



**MANCHESTER
CITY COUNCIL**

Local Housing Allowance Safeguards for tenants and Landlords Policy

1. Introduction

The Local Housing Allowance (LHA) is the new scheme of Housing Benefit for most people living in private rented accommodation. It applies to private rented sector tenants who:

- make a new claim for benefit from 7 April 2008 onwards; or
- are claiming Housing Benefit and have a change of address on or after 7 April 2008.

The following tenancies are not affected by LHA:

- Housing Association tenancies (sometimes called Registered Social Landlord (RSL) tenancies);
- Supported accommodation provided by local authorities, RSLs, charities or voluntary organisations who also provide the package of support;
- Tenancies that started before 15 January 1989;
- Tenancies in caravans, houseboats, mobile homes and hostels; and
- Tenancies with substantial board and attendance.

Under LHA, payments of Housing Benefit (HB) are usually made direct to the tenant. The tenant cannot simply request that payment is made to a landlord as they could before LHA.

2. Aim of the Safeguards Policy

The policy ensures that safeguards are in place to prevent the risk of tenants falling into arrears with their rent and losing their home due to eviction and to provide some assurances to landlords about potentially vulnerable tenants and those who are unlikely to pay.

The circumstances where the Council will consider paying LHA direct to a landlord are:

1. The claimant is unable to pay their rent because they have difficulties managing their own affairs (vulnerable claimants)*.
2. It is unlikely the claimant will pay their rent.

* the types of claimant who **may** be considered vulnerable and unable to manage their own affairs may include:

- Claimants with learning disabilities;
- Claimants with medical conditions including mental illness;
- Claimants who have illiteracy issues or an inability to speak English
- Claimants with addiction to drugs, alcohol or gambling; and
- Claimants fleeing domestic violence / homeless / care leavers / people leaving prison.

This list is not exhaustive and there may be other causes of vulnerability that prevent the tenant from receiving direct payments of the Local Housing Allowance. Each case will be considered on its own merits and there will not be a blanket policy approach to cases of vulnerability. The length of time the Council may consider

paying rent direct to the landlord will also vary depending on the claimant's circumstances.

The Council will use the term Safeguard where direct payment to the landlord helps claimants who might not otherwise be able to pay their rent themselves. The overriding consideration will be that the Council will act in the best interests of the claimant.

3. Identifying vulnerable tenants

A Council can make direct payment to the landlord where the 'relevant LA considers that the claimant is likely to have difficulty in managing his affairs'. The Council will consider whether the extent to which the claimant is having difficulty managing their affairs means that they are unable to pay their rent on time.

- Claimants, or persons acting on their behalf, may make representations to the Council that they are having difficulty paying their rent.
- The Council will take into account information that it already holds without the need for a formal representation by the claimant. This may, for example, include information passed on by social workers which suggests that a claimant is having difficulty in paying their rent.
- The Council may also identify claimants potentially in need of safeguard action when carrying out home visits or interviews at the Customer Counter.

4. Factors the Council will consider when making a decision

There are three main factors the Council will consider when reaching a decision:

- Is the claimant likely to have difficulty in paying their rent? If they are, the Council may decide that it is appropriate to make direct payments.
- Is it in the interests of the claimant to make direct payments to the landlord? In most cases, it is in the long-term interests of the claimant to manage their own financial affairs and make their own payments of rent. However, certain individuals may simply not be able to do this reliably increasing the risk of losing their home. In such cases the Council may decide to pay the landlord.
- Could the claimant pay their rent themselves with appropriate help and support? Many claimants, who might otherwise have difficulty in managing their own financial affairs, may be able to do so if given initial help. In these cases, the Council will consider referring the claimant to advice agencies, whether internal or external, for help and support.

Wherever possible, any evidence should be in writing. However, a written declaration is not necessarily evidence that safeguard action is needed. On the other hand lack of evidence does not prove that safeguard action is not needed. The Council will take a holistic view. Claimants most in need of safeguard action might have difficulty in making representation on their own behalf and be less able to produce evidence to support that need. The Council will consider the evidence

provided and make further enquiries when and where necessary. Where representation is received from the claimant without the support of an agency or representative, the Council can offer further help or assistance with their application. This will include where necessary private interview or home visit.

Indicators that a claimant may have difficulty paying their rent

There are no indicators that will determine definitively that a person may have difficulty in paying their rent. The Council will examine each case on its own merits having considered the facts. A claimant who is unable to pay their rent may have certain conditions that make handling financial affairs more difficult for them, but the Council will not decide that a claimant has satisfied the safeguard criteria simply because they match one or more of these indicators. For instance, a person recovering from a gambling addiction may have difficulty in managing their financial affairs but attempting to do so may be an important part of their rehabilitation process.

List of some of the characteristics that may indicate that a customer is likely to have difficulty in paying their rent.

When considering these characteristics, the Council will ask for, and evaluate, evidence of the effect of these characteristics on the ability to pay rent and then consider whether direct payments are likely to be in the claimant's interests.

- **Learning disabilities** - People with more severe learning difficulties will normally have appointees to help manage their financial affairs or a support structure available, but in cases of less severe learning difficulties direct payment to the landlord may be considered.
- **Medical conditions** – the Council will consider medical conditions that seriously impair a claimant's ability to manage on a day-to-day basis, for example mental illness (schizophrenia, depression, age-related mental deterioration such as Alzheimer's disease or senile dementia).
- **Illiteracy, or an inability to speak English** – where it can be shown that this is clearly impacting on their ability to manage their own affairs.
- **Addiction to drugs, alcohol or gambling** – if this is causing them ongoing difficulties in managing their own affairs.
- **People fleeing domestic violence/ homeless (care leavers)/ people leaving prison** – and this has impacted on their ability to manage their own affairs.

