

Derbyshire Dales District Council
Benefits Section



Local Housing Allowance Safeguards Policy

Background

One of the aims of the Government in introducing Local Housing Allowance for private tenants claiming housing benefit is to encourage tenants to take responsibility for their rent payments.

However, it is accepted that, in some circumstances, housing benefit can continue to be paid direct to a landlord.

Regulations provide for direct payments in the following circumstances:

1 Tenant is likely to have difficulty managing affairs

'*Is likely*' means that there must be a degree of certainty 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 his affairs or that, because tenants in certain circumstances carry a *risk* that they *may* be unable to manage their affairs, we should pay direct. Each case is considered on its merits.

It will be necessary to distinguish between tenants who do not manage their affairs well and those who have a genuine difficulty.

Those with a genuine difficulty are deemed 'vulnerable'. There is no provision for tenants to request direct payments. Some tenants may wish to be classed as vulnerable because they would prefer to have payments sent direct to their landlord. Evidence of vulnerability will be required.

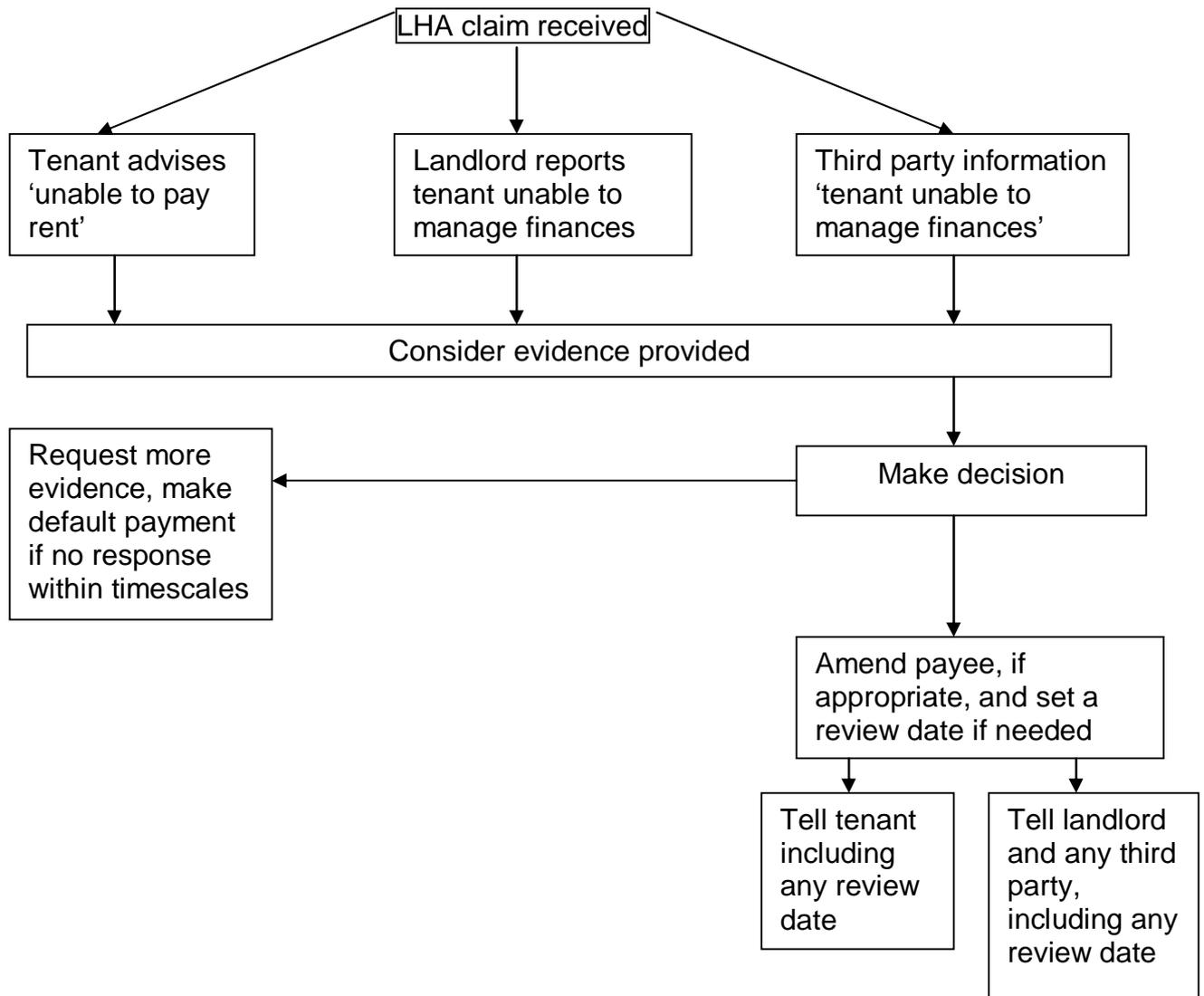
Indicators that tenants may be 'vulnerable'

