

Milton Keynes Council

Local Housing Allowance Safeguard Policy

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Version Control

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Final Version 2 Comments from Members and landlords regarding the effect of MK Policy and inflexibilities. Plus subsequent guidance from DWP being reissued in December 2009 and Jun 2010	November 2009 to September 2010	L Riley	Anne Jordan. Helen Beaumont.
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Local Housing Allowance

Safeguard Policy

1. Introduction

Local Housing Allowance (LHA) is the term given to the maximum Housing Benefit payable in respect of accommodation rented from a private landlord.

One of the Government's primary aims in introducing Local Housing Allowance (LHA) is that it is paid direct to the customer. Customers cannot simply request that their Housing Benefit be paid direct to their landlord. This is to encourage them to take greater responsibility for managing their financial affairs in the same way as other customers do. This should also help to equip people of working age with the skills they need when they move into work.

Some customers will have problems with the responsibility of paying their rent themselves. In order to safeguard these customers, the Council will use its discretion, in accordance with Regulation 95 of the Housing Benefit Regulations 2006, to decide whether it is in the customer's interest for us to pay their LHA direct to their landlord.

This policy sets out the guidelines by which Milton Keynes Council will make this decision.

This policy does not cover circumstances set out in Regulation 95 of the Housing Benefit Regulations 2006, where a payment must be made direct to a landlord and is not a discretionary power, for example where a tenant is 8 weeks in arrears.

2. Statement of Objectives

- To provide a safeguard for customers who are likely to have problems managing their financial affairs and reassure them that their benefit entitlement will be paid
- To help prevent rent arrears and the risk of eviction for customers who are likely to have problems managing their finances.
- To prevent homelessness by enabling a person to secure or retain a tenancy.
- To reassure landlords that their benefit entitlement will be paid
- To help put customers in touch with other agencies and support groups where they will be helped to manage their own financial affairs
- To ensure Council officers make reasonable, fair and consistent decisions
- To treat each case individually and to avoid making assumptions about people's situations
- To promote and publicise a simple process which is clear and widely understood

The policy is not designed to:

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

3. Background

LHA was the central element of the HB reform programme announced in 2002. It was a radical reform of the assistance given to people on low incomes with their housing costs and was designed to be fairer and easier. It pays the same amount to customers with similar circumstances living in the same area.

The DWP's stated objectives for LHA are:

- **Fairness**

The maximum amount paid to customers is based on the size, composition and location of household. Therefore, two households in similar circumstances in the same area will be entitled to similar amounts of benefit.

- **Choice**

Customers are able to choose how to spend their income in a similar way to customers who are not in receipt of benefits. They are able to choose whether to rent a larger property or to spend less on rent and increase their available income.

- **Transparency**

A clear and transparent set of allowances helps customers and landlords to know how much financial help is available. They can compare how much support is available towards their housing costs in different areas and for different property sizes.

- **Personal responsibility**

Currently approximately 20% of LHA is paid direct to landlords. Wherever possible, LHA will be paid direct to customers. This will enable them to budget for and to pay their rent themselves, rather than have it paid for them.

- **Financial inclusion**

Customers are encouraged to have their Housing Benefit paid into a bank account and to set up a standing order to pay their rent to their landlord. This has the advantage of being a safe and secure method of payment and provides certainty for landlords that rent will be paid.

- **Reduced barriers to work**

Greater certainty about what in-work benefit they could receive is hoped to encourage customers to return to work.

- **Improved administration**

There will no longer be a need for the complex rent restrictions and individual referrals of rents to the Rent Service that currently contribute to the delay in processing claims from private customers.

4. Policy

4.1. Circumstances in which the Council will consider paying LHA to the customer's landlord

4.1.1. Customers who are likely to have difficulty managing their financial affairs

The customer may have learning difficulties, a medical condition or educational needs that suggest they may have difficulty managing their financial affairs; or they may not be able to read or may have language difficulties; or they may suffer from drug or alcohol addiction; or have debt problems.

The existence of any of these factors does not necessarily mean that rent will be paid directly to the landlord.

