

# **Local Housing Allowance**

## **Safeguards**

### **Local Guidance & Policy**



**Local Housing Allowance**



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## 1) Introduction

- 1.1. Housing Benefits is currently paid to either the landlord or claimant depending on several factors. The tenant has the choice to pay direct to the landlord, or, if there are 8 weeks of arrears of rent owing the landlord can present evidence of this and the Local Authority will then be obliged to pay the Housing Benefit directly.
- 1.2 The Local Housing Allowance removes the element of choice for the tenant. The focus of moving welfare benefit claimants back into work requires people to be more responsible and make arrangements to pay their rent regardless of receipt of benefit. The eight-week rule remains however.
- 1.3 The Government does recognise though that there is an element within claimants that relies on direct payment, even to private landlords, because they are not capable of maintaining their own financial affairs. To ensure that this element is not put at risk of losing their homes the Local Housing Allowance includes scope for identifying “vulnerability” and allowing for a claimant who is vulnerable to have their Local Housing Allowance paid directly to the landlord.
- 1.4 The term vulnerable is not used in the regulations. Local Housing Allowance amendment to regulation 12 amends the Housing Benefit (General) Regulations 95 and 96. These regulations set out the circumstances where payment of Rent Allowance may be made direct to a persons’ landlord. The new Regulation 96(3A) states that *‘payment of a rent allowance to a persons landlord may be made where the local authority considers that the claimant is likely to have difficulty in managing his/her affairs, or considers that it is improbable that the claimant will pay his rent’*.
- 1.6 Each case must be considered on its own merits and this policy has been drafted for guidance in order to ensure that the authority acts in a transparent and consistent manner.

## 2) Interpretation of Terms Used

- 2.1 For the purposes of this policy it is necessary to provide an interpretation of some of the terms used in the regulations.
- 2.2 The phrase '*is likely*' means that there must be clear evidence that is beyond reasonable doubt that the tenant will be unable to manage their affairs. It is not sufficient to conclude that there is a *possibility* that the tenant may have difficulty managing their affairs or a presumption that tenants in certain circumstances carry a *risk* that they *may* be unable to manage their affairs.
- 2.3 It is important to distinguish between tenants who choose to manage their finances in a less than organised way and those that genuinely have difficulty managing their affairs. The phrase '*is improbable*' means that there must be a degree of probability that the tenant will not pay his rent. This will generally be shown where arrears have accrued following payments being made 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.
- 2.4 It is important to distinguish between tenants who are genuinely unlikely to pay their rent and those who may claim that they are not likely to pay their rent because they would prefer not to take responsibility for paying it.
- 2.5 Tenants who are likely to have difficulty managing their affairs are deemed to be 'vulnerable' tenants. Some tenants may wish to be classed as vulnerable simply because they would prefer to have payments sent direct to their landlord. The 'vulnerability' provision cannot be used to circumvent the fact that there is no longer a provision for the tenant to request direct payments. In most cases we would be looking for evidence from professional bodies such as doctors, social workers, probation officers etc.
- 2.6 Harborough District Council, and our other Local Authority Partners<sup>1</sup>, assumes that, unless evidence to suggest otherwise is received, all tenants receiving the Local Housing Allowance will pay their rent and payment will be made to the tenant unless any of the other criteria for making payment to the landlord are met.

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<sup>1</sup> See Appendix E  
Local Housing Allowance Safeguards Policy

### 3) “Claimant is likely to have difficulty managing affairs” - Indicators

- 3.1 The following items 3.5 – 3.15 are possible indicators that tenants may be ‘vulnerable’.
- 3.2 By indicators both the causes and the effects of vulnerability are meant – consideration must be given to either, or on occasions both, in any given case.
- 3.3 It should never be decided that a claimant is vulnerable simply because he or she seem to match one of the indicators below. These are intended purely as a guide and are not a definitive list.
- 3.4 Where a representation is received without sufficient evidence then payments will continue to be made to the tenant until such time as the appropriate evidence is provided.

#### **People with learning disabilities**

- 3.5 These can range from mild to severe problems. People with severe learning disabilities are likely to have an appointee, or deputy<sup>2</sup>, to deal with their financial affairs or be resident in Supported Accommodation. Therefore under normal circumstances the authority would only need to consider those who have slight learning difficulties and written evidence from Support Workers, a Doctor, Social Services or a hospital should be provided to satisfy the criteria.

#### **Tenant has a medical condition**

- 3.6 One that is likely to seriously impair a claimant’s ability to manage on a day-to-day basis. Obvious examples are forms of mental illness such as schizophrenia, depression or age-related mental deterioration such as early stages of Alzheimer’s disease or senile dementia. There are also physical conditions, which may make it difficult for a person to manage their affairs. In these situations consideration must be given to how the tenant conducts his or her other financial affairs (does his or her care worker collect their benefits from a post office by use of the proxy arrangements and pay any bills at the same time on the claimant’s behalf?<sup>3</sup>) However it should be noted that people with severe mobility problems may have overcome these and be able to deal with their own financial matters and could therefore deal with payment of their rent. Where vulnerability is satisfied and payments are made to a landlord on the grounds of a medical condition, depending on the actual condition the person’s situation should be monitored at regular intervals for improvement. Again, written evidence from Support Workers, a Doctor, Social Services or a hospital should be provided to satisfy the criteria.