The following indicators, singly or conjoined, may demonstrate that a tenant is vulnerable. Appendix 1 provides details of the suggested proofs that we can consider.

- **People with learning disabilities**, ranging from mild to severe. They may have an appointee or be living in supported accommodation. A support worker or health official is likely to be involved otherwise.
- **A medical condition**, that is likely to impair a person's ability to manage on a day-to-day basis. The illness could be mental or physical, however mobility, on its own, is not justification enough because of the availability of electronic payments. The decision may be reviewed if the medical condition is temporary.
- **Illiteracy**, which could be basic reading and writing skills or financial illiteracy. Consider claim history, including responses to written queries and payment encashment.
- **No English**, or limited knowledge. Claim details will show whether a tenant has overcome their difficulties, for instance, existing bank account. They may also have family or community support.
- **Addiction** may affect a person's ability to manage his or her own affairs. Each case will be different. There is likely to be documentary evidence of support arrangement.

- **Severe debt problems**, including recent County Court judgements. Some debt problems arise from wilful non-payment of liabilities. A debt counsellor is likely to be involved if the tenant is 'vulnerable'.
- **Undischarged bankruptcy**, with a Court Order as evidence.
- **Unable to maintain a bank account**, with evidence from the bank or money advisers.

Process for dealing with vulnerable requests



2 It is improbable that tenant will pay rent

This provision protects tenants, who are likely to act irresponsibly, from falling into rent arrears. This outcome will be *likely* rather than *possible*. It is important to distinguish between tenants who are genuinely at risk of not using housing benefit awards to pay rent and those who may make that claim because they prefer not to take the responsibility.

Assume that tenants will pay their rent unless there is evidence to the contrary.

