

Derbyshire Dales District Council Benefits Section

Local Housing Allowance Safeguards



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 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.

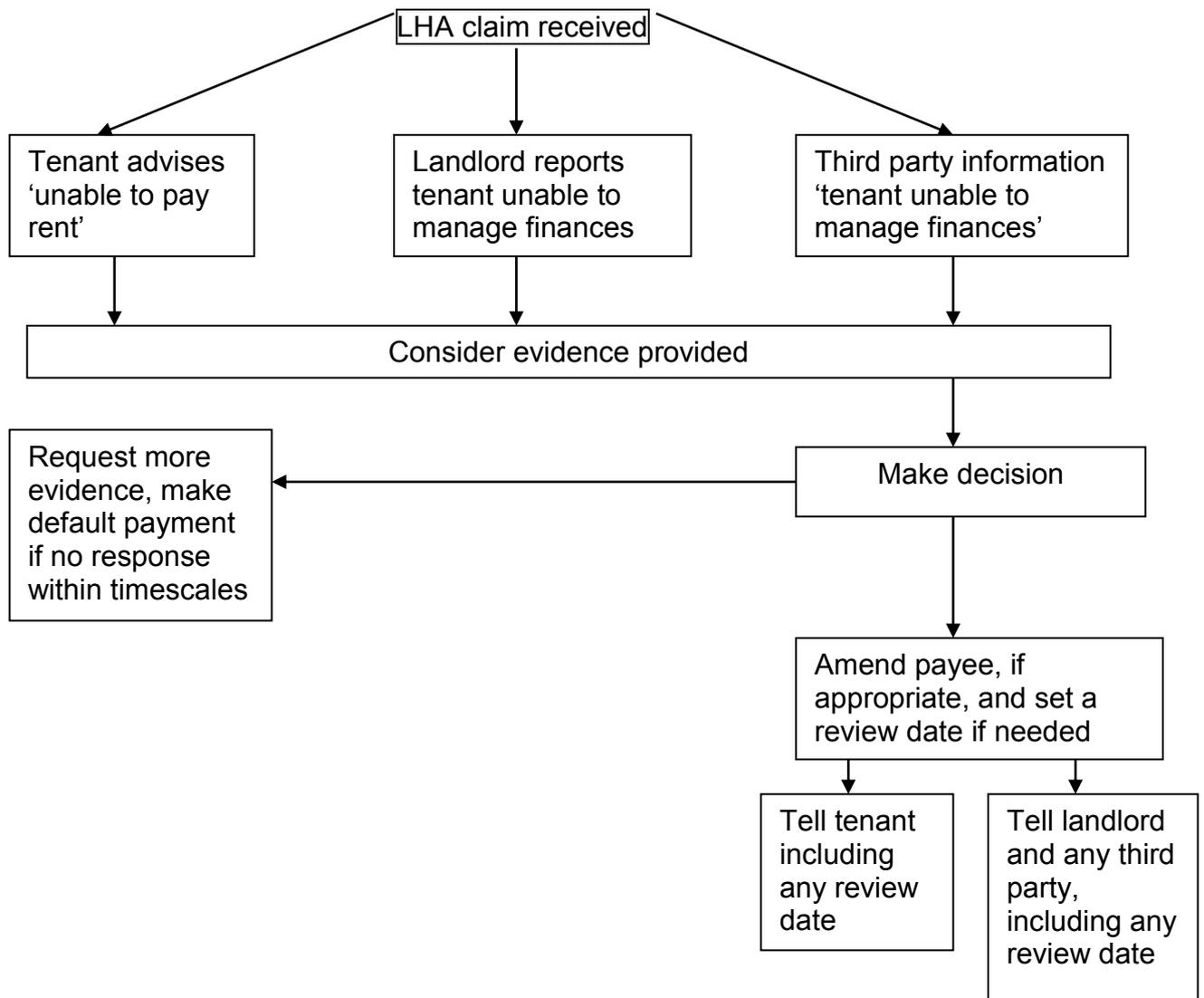
Indicators that tenants may be 'vulnerable'

The following indicators, singly or conjoined, may demonstrate that a tenant is vulnerable. **Appendix 1 Provides details of the suggested proofs that can be provided:**

- **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 their 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

