

EK SERVICES POLICIES AND PROCEDURES

LHA SAFEGUARD POLICY

Canterbury City Council, Dover District Council and Thanet District Council have entered into a shared service agreement to allow joint working in the Customer Services, ICT, Benefits, Council Tax and Business Rates sections.

Where 'EK Services' and 'EKS' are mentioned this refers to the shared service between Canterbury City Council, Dover District Council and Thanet District Council

Glossary of Terms

For the purposes of this policy it is important to provide an explanation of some of the terms used:

“Fit and proper” means the test contained in law that prevents certain landlords from receiving Housing Benefit payments because of impropriety.

“Improbable” means that it is unlikely that the tenant will pay their rent. This will generally be shown where arrears have accrued following payment of benefit to the claimant. It is not sufficient to conclude that there is a *possibility* that the tenant may not pay their rent as many tenants, regardless of their benefit status, carry a *risk* that they may not pay their rent.

“Is likely” means there is a reasonable expectation that the tenant will be unable to manage their affairs. It is not sufficient to conclude that it is *possible* that the claimant will have difficulty managing their affairs or to make a presumption that tenants in certain circumstances carry a *risk* that they *may* be unable to manage their affairs.

“LHA” means Local Housing Allowance.

“Safeguard grounds” means a reason, other than rent arrears, on which East Kent Services agrees that ‘payment to landlord’ is appropriate.

“We” means East Kent Services.

Contents

- 1.0 Introduction**
- 2.0 Payments to Landlords**
- 3.0 Claimants that the authority considers will have difficulty managing their affairs**
- 4.0 Cases where the relevant authority considers that it is improbable that the claimant will pay their rent**
- 5.0 Claimants who will be assisted to secure or retain a tenancy**
- 6.0 How to request 'payment to landlord' on safeguard grounds**
- 7.0 Making and notifying the decision**
- 8.0 Appeal rights**
- 9.0 Equalities Statement**
- 10.0 Policy Review**

1. Introduction

- 1.1 The aims of the Local Housing Allowance are: *Fairness, Choice, Transparency, Personal Responsibility, Financial Inclusion and Improved Administration and Reduced Barriers to work.*
- 1.2 In line with these aims, Local Housing Allowance will mainly be paid to the claimants direct. The provision in Housing Benefit Regulations 2006 for claimants to choose to have their allowance paid direct to their landlord has been removed. As a result most claimants will have their LHA paid directly into their bank account and will therefore be responsible for managing their own finances and paying their own rent.
- 1.3 In recognition that some claimants may have difficulty with the responsibility of budgeting for, and paying their rent, a system of safeguarding has been put into place.
- 1.4 Being safeguarded means that a decision is made to make payments to the landlord, not the claimant.
- 1.5 The intention of safeguarding is to prevent tenants who are likely to experience difficulties in managing their finances from falling into rent arrears and ultimately facing the risk of eviction.
- 1.6 Most claimants are capable of managing their financial affairs. We must assume that our claimants can and will pay their rent unless there is evidence to the contrary.
- 1.7 This policy is not intended to be used by landlords to circumvent the aims of Local Housing Allowance or be a blanket policy for agencies providing support to private tenants.

2.0 Payments to Landlords

Payment may be made to fit and proper landlords only where:

- We consider the claimant is likely to have difficulty in managing their affairs
- We consider it is improbable the claimant will pay their rent
- The claimant has previously been 8 weeks in arrears with their rent during this claim for Housing Benefit

- The local authority considers that it will assist the claimant in securing or retaining a tenancy.
- 2.1 Consideration will be given to first payment to landlord where the first payment is unusually large and the claimant has been unable to pay the rent. Unusually large in this instance means either a payment over £600.00 or where the housing benefit is for a period of six weeks or more

3.0 Claimants that the authority considers will have difficulty managing their affairs

- 3.1 Payments may be made to the landlord where the *"relevant authority considers that the claimant is likely to have difficulty in relation to the management of his financial affairs"*.
- 3.2 The safeguard grounds we will consider include:
- Claimants with learning disabilities
 - Claimants with medical conditions
 - Claimants who are illiterate or have an inability to speak English
 - Claimants with an addiction to drugs, alcohol and/or gambling
 - Claimants with mental illnesses that seriously impair their ability to manage on a day-to-day basis
 - Claimants who are fleeing domestic violence
 - Claimants who are recent care leavers or who have recently left supported accommodation.
 - Claimants who have just left prison following a long sentence
 - Claimants with severe debt problems/recent county court judgements
 - Claimants who are undischarged bankrupts
 - Claimants who have previously had no experience of paying rent, or have difficulty in doing so.

This list is not exhaustive. We will consider other circumstances in which the claimant may have difficulty managing their financial affairs.

However, just because a claimant may display one of these characteristics does not mean they will automatically be safeguarded. We will consider the effect that these characteristics will have on their ability to pay their rent and then consider whether direct payments are likely to be in the claimant's best interest.

3.3 We will not pay LHA to a Landlord on safeguard grounds if:

Someone who is appointed to act on behalf of the claimant is 'unable for the time being to act'.

The landlord is considered to be 'not fit and proper' to receive payments.

Safeguarding would override support being given to the claimant to help them manage their own affairs.

4.0 Cases where the relevant authority considers that it is improbable that the claimant will pay their rent

If a claimant is unlikely to pay their rent we will consider paying their LHA to the Landlord on the same 'safeguard grounds' as those with difficulty managing their financial affairs.