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<sup>2</sup> See Section 6

<sup>3</sup> Such an arrangement would not, on its own, mean that the claimant was vulnerable but would help in building a case that he or she is so.

**Illiteracy**

3.7 This could be difficulty in reading and writing or financial illiteracy. In order to determine whether a person may be illiterate in any of these ways we would generally look at how the current claim (and any other recent claim) was made. The application may have been completed by another person on the tenant's behalf or may have been completed by the tenants with incomplete information. Enquiries may have taken a longer period than is normal to resolve and if this is due to the tenant's illiteracy this may be taken into account. However, a person who is unable to complete his or her claim form may be entirely capable of dealing with their finances or may have adequate support in place to help him or her when needed. The customer or a third party may make representations; in any event further enquiries should be conducted in a sensitive manner. Illiteracy may be demonstrated by an inability to deal with payments that are issued, failure to reply to correspondence and cheques not presented may be because of an effect of some kind of illiteracy. Written evidence from a support organisation would be required.

**An inability to clearly communicate**

3.8 Language difficulties<sup>4</sup> alone are unlikely to lead to a decision that a tenant is unable to manage their financial affairs. Due to the long term multicultural diversity within Leicestershire this problem would more likely be very occasional. The decision maker must evaluate the ability of a claimant to open a bank account etc because of any disabilities to communicate and the support the claimant could receive in doing so through support available from family or professionally.

**Addiction to drugs, alcohol or gambling**

3.9 There must be evidence from his or her GP, a hospital, care workers, Social Services, Probation Services or other support organisations for these addictions.

**Severe debt problems/ recent County Court Judgements**

3.10 Look for evidence from help groups, creditors, courts, solicitors etc. In all instances where a tenant is likely to have difficulty managing their affairs because they have severe debt problems, and the tenant has not sought representation already to assist them the tenant needs to be referred to the identified welfare rights support for the relevant Local Authority partner for an assessment before a decision is made. Care must also be taken if the claimant is overdrawn at the bank and direct payment may be needed so that he or she can actually pay their rent – a customer may need advice to issue in writing to their bank a “first right of appropriation” that insists that the landlord's Direct Debit is paid before the overdraft. If the customer is on a pass-ported benefit such as Income Support where we would not normally ask for bank statements, we would require sight of the statements and other relevant documents if the customer was claiming to be vulnerable.

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<sup>4</sup> Care should be taken to ensure that this is not an issue from the earlier item 3.6 Tenant Has a Medical Condition.

- Bankruptcy**
- 3.11 The court order should be sufficient evidence. Bankruptcy falls into two categories – discharged and undischarged. As the title suggests, a discharged bankrupt is a person whose period of bankruptcy has come to an end<sup>5</sup> and should, in theory, be able to open at least a basic bank account. An un-discharged bankruptcy is a person whose period of bankruptcy is still in force. Proof of a customer being an undischarged bankrupt should be sought. This would come in the form of the original bankruptcy notice given to the claimant at the time of being made bankrupt<sup>6</sup>.
- Asylum Seekers who are eligible**
- 3.12 Once refugee status is awarded asylum seekers may claim benefits. If he or she is claiming Local Housing Allowance and is still receiving support from a support organisation this may indicate vulnerability. Information from the organisation that supported him or her before he or she attained refugee status may be needed.<sup>7</sup>
- Previously detained by Law**
- 3.13 Consideration would be needed if the claimant requests direct payment. Private landlords may not house persons in this category due to the risk and direct payment would be an incentive to assist. The Probation Service would be able to provide written confirmation of detainment in cases of imprisonment, written medical evidence may be required if the person was detained under the Mental Health Act.
- Care Leaver or fleeing Domestic Violence**
- 3.14 Consideration would be needed if the claimant requests direct payment. Private landlords may not house persons in this category due to the risk and direct payment would be an incentive to assist. Paperwork from support organisations would be required.
- Recently Homeless**
- 3.15 If the claimant was housed from being homeless vulnerability status could be considered if he or she is still receiving support from a Local Authority or charity / support organisation. Written evidence from the organisation would need to be seen.
- An inability to obtain a bank account**
- 3.16 Letters from banks and / or evidence from money advisers<sup>8</sup> would be required.

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<sup>5</sup> Even a discharged bankruptcy may need consideration as sometimes the Official Receiver places restrictions on someone they are discharging.

<sup>6</sup> Bankruptcy Orders are only in place for one year from April 2004 but, as per the previous footnote (6) the person may be subject to restrictions- details of any restrictions are shown on the website [www.insolvency.gov.uk](http://www.insolvency.gov.uk).