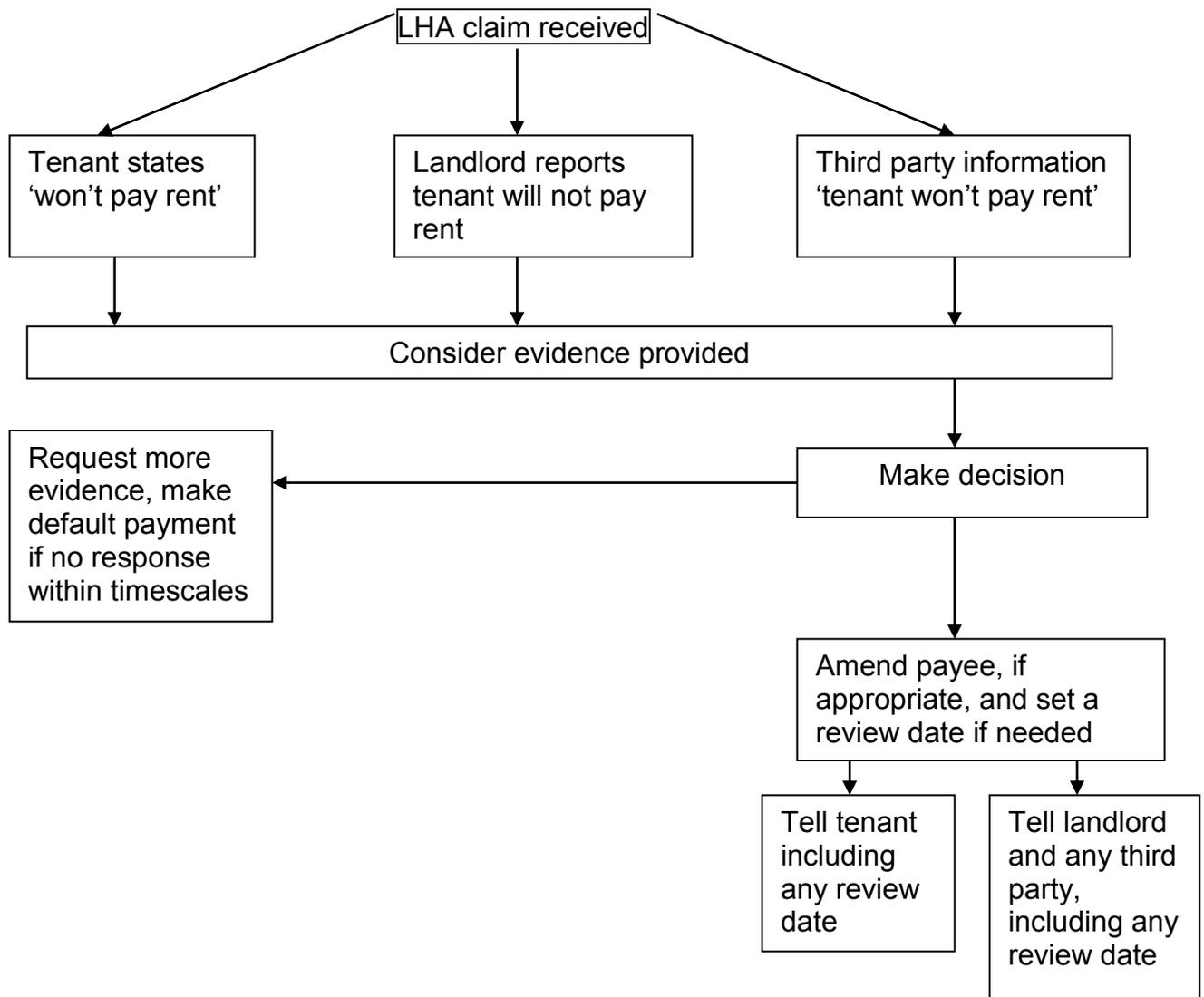
The following indicators, singly or conjoined, may demonstrate that housing benefit will not be used to pay rent:

- **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
- The landlord
- Welfare groups, money advisers, Social Services, GP's, Probation Officers

- Job Centre Plus, The Pension, Disability & Carers Service, Council staff and all other partner agencies representing the claimant's overarching wellbeing.

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 & Supported Lodgings

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

- Referred through any local rent deposit scheme.
- Supported accommodation, where there is any element of support requirement to take up the accommodation (this may also include 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 co-operate, 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) Notify 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

