Maximum 12 months
		No evidence to support request	Pay Tenant	None
Claim stating tenant likely to have difficulty	Tenant has or is an appointee	Not eligible for direct payment to landlord	Pay Tenant	None
Tenant unlikely to pay rent	Support from welfare organisation, etc	Tenant unlikely to pay rent	Pay landlord & refer to money advice agency	Maximum 12 months
Tenant unlikely to pay rent	None provided by tenant after request from OCC (2)	OCC records show tenant likely to have difficulty (3)	Pay Landlord. Consider referral	Maximum 12 months
		No evidence to support request	Pay Tenant	None
Tenant unlikely to pay rent	Tenant has or is an appointee	Not eligible for direct payment to landlord	Pay Tenant	None

Notes:

(1) If fit and proper,

(2) Can pay landlord for 8 weeks waiting evidence

(3) Include if previously paid landlord because of 8 weeks arrears