



TRAFFORD COUNCIL

Local Housing Allowance

Safeguards For Tenants and Landlords

*'Produced in consultation with Citizens Advice
Trafford and Trafford's Welfare Rights Service'*

Trafford Benefits Service Policy Document

Document Change History

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2	11.10.2007	DN	Feedback from Welfare Rights Team
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This document is available in large print, audio and electronic formats. If you need any help in understanding this document, phone us on 0161 912 2220 or Minicom 0161 912 2102.

1. Introduction

The Local Housing Allowance is a scheme of Housing Benefit for people who rent from a private landlord. It does not apply to the following tenancies:

- Local Authority tenancies
- Housing Association tenancies
- Supported accommodation provided by local authorities, social landlords, charities or voluntary organisations
- Tenancies which started before 15 January 1989
- Tenancies in caravans, houseboats, mobile homes and hostels
- Tenancies with substantial board and attendance

Local Housing Allowance (LHA) is usually paid to the tenant. Under LHA a tenant cannot simply request that payment is made to a landlord to cover their rent.

We recognise that some tenants will struggle with the responsibility of paying their rent. Therefore we have developed this safeguards policy to help protect vulnerable tenants and ensure that landlords receive their rent.

2. DWP Guidance

The Department of Work and Pensions (DWP) states that direct payments should be made to landlords 'when a tenant cannot pay or is unlikely to pay their rent'. In most cases the council decides whether it is appropriate to pay LHA to the landlord. However, there are some cases when LHA must be paid to the landlord. These are where:

- The tenant is 8 full weeks or more in arrears with their rent
- The tenant is having deductions made from their Income Support or Jobseekers Allowance to pay for rent arrears

3. Trafford Benefits Service Policy

This policy will ensure that the safeguards in place are applied correctly, to prevent vulnerable tenants falling into arrears with their rent and losing their home due to eviction. The policy will also help reassure landlords who are concerned about potentially vulnerable tenants and those who are unlikely to pay.

We will consider paying Local Housing Allowance directly to a landlord when:

The tenant is **unlikely** to pay their rent because they:

- have rent arrears and have consistently failed to pay
- have a history of arrears with previous landlords
- have a history of fraud

The tenant is **unable** to pay their rent because:

- They have financial difficulties which mean they are unable to open a bank/building society account, have severe debt problems or are bankrupt

- They are on remand
- In addition, tenants may be considered to be vulnerable and unable to manage their own affairs, in the following circumstances:
 - People with medical conditions such as mental ill health, terminal illnesses
 - People with a learning disability
 - People with a physical disability or who may be housebound
 - People who cannot read or speak English
 - People with an alcohol/drugs or gambling addiction
 - People fleeing domestic violence and have the support of either the police, or a statutory or voluntary agency
 - People being supported by a statutory or voluntary agency, such as young care leavers/single homeless adults and families
 - Prison Leavers being supported by an appropriate organisation or agency
 - People who have a temporary change in their life such as a relationship breakdown or bereavement which may mean they need support on a short-term basis

This list is not exhaustive and there may be other causes of vulnerability that prevent a tenant from receiving direct payments of the Local Housing Allowance. Every case will be considered on its own merit. There will be no 'blanket policy'.

The aim of this policy is to:

- Provide protection for vulnerable tenants and reassure them their Housing Benefit and rent will be paid
- Prevent rent arrears and the risk of eviction
- Help to sustain tenancies for vulnerable tenants
- Help tenants to take responsibility for receiving direct payments of LHA, where appropriate
- Help to signpost tenants to other agencies where necessary and give people the opportunity and support to manage their own affairs
- Reassure landlords that their rent will be paid if they rent property to vulnerable tenants
- Work with landlords where the tenant consistently fails to pay the rent
- To make reasonable, fair and consistent decisions
- Promote a transparent and simple process that is easy to understand
- To treat each case individually and not make assumptions about people's situations
- To work closely with the statutory and voluntary sector in supporting vulnerable members, to contribute towards the prevention of homelessness and work towards a safe and decent homes standard
- To help people with the transition from non-working to working and to support and advise people through the process
- Compliment the work that other sections/departments undertake within Trafford Council

This policy is not intended to:

- Replace support that may be being provided to tenants in managing their everyday affairs and finances
- Be used by landlords to avoid and abuse the aims and objectives of the LHA
- Be a blanket policy for organisations providing support to private tenants
- Undermine the work that is already being undertaken within other sections/departments of Trafford Council.
- Undermine the rights of tenants to receive LHA directly.

4. Decisions - Arrears/unlikely to pay

4.1 Receiving an application

Landlords are encouraged to tell us at the earliest opportunity if a tenant is not paying their rent. A landlord should not wait until a tenant is 8 weeks in arrears. Direct payment will serve as a safeguard to ensure that rent is paid on time and the claimant and his/her family can continue to live in their home.

The tenant, landlord or tenants representative will make a request for direct payment of LHA to be made to the landlord. We encourage use of our standard form (SAFE 1 form) which is available electronically on the Council's website, although we will accept a letter from the tenant, landlord or tenant's representative.