Indicators that a tenant is unlikely to pay rent

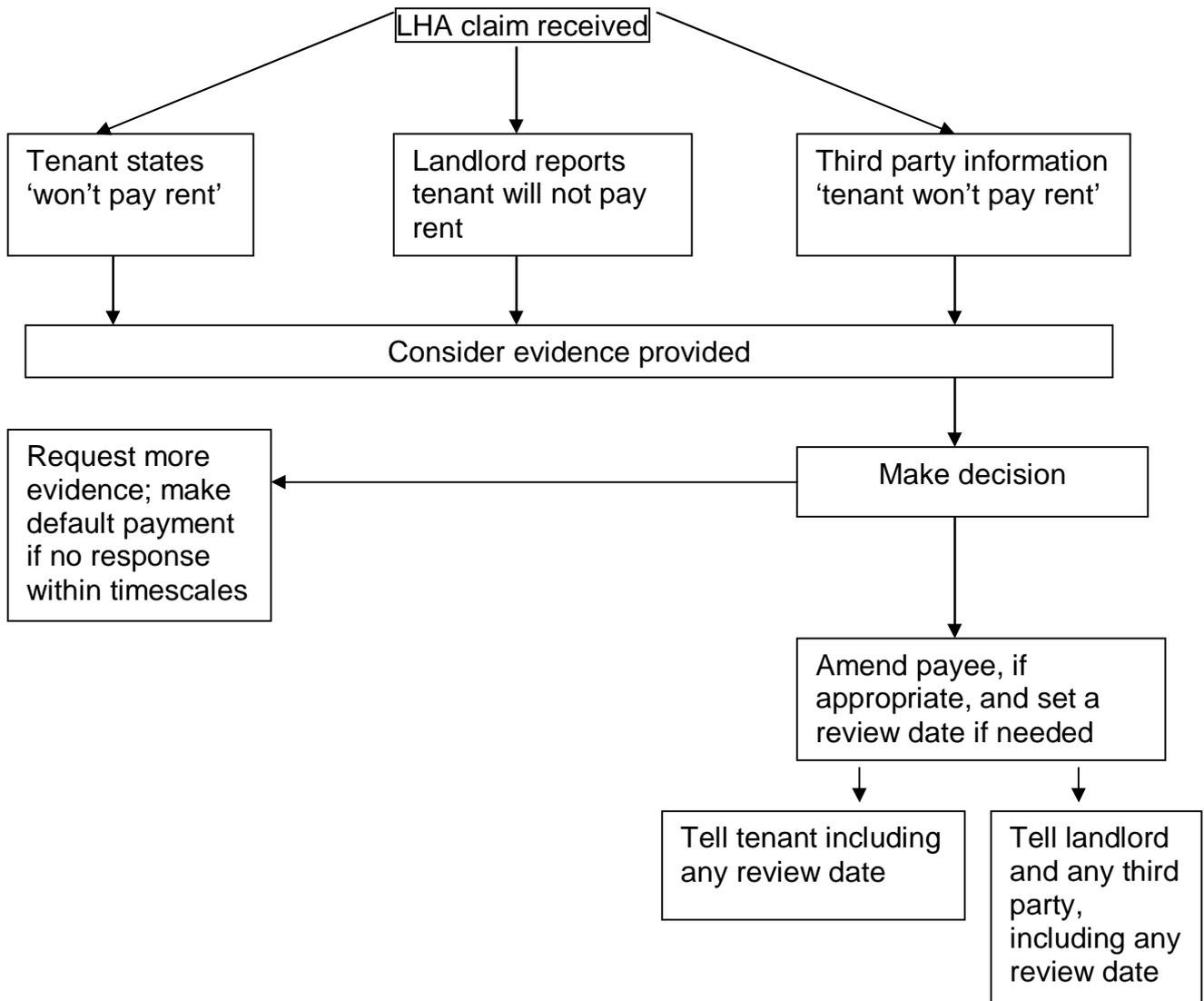
The following indicators, singly or conjoined, may demonstrate that housing benefit will not be used to pay rent:

- **Existing debts**, such as utilities, overdraft, credit cards, etc.
- **Poor payment history** with the Council, including Council Tax, HB overpayments.
- **Recent County Court judgements**, suggesting that any income will be under pressure to clear other debts.
- **A history of rent arrears**, which may indicate that the tenant does not know how to prioritise liabilities, does not see rent as important. However, a tenant with general debts and no rent arrears is likely to pay their rent.

Here are examples of priority and non-priority debts:

Priority	Non-priority
Rent	Loans
Mortgage	Store cards
Council Tax	Catalogues
Water rates	Club memberships
Gas	Internet provider
Electric	Mobile phone network

Process for dealing with 'unlikely to pay' requests



Appointees will not be treated as vulnerable, or unlikely to pay. The tenant they act for is not vulnerable, or unlikely to pay, because they have someone acting for them.

Representations

In the circumstances identified above, a genuine claimant is unlikely to request direct payments.

Consideration of a claimants' ability to handle their own affairs and the likelihood of them paying their rent will form part of the private tenant claims assessment process.

However, representations may be received from the following:

- Family and friends of the claimant
- Citizens Advice Bureau (through locally agreed procedures)
- The landlord
- Welfare groups, money advisers, e.g. Welfare Rights, Age Concern
- Social Services, GP's, Probation Officers
- Job Centre Plus, Pension Service, Council staff

Written representations will be required, along with evidence.