This is not a full list

5. Evidence sources

Evidence could come from a number of sources including:

- GPs
- Social workers
- Other qualified medical practitioners
- Government departments / Council Departments
- Probation Services
- Women's refuges
- Support organisations
- Care workers
- Homelessness or housing advice officers

- Money Advisors
- Views of the claimant / family members

Examples

People unable to pay their own rent will often have difficulty managing financial affairs more generally. Evidence that they are having difficulties could be demonstrated by

- **severe debt problems/ recent County Court Judgements** – the Council will consider evidence from financial help groups such as creditors, courts and solicitors.
- **undischarged bankruptcy** - the Council will consider evidence from court documents.
- **an inability to obtain a bank account** – the Council will consider evidence from banks and money advisers.
- **DWP is making deductions from Income Support (IS) or income-based Jobseeker’s Allowance (JSA(IB)) for housing costs** - housing costs include service charges and utility bills which are part of the rent. The Council will only consider this as being an indicator if part of the debt is still outstanding.
- **the claimant receives support, supervision or care** – the Council will consider information that is already available from benefit systems as well as evidence from Social Workers and support providers.
- **the claimant is in receipt of help from a homeless charity** – the Council will consider evidence from the charity or the Council’s Homelessness Section.

What if a claimant can’t provide evidence

The Council will carefully evaluate an inability by the customer to provide supporting evidence of the indicators in a) and b). On the one hand, it might indicate that the need for direct payments does not, in fact, exist. On the other, it could of itself provide the evidence that the claimant has difficulty managing their own affairs. When evaluating a lack of supporting evidence, the Council will consider what information the claimant has been asked to produce and the efforts that they have made to produce it.

Evaluating the evidence

The Council will seek and evaluate evidence about the claimant’s circumstances that will allow the Council to make an informed decision on whether the safeguard criteria should be applied. The Council will interview the claimant if required, unless satisfactory written evidence to make a decision has been received. The Council will also obtain, where required, written evidence from any relevant third party.

6. People who are unlikely to pay their rent

The Council may make direct payments to the landlord where ‘it considers that it is improbable that the claimant will pay his rent’. Most claimants are capable of managing their own affairs and the Council will assume that they will make payments of rent to their landlord unless there is evidence to the contrary. Where there is evidence that the claimant is not, or is no longer, paying their rent the

Council will make payments direct to the landlord unless it is in the overriding interests of the claimant or their family not to do so.

Identifying people who are unlikely to pay their rent

Claimants, or persons acting on their behalf, may make representations to the Council that they are unlikely to pay their rent. The Council will also take into account information that it already holds without the need for a formal representation by the claimant. This may include previous benefit or Council Tax information or information passed on by social workers or Housing Services that suggests that a claimant is unlikely to pay their rent.

In most cases, the Council will identify potential cases through representation, either in person, on the phone or in writing, by one or several of the following sources:

- the claimant tells us
- the landlord tells us
- a third party acting on behalf of the claimant tells us
 - family / friends, Probation Officer, homelessness or housing advice officers, Welfare worker, money advisors, Social Workers
- Department for Work and Pensions, Jobcentre Plus, The Pension Service

This is not a full list. The Council will always try to get written representation from any of the sources listed above.

7. Evaluating the evidence

The Council will seek and evaluate evidence about the claimant's circumstances that will allow the Council to make an informed decision on whether the claimant is unlikely to pay their rent.

There are three questions the Council will consider when reaching a decision

- Is the claimant unlikely to pay their rent? If they are, the Council may decide that it is appropriate to make direct payments.
- 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 manage their own affairs and make their own payments of rent. However, certain individuals may simply not be able to do this reliably.
- Would the claimant be likely to pay their rent themselves with appropriate help and support? Many claimants, who might otherwise be unlikely to pay, may be able to do so, if given initial help.

If the Council believes that the claimant will not pay their rent, the Council will examine the evidence for this. One of the key considerations will be past behaviour. A history of not paying rent may indicate that they will not do so in the future, but the 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 or frequent underpayment. The Council will consider the following:

- Early evidence where it appears that the tenant is unlikely to pay their rent.
- How far back are the missed payments? More recent and persistent non-payment will carry greater weight. For instance, one payment missed 18

months ago is not sufficient evidence that the claimant will not presently pay their rent.

- Is the tenant experiencing wider cash flow or debt problems and making payment to non-priority creditors rather than prioritising payment of rent? If so financial literacy or budgeting advice may be more appropriate.

The Council must also consider:

- 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 to the claimant by Automated Credit Transfer (ACT) and then standing order to the landlord 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.

8. Decision making and notification

The Council will

- Gather sufficient information and evidence and make a decision about how payments will be made.
- Consider making an interim decision based on the information available if further information and evidence is required.
- Decide, where a claimant has failed to co-operate in establishing the facts, whether or not that failure to co-operate demonstrates the claimant's vulnerability and / or that the claimant is unlikely to pay rent.
- Encourage claimants deemed vulnerable to seek support and advice, either elsewhere in the Council or from other agencies, to enable them to be in a better position to manage their affairs. This could be anything from money advice to tackling more fundamental underlying issues.
- Write a letter to the claimant, landlord (if applicable) or any relevant person to explain the decision giving rights of appeal against the decision.

9. Communication of this policy

- Engage with advice agencies that provide support and will be engaged in the referral process.
- Ensure staff in the City Council Private Sector Housing, Homelessness, Manchester Advice and Supporting People are aware of and understand the policy and develop links with them.
- Make sure staff in other organisations such as Citizen's Advice Bureau, Law Centres, Jobcentre Plus, other advice agencies are aware of and understand the policy and develop links with them.
- Publicise the Safeguard Policy, criteria and decision making process to interested groups such as landlords and tenants.