Where a request for direct payment on the grounds of **vulnerability** or **financial difficulties** is received from a representative of the tenant, the third party **must have written authority from the tenant** to act on their behalf. If a tenant is unwilling to sign an application then you must tell us the reason for this.

In all cases, evidence should be provided to support an application. A list of acceptable evidence can be found in section 9.

4.2 Gathering evidence

We will gather any further information and evidence necessary to make an informed decision. Where a phone number is provided, this will be the first method of contact with the tenant, landlord and representative.

We will allow one calendar month to provide any information / evidence requested. To avoid the risk of eviction, we will pay LHA directly to the landlord instead of withholding monies due.

When considering any evidence, we will take into account:

- The past behaviour of the tenant (We will consider evidence up to a limit of five years); Have they had previous arrears? Do they continually miss payments or do they have any other known underlying debt indicators?

- Whether landlords appear to have made a request for their own financial interest. Caution and consideration will be given to other tenants of the landlord and their payment destination and recovery action taken by the landlord in an attempt to recover any arrears.

4.3 Making a decision

Based on all the evidence gathered we will decide whether paying the landlord direct is in the best interests of the tenant.

We will calculate how many weeks it would take the tenant to clear any arrears through either any excess LHA or through an alternative payment plan to establish a realistic review period. If a tenant has agreed a creditor payment plan with Citizens Advice Trafford, we will use this to determine the review period.

We will notify the tenant and landlord of our decision.

Each application will result in one of the following decisions:

Payment of LHA will be made to the Landlord:

- For those tenants where arrears has been established or they are deemed unlikely to pay their rent to their landlord
- Payments will be made directly into the landlords nominated bank account
- This decision will be reviewed at a timescale set by a senior officer
- The tenant will be signposted to financial support and advice agencies where appropriate

If the Local Housing Allowance is above the tenants' contractual rent, a split payment will occur and the tenant will receive the 'excess' amount direct. To receive this, tenants will be given support to open a basic bank account if they do not already have one. A local guide to basic bank accounts is available from our website.

Payment of LHA will be made to the tenant:

- If we decide that the tenant is not behind with their rent
- If we decide that the tenant is likely to pay their rent.
- This decision will be reviewed at a timescale set by a senior officer. This will be set on a case by case basis and tenants will be signposted to appropriate financial support and advice agencies.

5. Decisions – Vulnerable tenants / Financial difficulties

5.1 Receiving an application

The tenant, landlord or tenant's representative will make a request for direct payment of LHA to be made to the landlord. Direct payment will serve as a safeguard to ensure that rent is paid on time and the claimant and his family can continue to live in their home.

Where a request for direct payment on the grounds of vulnerability or financial difficulty is received from a representative of the tenant the third party must have written authority from the tenant to act on their behalf.

In all cases the request must include written evidence, from an appropriate source, to support the application.

See section 8 for accepted evidence and sources in support of a request on the grounds of vulnerability.

All requests for direct payment to the landlord based on the grounds of vulnerability or financial difficulty must be passed immediately to the Benefits team.

5.2 Gathering Evidence

We will gather evidence, interview (if necessary), make a decision, monitor and review all cases. This process allows for a fast-tracking process, consistency of decisions and a degree of continuity for vulnerable people.

Further information may be necessary and will be requested from the tenant, the tenants' representative or the landlord by telephone in the first instance. However, either or all parties may be written to in order to provide further information to support any request and giving one calendar month to respond. If there is no response within this time then follow up action may be taken as no response could indicate a tenant's vulnerability.

If it is felt necessary, an interview will be arranged with the tenant, the tenant's representative, the landlord, or all parties to satisfy the evidence required to make the appropriate decision.

In some circumstances there may only be limited evidence available. In these cases the final decision will be at our discretion with a 'common sense' approach. Any decision will always be in the best interest of the tenant.

We will allow one calendar month to provide any information / evidence requested. To avoid the risk of eviction, we will pay LHA directly to the landlord instead of withholding monies due.

5.3 Making a decision

Based on all the evidence gathered we will decide whether paying the landlord direct is in the best interests of the tenant.

The outcome of the decision and the review dates (set on a case by case basis) will be recorded and affected parties will be notified in writing.

Each application will result in one of the following decisions:

A) Payments of LHA will be made to the Landlord:

For example a tenant may have financial difficulties, an inability to open a bank account, severe debt problems, County Court Judgements or bankruptcy:

If the customer needs direct payments to their landlord solely because they do not have a bank account, we will provide assistance (we have set up a specialist bank account advice team for this purpose). However, if the tenant has severe debt problems we will refer the tenant to other support agencies, such as CAB or the National Debt line.

We will set an appropriate review period, (not exceeding 12 months), to allow the tenant time to access and receive help and support.

Where we have made a decision based on vulnerability and established the tenant is unable to manage their own affairs:

We will establish whether the vulnerability is of a short or long term nature. This decision will determine the period at which the case is reviewed.