<sup>7</sup> This item is a basic indicator and consideration would only be given for vulnerability if the claimant asked for direct payment in these circumstances. A review of these cases would be undertaken far more regularly than some other categories.

<sup>8</sup> See 4.

#### 4) Unable to open a bank account

- 4.1 The biggest reason given by claimants that they are unable to open a bank account is that they have bad credit, or they won't pass a credit check. Whilst this is a valid reason for not being able to open a Current Account with facilities such as a debit/credit card, chequebook or with a credit limit, it does not stop the claimant from being able to open a Basic Bank Account. In the majority of cases, banks *will not* perform a credit score to open such an account.
- 4.2 The only requirement for Housing Benefit to be paid to the tenant is the existence of a Basic Bank Account. The Financial Services Authority (FSA) offers practical advice on basic accounts accessible by the majority of people. They update a list of such accounts and the banks who offer them at their website<sup>9</sup>. Staff will assist customers in identifying banks and basic accounts they offer and use the FSA website as reference. A supply of the FSA leaflet is to be maintained at both the main and satellite offices for customer use.
- 4.3 Whilst the facilities available on these sorts of accounts vary from bank to bank, most will offer a cash card, and the ability to set a Direct Debit or standing orders. They *will not* offer the customer an overdraft limit, or a chequebook.
- 4.4 Whilst most banks will not perform a credit score to open these types of account some that do are;  
Barclays Bank  
Royal Bank of Scotland  
The Abbey  
NatWest
- If claimants are unsure as to whether they will pass a credit score, the customer should consider if the above banks will be avoided.
- 4.5 It is important that the customer clearly identifies that a basic account is required (to quote the particular bank's name for their basic account would help) or they will be credit scored, and probably fail an application, for a current account. This would then result in further contact with the Local Authority.

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<sup>9</sup> [www.moneymadeclear.fsa.gov.uk](http://www.moneymadeclear.fsa.gov.uk)  
Local Housing Allowance Safeguards Policy

## 5) Possible Indicators that a tenant is unlikely to pay their rent

- 5.1 Where a representation is received, but with no actual evidence that a person is unlikely to pay their rent, possibly due to the fact that until now the claimant's landlord has been in receipt of direct payments, payment must now be made to the tenant. The actions taken by the tenant once this payment has been received may be treated as further evidence to determine whether a tenant is likely to pay his rent.
- 5.2 The credit history could be a useful indicator, arrears of utility charges, letters from the tenant's bank, evidence of unpaid standing orders or Direct Debits could all indicate that the tenant does not manage his or her money sufficiently well and is unlikely to do so in the future.
- 5.3 The Council Tax records and Housing Benefit Overpayments records may indicate claimants whose records show persistent arrears or a failure to keep to repayment arrangements, which mean that a claimant will fail to pay his or her rent.
- 5.4 The existence of County Court Judgements would not automatically render a person "unlikely to pay" however these would be taken into account along with other evidence. Consideration should be given to the reason the judgement was gained – not paying priority or non-priority debts indicates a different profile of debtor. If someone received a judgement because of non-priority debt this is an indicator of greater irresponsibility as they have taken on debts for items not necessarily required – this indicates that he or she is unlikely to pay if material items are the priority.
- 5.5 Examples of Priority and non-priority debts are given below:

Priority	Non-Priority
Rent	Loans (Unsecured)
Mortgage	Store cards
Council Tax	Catalogues
Water Rates	Club memberships
Gas	Internet provider
Electricity	Mobile phone network

- 5.6. A history of rent arrears is more relevant as this indicates that the tenant may not place great importance on paying his or her rent. Consideration must be given to whether "a person is unlikely to pay their rent" but not whether a person has a history of failing to make other payments or has experienced debt problems.
- 5.7. Where a tenant has always paid his or her rent but has other financial problems, payment will be made to that tenant, as there is no evidence to suggest that he or she will not pay their rent. However where a person has not previously had a rental liability and so cannot have failed to pay their rent then other arrears or debts may be taken into account.

- 5.8. A tenant who would pay his or her rent but may prefer to have the Local Housing Allowance paid to their landlord direct may present himself or herself as having no intention to pay their rent to their landlord. In these situations great care must be taken in considering the claimants statements but it may prove difficult to justify not acting on the tenant's information as the consequences could damage the landlord financially. This situation may justify more frequent contact on the basis that their questionable financial management skills will render them less likely to administer their Housing Benefits claim properly and report changes in circumstances promptly.