The evidence may be pre-existing, but the older it is the less relevant or reliable it may be. Evidence from the claimant, family and friends is valid, but some claimants may do everything possible to secure direct payments and thus avoid the responsibility that the reforms promote. Landlord statements must be verified. **See Appendix 2 for a copy of the referral form.**

Homelessness Team and Supported Lodgings

Direct landlord payments are preferable in cases where the claimant is:

- Referred through the 'Smartmove' (rent deposit scheme)
- Supported accommodation, where there is any element of support requirement to take up the accommodation (this may also include some floating support schemes) -
 - Homeless Accommodation (DDDC & Notts Comm)
 - Stonham (Smedley Street)
 - Adullam (Young Offenders Project)
 - Derwent (Teenage Parent Accom)
 - Notts Comm/Derbyshire WISH (Domestic Violence Accom)

Making a decision

If there is insufficient evidence to support housing benefit payments direct to a landlord, pay the tenant. Do not delay payment unreasonably.

Where facts cannot be established because the claimant has failed to cooperate, consider if this failure demonstrates vulnerability.

Any decision may be reviewed should further evidence arise.

Notifying the Decision

Notify all affected persons in writing, giving reasons, where applicable. Ensure appeal rights are clearly stated.

3 First payment to landlord

This facility allows for the first payment of housing benefit to be sent to the claimant but in the name of the landlord and may be invoked where there is insufficient evidence for direct payments to the landlord. Subsequent payments will go to the tenant.

The provision can only be used where:

- a) The claimant has not already fully met their rental liability, less ineligible charges, for the period covered by the benefit payment, and;
- b) It is in the interests of efficient administration because the authority has a duty to safeguard the public purse against fraud and abuse.

First payment in the name of a landlord will:

- a) Provide confirmation that a genuine tenancy has been created between the tenant and the landlord;
- b) Reduce the potential for abuse where the initial payment is larger than normal (the claim may have been backdated or delayed);
- c) Inform the landlord that housing benefit has been determined so that arrangements can be made with the tenant for future payments of rent.

Circumstance when first payment shall not go in the name of the landlord

- Tenant has already paid the rent for the same period
- Landlord is not 'fit and proper'
- Tenant request, and no reason to doubt that rent will be paid

Circumstance when first payment shall go in the name of the landlord

- Insufficient grounds for direct payment to landlord, but doubts about the tenant exist. They may be considered vulnerable or unlikely to pay rent, and evidence is weak, or they may lack experience.
- Tenant request payments to themselves, and there is reason to doubt that rent will be paid