If the Local Housing Allowance is paid above the tenant's contractual rent, the contractual rent will be paid to the landlord and the remaining sum (excess LHA) will be paid to the tenant. Tenants will be encouraged and supported in opening a basic bank account if they do not already have one.

B) Payment of LHA will be made to the tenant:

If we decide that the tenant does not need direct payments to their landlord then payments will be made to the tenant. Advice and support will be given to tenants on accessing a bank account (if required), the importance of paying their rent to their landlord and the consequences if they do not. Tenants will be signposted to other organisations that can offer help and support as appropriate.

6 Notifying affected parties

When we have made a decision, affected parties will be notified in writing. Appeal rights will be clearly stated. More on appeals can be found in figure 7.0.

7. Reviewing a Decision

The tenant and/or representative will be contacted again 4 weeks before the end of the review period to determine whether their situation has changed and if they can receive payment of LHA directly.

Tenants may be required to complete a new direct payment form. In the first instance we will write to the tenant or their representative/ support worker to obtain an update of the situation.

Payments will continue to be paid directly to the landlord until the review process is completed. This process will be completed within 8 weeks of the review date. All parties affected will be notified in writing of the decision.

If the situation has not changed, a further review period will be set. However, if at any point during the review process it is identified that the tenant may require further support or advice, then the tenant will be signposted to the relevant section/team/organisation.

8. Appeals

The tenant or the person who has made the application or referral can ask us to review our decision about direct payments of LHA.

They can:

- Ask for an explanation of the decision
- Ask us to reconsider the decision
- Appeal against the decision

In all cases the affected person must contact us, in writing with their reasons, within one month from the date of the decision. We will then look at the decision again. The rules for disputes and appeals are unchanged.

9. Vulnerability Indicators

Vulnerability Criteria	Suggested sources of written evidence. Note: This is not a complete list.
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Learning Disability	<ul style="list-style-type: none"> • Medical Practitioner • Social Services • Care Workers • DWP
Medical Condition e.g. Mental health problems	<ul style="list-style-type: none"> • Medical Practitioner • Social Services • Care Workers • Hospital • DWP • Support Organisations
Addiction problems e.g. Drugs, Gambling, Alcohol	<ul style="list-style-type: none"> • Medical Practitioner • Social Services • Hospital • Police • Care Workers • Support Organisations
Fleeing Domestic Violence	<ul style="list-style-type: none"> • Medical Practitioner • Police • Social Services • Support Organisations • DWP
Care Leavers Single under 25 and homeless	<ul style="list-style-type: none"> • Medical Practitioner • Social Services • Homeless Team • Support Organisations / Homeless Charities
Prison leavers	<ul style="list-style-type: none"> • Social Services • Probation Service • Support Organisations
Severe Debt Problems e.g. County Court Judgements	<ul style="list-style-type: none"> • Courts • Banks / Building Societies • Solicitors • Creditors • Support Organisations e.g. CAB
Undischarged bankruptcy	<ul style="list-style-type: none"> • Court Order documents
Tenant's unable to open a Bank Account	<ul style="list-style-type: none"> • Evidence from banks / building societies • Internal bank account team • Money Management / Welfare and Information Centres
Where DWP is making deduction from benefits and paying direct to utility company	<ul style="list-style-type: none"> • Pension Service • Jobcentre Plus
Tenant's receiving payments from Supporting People fund	<ul style="list-style-type: none"> • Support Organisation • Medical Practitioner • Social Services/Supporting people

10. Our Contact details

Visit our website at: www.trafford.gov.uk

E-mail: benefits@trafford.gov.uk

Phone: Trafford Direct on **0161 912 2220**

Phone: **0161 912 3302** to make an appointment for a new claim or to get help with opening a bank account.

Minicom: **0161 912 2102**

Or visit our offices below:

O	Sale Waterside		Old Trafford
	1 Waterside Plaza		Shrewsbury Street
	Sale		Old Trafford
W	M33 7ZF	0161 9	M16 9AX
H		0161 9	
A		0800 0	
C	Partington	0844 4	Altrincham
N	Central Road	0808 8	20 Stamford New Road
J	Partington	0800 0	Altrincham
	M31 4FY		WA14 1EJ

For more information, visit our website at <http://www.trafford.gov.uk/AdviceAndBenefits/Benefits> or the Department for Works and Pensions website at www.dwp.gov.uk/lifeevent/benefits/lha.asp

Appendix A

Example of Rent Evidence

To help us make a decision, landlord's are encouraged to keep up to date and clear rent accounts. An example is shown below.

A good example tells us the amount due, the amount paid and the date the rent was paid. Rent books are available from most stationers. The clearer and more legible the evidence, the quicker we can act to ensure landlords receive money to clear arrears.

Date	Due	Paid	Outstanding	Notes
1.09.07	70.00	0.00	70.00	
8.09.07	70.00	0.00	140.00	

When supplying evidence please include:

- Name and address of landlord
- Name address and claim ref no of tenant
- Amount of arrears
- Period that the arrears cover