## **6) Capacity to Act / Dealing with representations**

- 6.1 The HB/CTB regulations enable certain individuals, i.e. appointees to make a benefit claim on behalf of a person who wants or needs to claim, when that person is unable to act for his or her self, whether temporarily or permanently.
- 6.2 The Mental Capacity Act 2005 changes the way that people who cannot act for his or her self can have other people appointed by the Court of Protection to act for him or her. Under the new system the court can appoint a 'deputy' to act in relation to particular matters with which the person themselves has difficulty rather than the previous system where once a 'receiver' was appointed, the receiver had general powers to act for the person.
- 6.3 From 1 October 2007, when a person has been appointed to act on behalf of another by the Court of Protection for the purposes of claiming and receiving benefits, he or she will be known as a 'deputy' rather than a 'receiver'.
- 6.4 To check that a deputy has been given responsibilities that include dealing with the claimant's HB or CTB affairs evidence of the terms of the court order that appointed the deputy must be sought.
- 6.5 The status of a deputy must be reviewed periodically since, unlike the previous receiver system, deputies will not have the power to make a decision if he or she knows, or has reasonable grounds to know, the person now has capacity to make the decision for his or her self in relation to Housing Benefits or Council Tax Benefits.
- 6.6 Receivers appointed before 1 October 2007 continue to have their general powers to act. They should be accepted as able to act for the customer if they can demonstrate that they were appointed to the role before 1 October 2007 by the court and are still empowered to act.
- 6.7 Likewise, a deputy who makes an application in their capacity as an appointee for HB/CTB purposes is legitimately able to do so from 1 October 2007, if they can satisfy the Council's normal security (previously verification) procedures.
- 6.8 If the DWP has already accepted the deputy as appointee in respect of claims to DWP-administered benefits, Local Authorities may accept their legitimacy to act in respect of an HB/CTB claim or award.
- 6.9 When the Mental Capacity Act 2005 was introduced five principles were designed to assist (primarily the Health Service) professionals to assess the capacity of persons at the time of making decisions and to develop who could represent the person if they did not have the capacity.

- 6.10 The five statutory principles are:
- A person must be assumed to have capacity unless it is established that they lack capacity.
  - A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
  - A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
  - An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
  - Before the act is done, or the decision made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.
- 6.11 It is difficult to place these principles into a benefits service but as law regard must be had for them. A proportion of claimants to the extent that representation is regular rather than occasional means that a fair amount of claims are dealt with by a third party on behalf of a claimant. The officer processing the Local Housing Allowance claim will need to assess if a third party claim could have been made by the claimant directly and if the third party has the legal capacity to do so.
- 6.12 Under the Mental Capacity Act a new "Lasting Power of Attorney" has been introduced to cover welfare, property and affairs. The donee of the lasting power of attorney can make decisions on the donor's behalf and therefore deal with a Local Authority with regard to a claim if the donor no longer has the capacity to do so. The difference between donee and deputy is that the donee is selected by the donor (the person whilst he had capacity to nominate a donee) and Lasting Power of Attorney is sought from the Court to authorize the donee. A deputy is someone appointed by the Court who may not have been someone chosen by the donor when he or she had capacity. In Benefits terms it means that decision makers will have to recognize that someone may attempt to make representations as a donee or a deputy. However there are restrictions on deputies over donees as they cannot be given power to "trump" an attorney, specifically because the attorney was selected by the donor.
- 6.13 The Court of Protection authorises Lasting Power of Attorney and appoints deputies. The legislation requires that a Public Guardian be appointed and this office will be responsible for establishing and maintaining registers of lasting power of attorneys and of orders appointing deputies or supervising deputies. Section 58 of the Act allows the Public Guardian to work with Local Authorities over clarification of the orders made by the Court of Protection. The Public Guardian also has rights over information from Local Authorities if investigating matters such as complaints are made against donees or deputies. The Public Guardian has the power to cancel Lasting Power of Attorney in certain circumstances.

6.14 The Deputy or Donee may make written representations that the Claimant is “vulnerable” and the Local Authority can accept their information as if they were the claimant if satisfied that the claimant does not have the capacity to do so and the donee/deputy has the authority to do so. The vulnerability criteria as defined above can then be used accordingly.

## 6.15 Other Representations

6.15.1 **Friends and family of the claimant.** All representations must be in writing supported by detailed reasons and, where available, evidence of why the claimant is considered likely to have difficulty managing their affairs or unlikely to pay their rent. Information provided by relatives and friends may provide useful information that may support other evidence, but will not be accepted without other evidence as the person making representations will be primarily acting in the interests of gaining payment to the landlord for the claimant. Consideration must be given to the evidence supplied and whether the claimant should be referred to a money advice service for money and/or debt advice. It will not be possible to discuss the claimant’s claim with family and friends unless the claimant has given consent.

6.15.2 **The landlord.** All representations must be in writing supported by detailed reasons and, evidence of why the claimant is considered likely to have difficulty managing their affairs. It will not be possible to conclude from the landlord’s representations alone that the tenant should be treated as vulnerable. However, it may be apparent from the nature of the representations that the tenant will not be considered as vulnerable. In these instances, a decision that the tenant is not vulnerable would be made, and a notification sent to the tenant and landlord detailing the decision.

6.15.3 **Welfare groups and Money advisors.** All representations must be in writing although they are likely to arise because the tenant has contacted the welfare group or money advisor for assistance. The representations should be supported by statements that confirm that evidence to show that the tenant is likely to have difficulty managing their affairs is available for audit purposes. The Local Authorities listed in Appendix B will, in general, accept without question evidence provided by reputable financial institutions and welfare groups. Persons who have sought money advice, whilst acknowledging that they need support may be unable to deal with their new responsibilities. Advisors dealing with client’s debt problems will have knowledge of the tenant’s financial management skill and their evidence will be useful in making a decision.