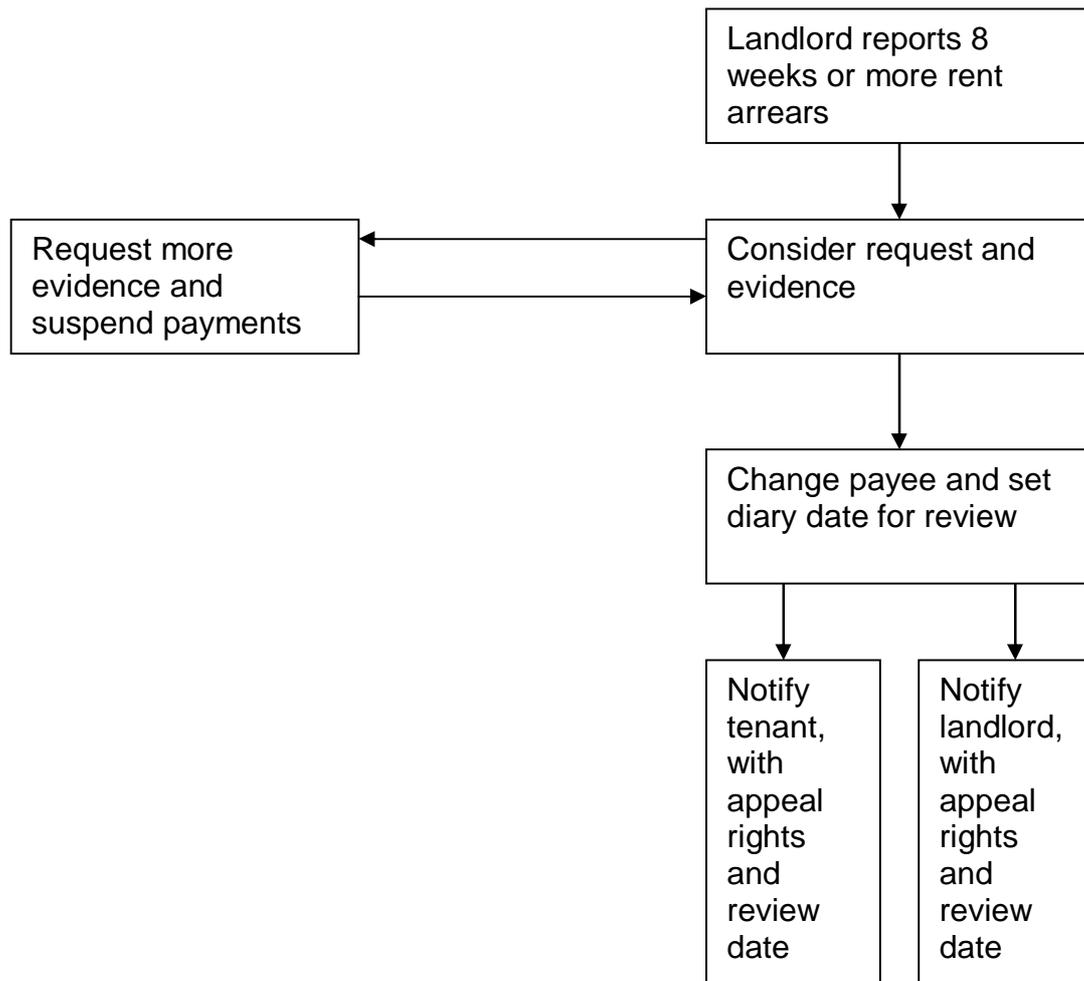
Decisions about who to pay will be documented with justifications. If we have considered paying the first payment in the name of landlord, but have decided to pay the tenant, both the landlord and the tenant will be informed. The landlord can appeal this decision, so it may be appropriate to delay payment.

Where the first payment represents over 8 weeks worth of rent, check the rent arrears position, as it may be appropriate to pay the landlord under the 8 weeks arrears provision.

4 **8 weeks arrears:** This is a mandatory provision.

If the landlord proves rent arrears of 8 weeks or more, payments will be direct to him, unless it is in the overriding interests of the tenant not to.

Payments will revert to the tenant as soon as practicable, unless direct payments should continue because the tenant is considered vulnerable or unlikely to pay rent.



Grounds on Vulnerability (Appendix 1)

Grounds	Example Evidence
Long-Term	
The tenant has a learning disability that prevents them from managing on a daily basis.	Care/Support workers GP/ Adult Social Care DWP (evidence of benefits)
The tenant suffers from a medical condition that makes it hard for them to cope with routine tasks e.g. schizophrenia, dementia, terminal illness	Care/Support Workers GP/ Adult Social Care Hospital
The tenant has a physical disability that means that they are often housebound making it difficult for them to manage their affairs	Care/Support Workers GP/ Adult Social Care Hospital
Temporary/Short-Term	
The tenant has experienced recent changes that has meant they need additional support in managing their affairs e.g. bereavement, violent relationship breakdown, period in hospital, leaving prison, leaving care, police protection	Care/Support workers GP/ Adult Social Care Hospital Probation officers Family/Friends Police
The tenant speaks English only as a second language, presenting obstacles to them in opening and running bank accounts, reading and dealing with invoices and bills.	Written Evidence from Support Organisations that arrears/debts have occurred as a result of not understanding correspondence
The tenant is dealing with, or has a history of, addiction to drugs, alcohol, gambling and a substantial monetary payment to them would present a risk of relapse	Support Organisations GP/ Adult Social Care Hospital Care/Support Worker Supporting People
The tenant has a history of homelessness and/or rough sleeping and is receiving help to sustain a tenancy in the private sector	Housing Advice Advice/Welfare Agencies Homelessness Teams
Financial	
The tenant has severe debt problems e.g. County Court Judgement's (CCJ's), bad credit rating that prevents opening bank accounts, un-discharged bankruptcy	Creditors, Court Orders Solicitors, Money Advisor. DWP deduction in benefit to pay utility company