4.1 We will additionally consider the following circumstances:

Claimants with a proven and sustained history of rent arrears

Claimants who have previously left a property leaving substantial rent arrears

Claimants who consistently make late payments

4.2 We will not pay LHA to a Landlord when:

A claimant has simply stated they will not pay their rent. Other factors will need to be taken into consideration before making a decision

The landlord is considered to be 'not a fit and proper' person

5.0 Claimants who will be assisted to secure or retain a tenancy

- 5.1 We will make LHA payments direct to the Landlord where we consider that it will assist the claimant in securing or retaining a tenancy.
- 5.2 This provision is designed to aid homelessness prevention work.
- 5.3 It is also intended to provide landlords with an incentive to reduce rents to a level that is affordable to customers.
- 5.4 For Thanet District Council, which operates a rent deposit bond scheme to assist tenants in securing tenancies in the private rented sector, we will make LHA payments direct to the landlord in all cases where a deposit bond has been paid. This will help maintain tenancies for customers.

6.0 How to request 'payment to landlord' on safeguard grounds

- 6.1 We will consider all requests to pay LHA to a Landlord that are received from the claimant, the claimant's representative or the landlord.
- 6.2 Any request must be made in writing and should be accompanied with as much supporting evidence as possible for us to make a decision. A safeguard request form will be available to collect from all council offices and will be available to download from the council's website.
- 6.3 Whilst we are making a decision we have the following options:
- pay the claimant
 - pay benefit to the landlord for up to eight weeks, or
 - suspend payment to both the claimant and landlord

In most circumstances payment will be made to the landlord whilst we are making a decision.

6.4 There are many reasons that a person may have difficulty in paying their rent but the types of information and evidence we will ask to see are as follows:

Possible safeguard grounds	Examples of information and evidence required
Claimants who are unable to open a bank or building society account	Letters from banks, building societies and credit unions. Letters from debt/money Advisors.
Claimants with severe debt problems or Recent County Court Judgments	Letters from banks, building societies and credit unions. Letters from debt/money advisors or solicitors. Copy of court order
Claimants who are undischarged Bankrupts	Copy of court order
Claimants who have previously no experience of paying rent, or have difficulty in doing so	Written evidence from support organisations
Claimants with learning disabilities	Written evidence from care workers, GPs, other qualified medical practitioners, social services, government departments, etc.

Claimants with mental illnesses that seriously impair their ability to manage on a day to day basis (e.g. schizophrenia, depression, age related mental deterioration such as the early stages of Alzheimer's disease or senile dementia)	Written evidence from care workers, GPs, other qualified medical practitioners, social services, government departments, etc.
Claimants who are illiterate	Written evidence from support organisations.
Claimants who cannot speak English	Written evidence from support organisations or Customer Services recommendation.
Claimants with an addiction to drugs, alcohol or gambling	Written evidence from care workers, GPs, support organisations, government departments, etc.
Claimants who are fleeing domestic violence	Written evidence from women's refuges, support organisations, care workers, Social Services, etc.
Claimants who have just left prison following a long sentence	Written evidence from The Probation Service
Claimants who are recent care leavers/	Written evidence from care

or receive help from a support organisation	workers, social services, support organisations, etc.
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6.5 This list is not exhaustive. We will accept written information and evidence from other sources including the claimants' landlord and the Councils' Housing Options Service.

6.6 We will treat each case individually and not make assumptions about peoples' situations. One of the aims of Welfare Reform is to encourage and assist claimants in managing their own rent payments.

Landlord's evidence alone will not be sufficient to make a decision to safeguard and further evidence will be requested. However if the claimant refuses to respond to our requests for information we will make a decision based on the available evidence.

7.0 Making and notifying the decision

7.1 Having gathered the necessary evidence, we aim to make our decision within fourteen days. If there is any discrepancy on the information supplied by either party; we will contact both customer and landlord to ascertain the true facts.

7.2 The Claimant, their representative and any relevant person, will be notified of the decision in writing. The notification will detail the reasons for the decision and right of appeal.

7.3 If the landlord notifies us of a tenant's possible vulnerability we will also notify the landlord of our decision regardless of the outcome.

7.4 We will review our safeguard decisions as appropriate.

8.0 Appeal rights

- 8.1 Any person affected by a decision relating to the direct payment of LHA may appeal against that decision. Persons affected include the claimant or the landlord.
- 8.2 If the claimant or landlord disagrees with our decision about who we pay, they can ask for a 'statement of reasons', or ask us to look at the decision again, or appeal against the decision. The letter must be signed by the claimant or the Landlord and made within one month of the decision.
- 8.3 If we receive an appeal we will look at our decision again. If we cannot change our decision the appeal will be passed to The Tribunals Service.

9.0 Equalities Statement

EK Services are committed to delivering a service that is accessible and fair to all of the communities that we serve. We will ensure that all people are treated with respect and dignity.

The Equality Act 2010 sets us an "Equality Duty" to:

1. eliminate discrimination, harassment and victimisation;
2. promote equality of opportunity between different groups in the community; and
3. foster good relations within the local community

We give careful consideration to equality issues in our new and existing policies, strategies and services to see what effect they will have on different groups within our communities, including those with protected characteristics.

The protected characteristics covered by the Equality Duty are:

- age;
- disability;
- marriage and civil partnership (but only in respect of eliminating unlawful discrimination);
- pregnancy and maternity;

- gender reassignment;
- race – this includes ethnic or national origins, colour or nationality;
- religion or belief – this includes lack of belief;
- sex (gender);
- sexual orientation.

We also recognise that socio-economic status can be a significant barrier to equality of opportunity.

We identify potential consequences for these groups and ensure any negative impacts are eliminated or reduced. We also identify opportunities to eliminate discrimination and promote positive relations between groups and throughout our communities.

10.0 Policy Review

This policy will be reviewed on an annual basis in order to ensure it remains valid, effective and relevant.