**6.15.4 Social Services, GPs, Probation officers, Homeless Section.**

Representations must be in writing and must detail the reasons why the tenant is deemed to be likely to have difficulty managing their affairs. Where appropriate evidence should be provided. The Local Authorities listed in Appendix B will, in general, accept without question evidence from Social Services, GPs, Probation Services and the Homeless Section of the Local Authority.

**6.15.5 Jobcentre Plus, Pension Service or Bond Guarantee Scheme staff etc.**

Representations must be in writing and must detail the reasons why the tenant is deemed to be likely to have difficulty managing their affairs. Where appropriate, evidence should be provided. Consideration will be made for the claimant to be referred to a money advice service for money and/or debt advice.

6.15.6 Evidence does not have to be specifically addressed to the Local Authority and could be something that pre-dates the investigation; however older evidence may be less relevant or reliable. Degrees of weight should be attached to each source of information. Evidence from the claimant, his or her friends and family is important, but it should be remembered that some claimants might want to do everything possible to secure direct payment to their landlord and thus avoid the responsibility that the benefits reforms promote. Where the landlord makes a representation, verification and evidence must be supplied.

## 7) Making a Decision

- 7.1 A decision over vulnerability must be made once sufficient information and evidence is gathered. Where evidence must be gathered for vulnerability to be established then the Local Authority will have regard to Regulation 96 that allows for payment to the landlord for the first eight weeks of a claim pending a decision. This will ensure that processing the claim will not be delayed and that the claimant will be protected from falling into arrears if there is a good possibility he or she is vulnerable.<sup>10</sup>
- 7.2 If the Local Authority is unable to establish the facts to its satisfaction because the claimant has failed to co-operate, it must decide whether or not that failure to co-operate does in itself demonstrate vulnerability.
- 7.3 In some cases it will be obvious whether the person is vulnerable or not, in others a decision must be reached by carefully balancing all the available facts.
- 7.4 A claimant deemed to be vulnerable (or borderline cases) should be encouraged to seek support and advice, either elsewhere at the Local Authority or from voluntary groups, to enable him or her to be in a better position to manage his or her affairs. This could be anything from money advice to tackling more fundamental underlying issues.
- 7.5 Where a representation is made that a tenant is unlikely to pay his rent on the basis of existing rent arrears the following considerations are required:
- 7.5.1 If the tenant is eight weeks or more in arrears Regulation 95(1) (b) applies and payment must be made to the landlord under the statutory provisions.
- 7.5.2 Where the arrears arose wholly during a period for which Housing Benefit has not yet been paid, then the first payment only should be made to the landlord and future payments to tenant.
- 7.5.3 Where arrears have arisen over a period when Housing Benefit did not meet the full rental liability and the tenant was not able to make up the shortfall the tenant cannot automatically be assumed to be unlikely to pay his or her rent.
- 7.5.4 A tenant who has failed to use Housing Benefit Payments to pay his or her rent in the past can be assumed to be unlikely to pay his or her rent unless good reasons for non-payment of rent are provided.
- 7.5.5 Consideration should be made of any arrangements that the tenant has made to pay his rent.
- 7.5.6 Where there is insufficient evidence to suggest that it is likely that a tenant will fail to pay his or her rent the payment will be made direct to the tenant. What the tenant chooses to do with this payment will be considered as evidence in determining the likelihood that future payments will be used to pay the rent.

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<sup>10</sup> See "Regulation 17 Amendment of Regulations 95 & 96 of the Housing Benefits Regulations 2006" within The Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007.