The above list is not exhaustive

Direct Payment Referral Form (Appendix 2)

Tenant's Name	
Address	

Person completing the form if not the tenant	
Contact address and telephone number, if the above is not the tenant	
Please tell us your relationship to the tenant and the reason for completing the form on their behalf	

1	Tell us about any learning disabilities that may cause you problems in paying your rent	
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2	Tell us about any physical disabilities or medical conditions that may cause you problems in paying your rent	
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3	Tell us about any mental health problems that may hinder your ability to pay your rent	
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4	Are you affected by addiction? E.g. alcoholism, substance misuse, gambling	
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5	Please tell us about any recent changes that mean you need additional support, or if you anticipate any in the near future?	
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6	<p>A Do you have rent arrears? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please tell us</p> <p>B How much are your rent arrears? <input style="width: 100%;" type="text"/></p> <p>C The period they cover <input style="width: 150px;" type="text"/> to <input style="width: 150px;" type="text"/></p> <p>D Are they a result of you not paying the difference between your Housing Benefit and your rent liability? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>E Has your landlord taken any action to recover the rent? (Please circle any action taken and send us any proof you have)</p> <p>Court action / Notice of seeking possession / Notice to quit / A letter</p> <p>Other (please specify) <input style="width: 100%;" type="text"/></p> <p>Have you tried to re-negotiate with your landlord about reducing the rent?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	
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7	Have you had any previous problems in maintaining rent payments and if so please explain why?	
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8	Do you have multiple debts and need assistance to resolve them?	
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9	Do you currently receive any ongoing support from an agency that can help you organise rent payments?	
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10	Can anyone else support you in managing your financial affairs or do you need help with this?	
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11	Are you having deductions made from your income to repay debts?	
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12	<p>How long might you need payments to be made to the landlord?</p> <p>26 weeks <input type="checkbox"/> 52 weeks <input type="checkbox"/></p> <p>If you require payments to be sent for a longer or shorter period of time, please specify the period and tell us why?</p>
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13	<p>Tenant's Declaration</p> <ul style="list-style-type: none">• The information given is true and correct• I agree for my LHA to be paid directly to my landlord• I will contact the Council should I feel I am able to receive my benefit directly <p>Please sign and date the form below (if you have a partner they should also sign below)</p> <p>You <input type="text"/> Your Partner <input type="text"/></p> <p>Date <input type="text"/></p>
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14	<p>Person completing the form, if not the tenant</p> <ul style="list-style-type: none"> • The information given is true and correct • I believe it to be in the best interest of the tenant to pay LHA directly to their landlord <p>I have read and understood the declaration. Please sign and date the form below.</p> <p>Name <input style="width: 200px; height: 20px;" type="text"/> Signature <input style="width: 200px; height: 20px;" type="text"/></p> <p>Date <input style="width: 200px; height: 20px;" type="text"/></p>
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Please use this space for any additional information indicating the question you are referring to.

How we collect and use information

This Authority is under a duty to protect the public funds it administers. We may check information that you provide, or information provided by a third party, with other information we hold to check its accuracy; to prevent or detect crime; and to protect public funds in other ways, as permitted by law.

We may also share this information with other Council departments or bodies administering public funds for these purposes.

We may also use this information to put you in touch with council services that may be able to help you. We will not disclose information about you to anyone, unless the law permits us to.

Please return this form to:
Benefits Manager, Derbyshire Dales District Council, Town Hall,
Bank Road, Matlock, Derbyshire DE4 3NN