Everyone's circumstances are different but some examples are listed below of customers who are likely to have difficulties managing their financial affairs and where we may need to safeguard their Housing Benefit by paying it to the landlord rather than the customer:

- The customer has a medical condition affecting their mental or physical health.
- The customer has a learning or a physical disability.
- The customer's first language is not English.
- The customer does not read and/or write English.
- The customer is going through some changes in their life that means that he or she needs some extra support
- The customer is dealing with an addiction (to gambling, alcohol or drugs etc.)
- The customer is fleeing domestic violence

- The customer is leaving prison
- The customer is a care leaver
- The customer cannot open a bank account
- The customer has a history of rent arrears
- The customer has demonstrated through other means that they have difficulty with financial affairs
- The customer has been assisted with obtaining a private tenancy by the LA Homelessness Service or Homelessness Prevention Team

Please note that if a customer has an appointee acting on their behalf because they are “unable for the time being to act” they cannot be considered as likely to have difficulties paying their rent.

4.1.2. Customers who are considered unlikely to pay their rent

Some customers may be unlikely to pay their rent. They may have consistently failed to pay their rent in the past to either their current or former landlords or they may have other debts or cash flow problems. In such cases, the Council may make payments direct to the landlord. However, it will not be sufficient to make direct payments simply because the tenant has said they will not pay their rent.

Payment may be made to the landlord without the claimant’s consent if it is in the interest of the claimant and their family.

Some examples are listed below of when we may consider it appropriate to safeguard their Housing Benefit and pay it to the landlord instead of the customer

- The customer is an undischarged bankrupt
- The customer has a history of debt problems e.g. County Court Judgements or a bad credit rating preventing them from opening a bank account, or previous evictions for rent arrears.
- The customer’s past behaviour would lead us to suspect that they are going to accumulate rent arrears at their current address. An example of this would be that the customer left a previous address with rent arrears
- Information obtained by the Council’s Homelessness Prevention Team that the claimant is considered to be intentionally homeless, for example as a result of deliberately not paying their rent.

4.1.3. Securing or Retaining a Tenancy

Due to the changes to reduce LHA rates, introduced from April 2011, claimants could have a shortfall between their Housing Benefit entitlement and their contractual rent. These changes are:-

- Removal of the five bedroom LHA rate
- Introduction of absolute caps
- Setting the LHA rate to the 30th percentile.
- LHA rates freeze

The Housing Benefit Regulations 2006 allow payment to be made directly to the landlord either to secure a new tenancy or retain an existing tenancy.

Direct payment to the landlord can only be considered where the rent is assessed as affordable and sustainable for the tenant.

Where the landlord signs a declaration that direct payments is requested as a condition in order to secure a new tenancy or retain an existing tenancy and

- the contractual rent is not higher than the current LHA rate – we will make payments direct to the landlord.
- the contractual rent is higher than the current LHA rate – we will establish the means by which the tenant proposes to make up the shortfall in order to assess if the tenancy is sustainable and consider payments direct to the landlord on this basis.

4.2. Safeguarding Housing Benefit

4.2.1. Requesting payment direct to landlord

We will ensure that we publicise information about safeguarding Housing Benefit and that leaflets and forms are readily available to enable a customer or their representative to apply to have their Housing Benefit paid direct to the landlord.

Requests will also be accepted by letter and email.

We will ensure that requests are only processed when they are supported with written evidence.

Dependent upon the customer's particular circumstances supporting evidence will be accepted from:

- The customer's doctor

- Social Services
- Care worker
- Hospital
- The customer's family or friends
- Landlord
- DWP
- Probation Service
- The Courts or solicitors
- Support groups
- Banks or building societies
- The Council's homeless department

Evidence from a landlord cannot be accepted on its own, except where the safeguard is because of securing or retaining a tenancy.

4.2.2. Making a decision

Once we have collected the supporting evidence we will decide as quickly as possible whether the customer is likely to have difficulties managing their financial affairs or is unlikely to pay their rent and it is in their best interest to pay their LHA direct to their landlord.

4.2.3. Notifying the decision

We will write to the customer and/or their representative and advise them of the following:

- The decision.
- If the decision will be reviewed and if so the date it will be reviewed.
- How to appeal against the decision.
- Contact details for advice agencies, voluntary or statutory organisations that may help the customer.

If it has been decided that the LHA will be paid to the landlord, we will write and advise him or her:

- That we will pay LHA direct to them, up to the contractual rent.

- If the decision will be reviewed and if so the date it will be reviewed.

If it has been decided that LHA will not be paid to the landlord we will write to the customer's landlord and tell him or her:

- That we will not pay LHA direct to them.
- How to appeal against the decision.

5. Monitoring

We will monitor the effectiveness of the LHA Safeguard policy to ensure that it is being applied fairly and consistently.

We will review feedback from our stakeholders to ensure the Policy addresses our objectives and meets the needs of those of our customers who are likely to have problems managing their financial affairs or who are unlikely to pay their rent.

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