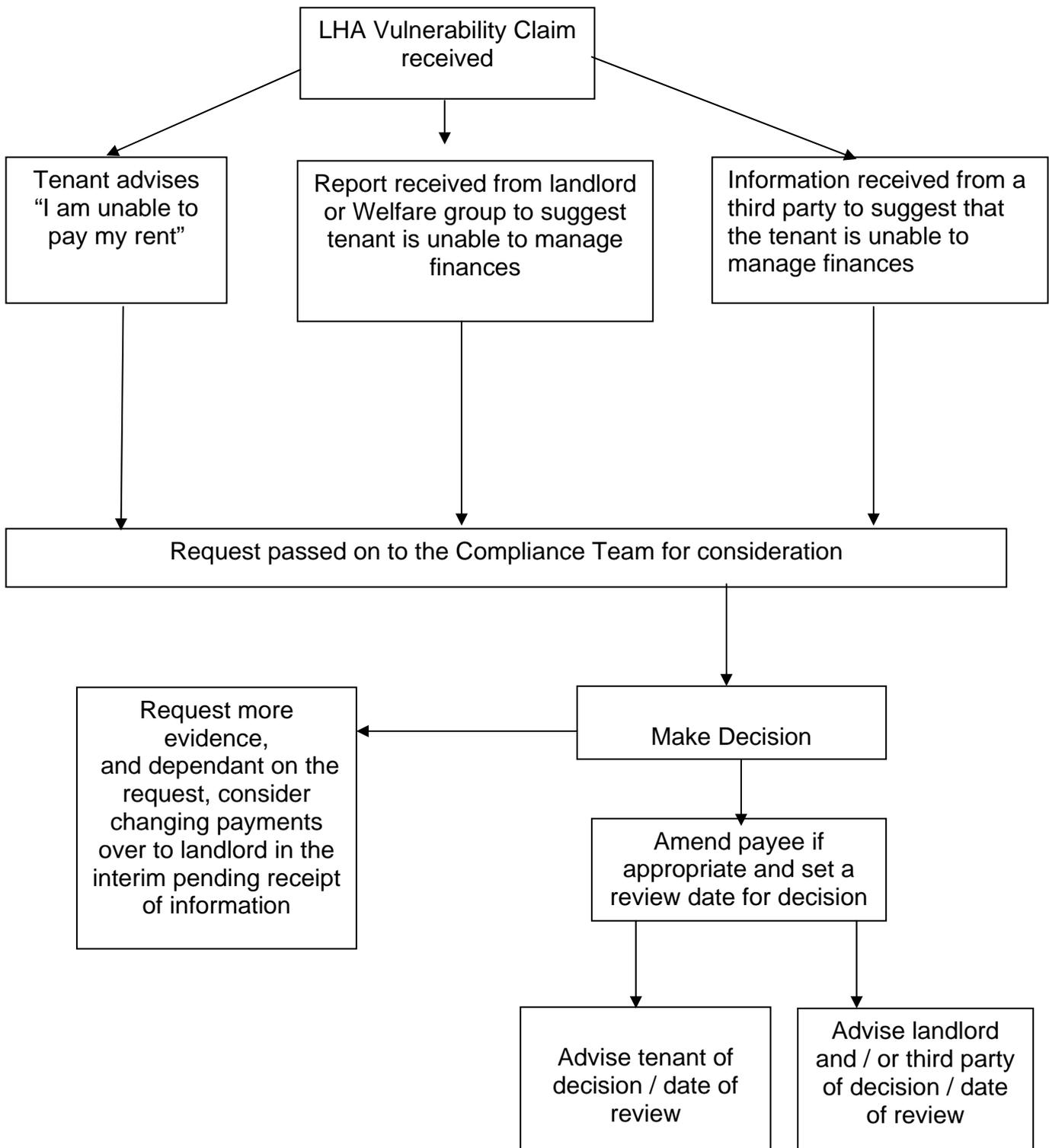
## 8) Notification of decision

- 8.1 All persons affected by the decision should be notified in writing of the decision and where applicable reasons for the decision must be given. Appeal rights should be clearly stated.

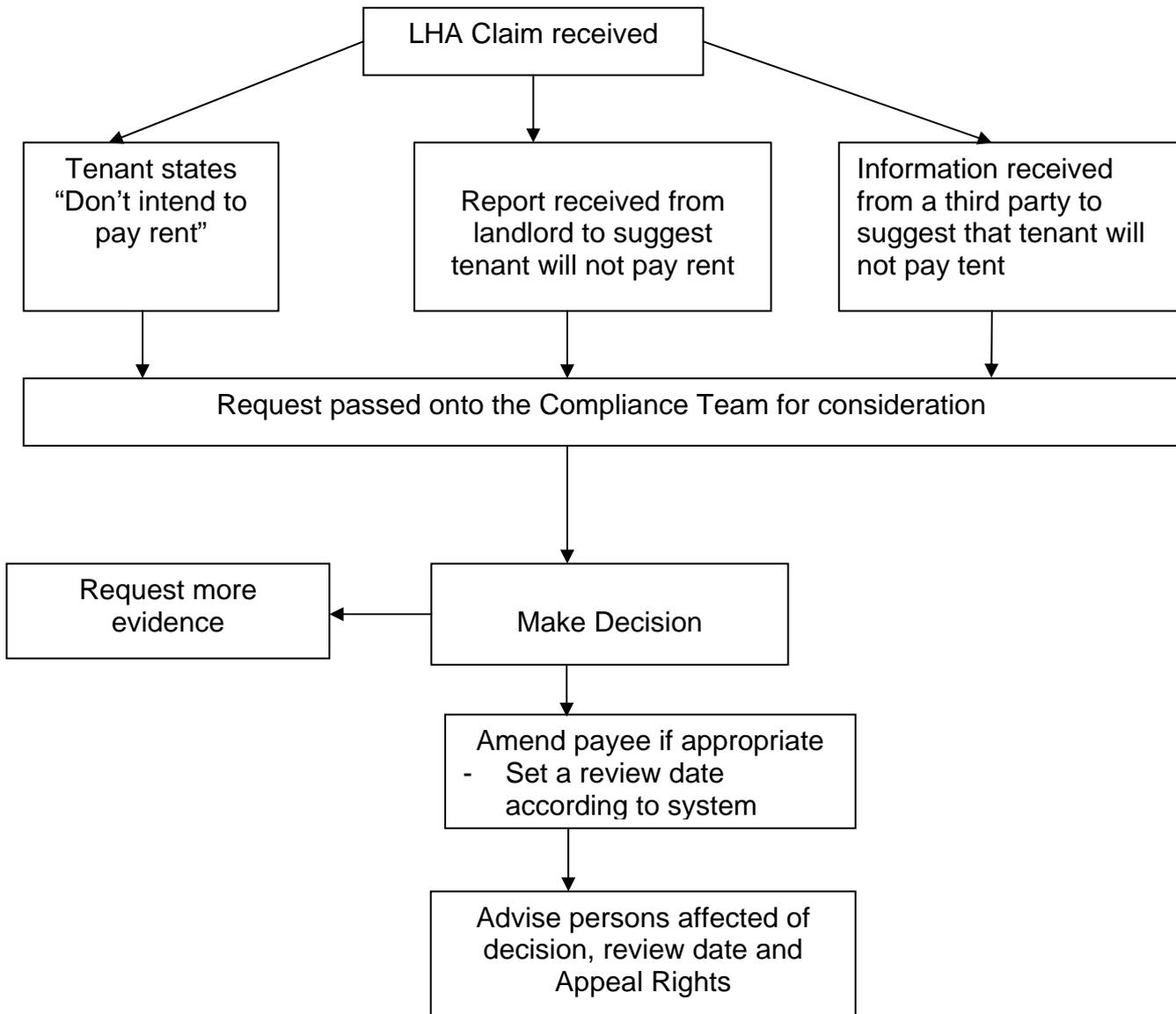
## 9) Evidence of vulnerability and possible sources