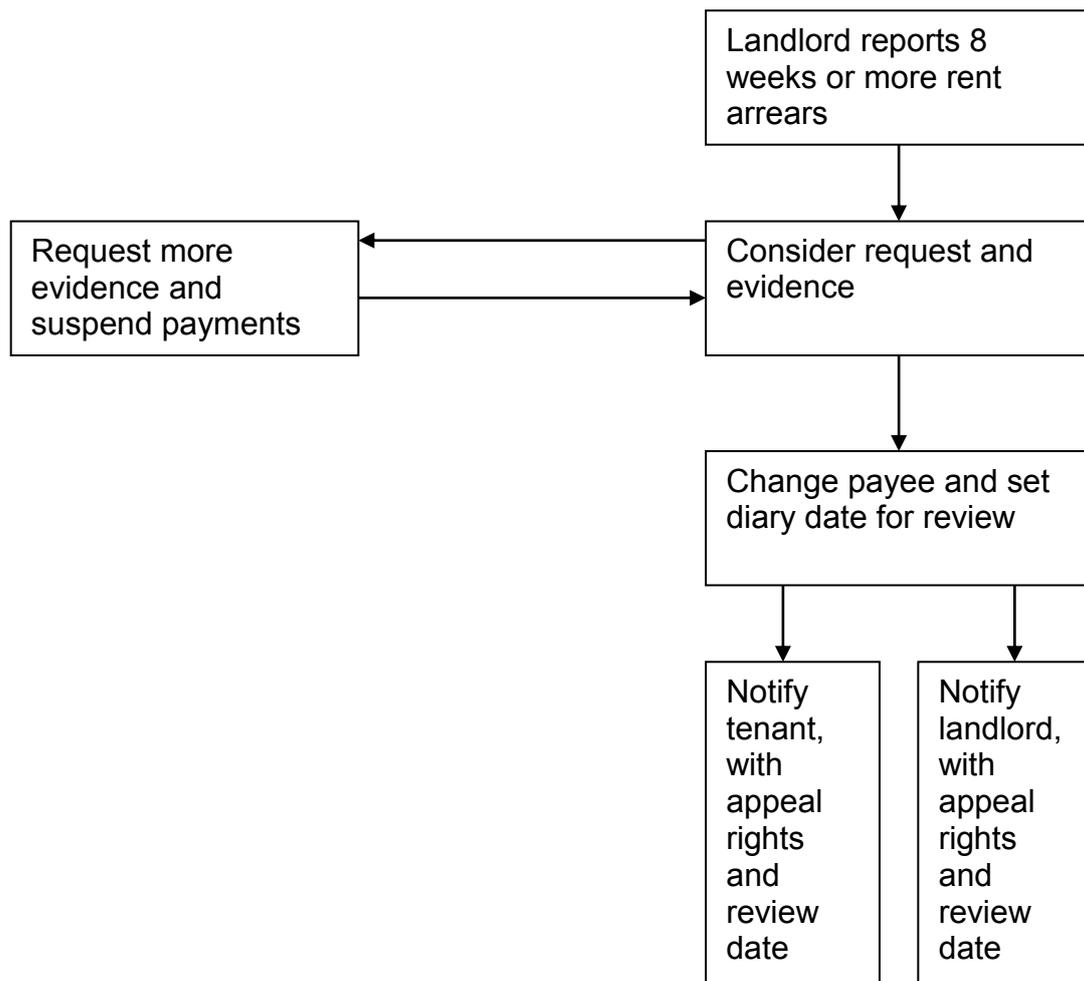
Decisions about who to pay will be documented with justifications. If we have considered paying the first payment in the name of landlord, but have decided to pay the tenant, both the landlord and the tenant will be informed. The landlord can appeal this decision, so it may be appropriate to delay payment.

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 Evidences
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 etc	
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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?</p> <p>B: How much are the current rent arrears?</p> <p>C. What period do the rent arrears cover:</p> <p>D. Are they the result of you not paying the difference between the rent charges and the Housing Benefit that we pay?</p> <p>E. Has the landlord taken any action to recover the arrears?</p> <p>Please circle any of the following relevant to you:</p> <p>Court Action/ Notice seeking Possession</p> <p>Notice to Quit</p> <p>Section 21</p> <p>Threatening letters – no court action?</p> <p>Have you tried to re-negotiate the rent with your landlord?</p>	
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7.	Have you had any previous problems in making rent payments and if so please explain why?	
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8.	Do you have multiple debts and need assistance?	
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9.	Can anyone else support you in managing your financial affairs or do you need help with this?	
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10.	Are you having deductions made from your income to repay debts?	
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11.	<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 this form:</p> <p>.....</p>
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12.	<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. • I have read and understood the declaration. <p>Please sign and date the form below.</p> <p>Name:</p> <p>Relationship to claimant:</p> <p>.....</p>
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Please use this space for any additional information:

Fair Obtaining Notice

• Derbyshire Dales District Council working in partnership with Arvato CRM Solutions will process your personal data for the administration of Benefits. Your personal data may also be shared with other organisations as detailed on this form where there is a legal basis to do so.

The Council and its partners will ensure that your data is handled securely in line with data protection law.

For more detailed information on how we handle personal data including the lawful basis for processing, our retention periods and your rights as a data subject please visit:

www.derbyshiredales.gov.uk

**Please return this form to:
Benefits Manager, Derbyshire Dales District**