<b>Reason for vulnerability</b>	<b>Suitable sources of evidence</b>
Learning disabilities	Letter from support provider Letter from doctor Letter from social worker
Medical conditions	Letter from GP Letter from hospital
Illiteracy	Letter from support worker
Inability to speak English	Letter from support group Letter from community group
Addictions to: Drugs Gambling Alcohol	Letter from GP Letter from support worker Letter from hospital Letter from care worker Letter from social services
Severe Debt problems	Court order Letter from solicitors Letter from help groups Letter from creditors
Undischarged bankruptcy	Court Order
Inability to open a bank account	Letter from Bank Letter from Money advisor
Arrears/Missed/Erratic Payments	Letter and Rent Evidence from Landlord

10) Process of dealing with vulnerability requests



11) Process of dealing with Claimants who do not want direct payment



## 12) First payment to landlord

- 12.1 Housing Benefit (general) Regulation 96(2)(b) states that ‘ a first payment of rent allowance following the making of a decision on a claim may be made in whole or in part by sending to the claimant an instrument of payment payable to that landlord.’
- 12.2 This regulation allows Local Authorities to send the first payment of Housing Benefit to the tenant but with the cheque made payable to the landlord. The regulation is intended for use when the Local Authority is not satisfied that there are other grounds for making payments directly to a landlord but where it is in the interests of efficient administration to make the first cheque payable to the landlord.<sup>11</sup>
- 12.3 Note that only the first payment can be made directly to a landlord under this provision. Subsequent payments must be made payable to the tenant unless there are grounds for paying the landlord arising from the ‘vulnerability’ or ‘unlikely to pay’ provisions.
- 12.4 Locally this provision is to be used where the first payment is going to be for more than 5 weeks Housing Benefit entitlement – regardless of the amount. In cases outlined below the first payment of Local Housing Allowance would be payable to the landlord. In doing this:
- 12.4.1 It provides some confirmation that a genuine tenancy has been created between the landlord and tenant;
  - 12.4.2 It reduces the potential for abuse where the initial Local Housing Allowance payment is a larger than a normal payment (particularly where the claim has been backdated or there have been delays in deciding the claim);
  - 12.4.3 It informs the landlord that the Housing Benefit claim has been determined; the landlord can then make arrangements with the tenant regarding future payments of rent.
- 12.5 **However**, the Local Authority would not make the first payment payable to the landlord where there is evidence to show that the tenant has paid the rent for the period covered by the first payment.

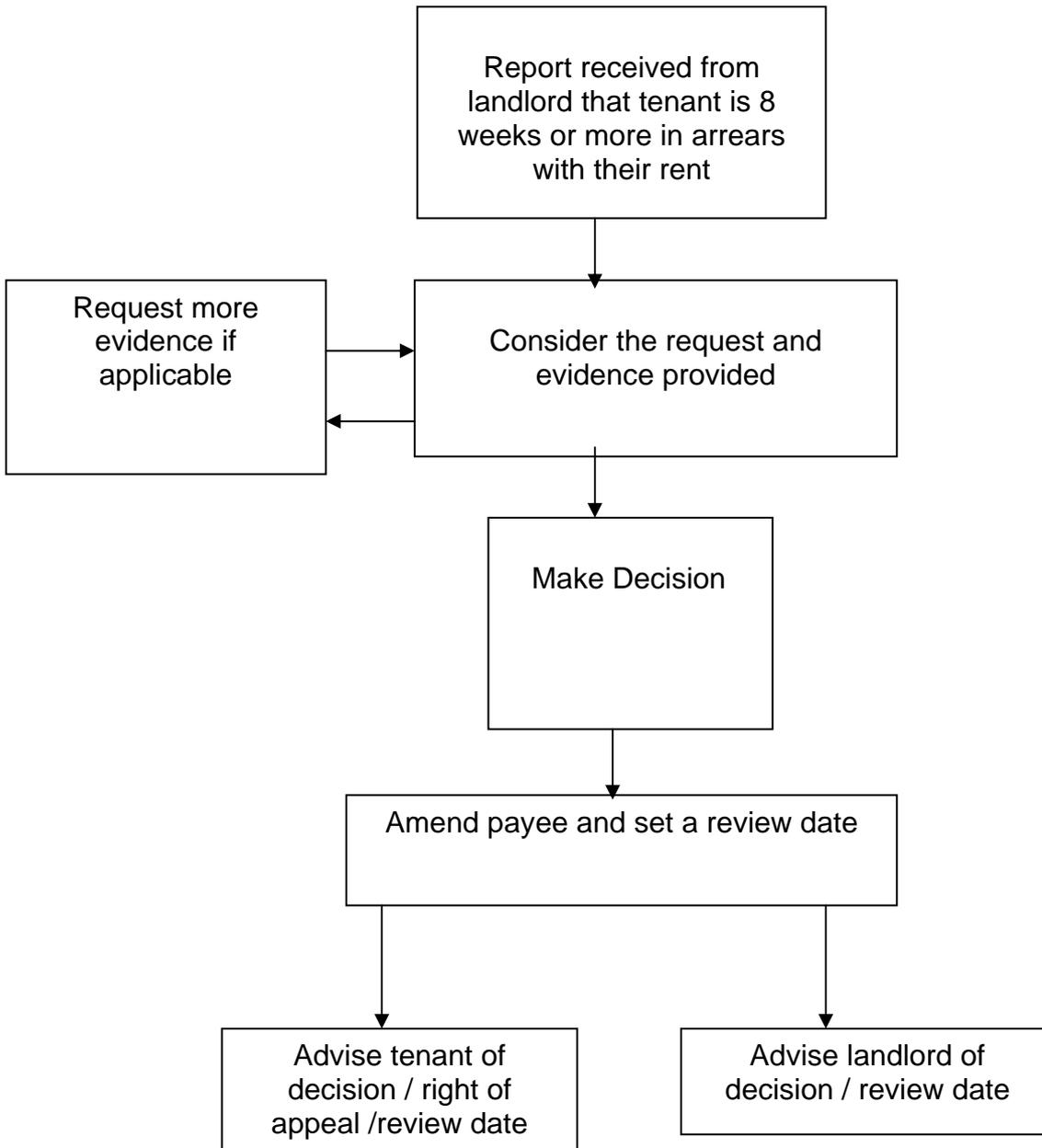
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<sup>11</sup> See also 7.6 with regard to payment to the landlord for the first eight weeks whilst information is gathered.

### **13) Eight-week arrears cases**

- 13.1 Housing Benefit (general) Regulation 95 (1) (b) states that payment is to be made to the landlord, where a person is in arrears of eight weeks or more. The amount of his or her rental liability is to be paid to his or her landlord, except where it is in the overriding interests of the claimant not to make payment to the landlord.
- 13.2 This is a mandatory provision for direct payment and unless it is in the overriding interest of the tenant not to do so there is no other discretion in this matter.
- 13.3 The landlord must provide a statement that shows the rent that is due and any payments that have been made and the amount that is outstanding is in excess of eight weeks.
- 13.4 Fax and e-mail are recommended means of contact for landlords when making initial contact. The Local Authority will suspend payment immediately and make a decision within five working days.
- 13.5 The amount payable to the landlord is to be restricted to the rent charged and any arrears that are outstanding. Where the Local Housing Allowance is greater than the rent charged the Local Authority will consider paying more than the rent charged, up to the value of the Local Housing Allowance.
- 13.6 The Local Authority must be advised of the exact level of arrears outstanding, the landlord must undertake to advise the Local Authority if the tenant makes any payments towards the level of arrears.
- 13.7 The case will be monitored to ensure that any excess is not paid to the landlord once the arrears have been cleared

**14) Process where Claimant is eight weeks in Arrears**



## **Appendix: Partner Local Authorities Adopting This Policy**

Charnwood Borough Council  
Harborough District Council  
Hinckley & Bosworth Borough Council  
Leicester City Council  
Melton Borough Council  
North West Leicestershire District Council  
Oadby & Wigston Borough Council  
Rutland County Council