

# Safeguard Policy

## Local Guidance Notes

Local  
Housing  
Allowance

### Introduction

Following the introduction of Local Housing Allowance (LHA) a tenant cannot simply request that payment is made direct to their landlord.

However, payment may be made to a tenant's landlord/letting agent where "the Local Authority considers the claimant is likely to have difficulty in managing their affairs" (New Reg 94(c)). In order to protect vulnerable tenants the council will apply discretion to pay the landlord. By vulnerable we mean someone who may have difficulty managing their money, we do not mean someone who does not want to pay their rent.

This policy sets out the guidelines by which council officers will make decisions.

By landlord we also mean letting agent where the agent is acting on behalf of the landlord.

### Aims and Objectives

- To help to safeguard tenancies for vulnerable people
- To prevent rent arrears and tenants being put at risk of eviction
- To reassure landlords that rent will be paid to the landlord if their tenants are considered vulnerable and that any doubts about taking on vulnerable tenants are ill-founded
- To provide help for tenants by directing them to other organisations/agencies where necessary and allow people the opportunity and support to be able to manage their own affairs
- To provide a framework enabling council officers to make clear, reasonable, fair and consistent decisions
- To treat each case individually and to avoid making assumptions about peoples situations

This policy is *not* designed to:

- Supersede support that is already being received by the tenant which is helping them be responsible for their own income & expenditure
- Be a blanket policy for agencies providing support to private tenants

### Procedure

#### Potentially Vulnerable Tenants

The following people may be classed as vulnerable however this list is not exhaustive & each case must be assessed on its own merits:

- **Tenants with learning difficulties:**

People with severe learning difficulties are likely to have an appointee who deals with their affairs. They may also have support workers.



### ■ **Tenants with medical conditions:**

A tenant may have medical conditions which can impair their ability to manage their affairs.

### ■ **Tenants with physical disabilities:**

Tenants who may be housebound due to physical disabilities may find it difficult to manage day to day financial affairs and consequently may request payment direct to the landlord.

### ■ **Tenants addicted to alcohol, drugs or gambling:**

A tenant who is dealing with an addiction and a substantial monetary payment would present a risk of relapse and as a result may request payment direct to a landlord.

### ■ **Homelessness:**

Tenants who are or have a history of homelessness and are receiving help from a homelessness charity.

### ■ **Rent Arrears History:**

Tenants who have a history of rent arrears and tenants who have been evicted due to non payment of rent. Tenants within these criteria may have difficulty managing their financial affairs, but only on a temporary basis.

### ■ **Tenants for whom English is not their first language:**

Tenants who may find opening and running a bank account, and dealing with invoices/bills/statements difficult due to language barriers.

## **Tenants with “temporary” vulnerability**

Tenants may have difficulty managing their financial affairs, but only on a temporary basis. This may include tenants who:

- Have had a relationship breakdown
- Are fleeing domestic violence
- Have had a death in their immediate family
- Have been hospitalised temporarily
- Have just left prison
- Have a history of rent arrears

## **Inability to open a bank account**

Tenants may find opening a bank account very difficult if they have been previously bankrupt and are still undischarged, have a record of fraud or have a very bad credit rating.

## **Alerting the Council of potential vulnerability**

A request for direct payment must be made by the claimant, the claimant's representative/carer or the landlord if they deem the claimant to be vulnerable. This request must be supported with written evidence from a third party, but initially can be by:

- A letter / email
- A phone call
- The application form
- In person at the Civic Centre

## **Gathering Evidence**

Where evidence provided is not sufficient or if written evidence has not been supplied further information will be requested either by telephone or letter.

Where evidence requested is not supplied within the initial timescale of one calendar month this in itself may point to a claimant's vulnerability. In this case, the decision as to whether to continue to pay the claimant or

start paying the landlord must be assessed on its own merits. However, we should consider in all such cases in sending a visiting officer to obtain evidence to verify the evidence and determine vulnerability.

It may also be beneficial to telephone the claimant as this could determine the evidence required and may assist in the decision.

Evidence can be from a number of sources including:

- Social Services
- The Pension Service
- Solicitors or Courts
- Probation Officer
- Local Authority records
- Supporting People
- Support Providers
- Housing Advice
- PATH
- Hospital or GP
- Glenbourne Unit
- Bank / Building Society
- Bankruptcy Notice or Court Document.
- Welfare, Support or advisory services like CAB/Shelter
- The tenant's and/or the tenants family or friends
- Initial evidence from a landlord

## **Making the decision on who to pay**

The decision should now be made based on all evidence received. If it is impossible to collate further information then a common sense judgement should be made, if further information is still required this should not hold up payments.

One of the following decisions will be made by the Adjudication Team:

- a) The tenant is vulnerable and payment of LHA will be made to the landlord on a long term basis.
- b) The tenant is temporarily vulnerable and payment of LHA will be made to the landlord.
- c) The tenant is not vulnerable and payment of LHA will be made to the tenant.

## **Reviewing the decision**

Where a tenant is considered to have difficulty in paying their rent and there is little or no prospect of their situation changing, payment of benefit to the landlord is likely to be long-term. It is also quite possible that a claimant's vulnerability may be temporary. If this is the case then the review date should reflect this so that the tenant's circumstances can be reviewed and, if necessary, a new decision made.

Although a common sense approach should be taken on all cases, on a general basis cases should be reviewed as follows:

- d) The tenant is vulnerable and payment of LHA will be made to the landlord on a long term basis:  
**to be reviewed after 12 months.**
- e) The tenant is temporarily vulnerable and payment of LHA will be made to the landlord:  
**to be reviewed after 3 months.**

## Appeals and Reviews

If the tenant or the landlord disagrees with our decision they can ask us to look at the decision again. This is also called a review. A review usually takes place after an agreed time.

Or the tenant or landlord can appeal against the decision giving the reasons why they think it is wrong. The rules for this are the same as the rules of Housing Benefit.

## Notifications

It is important that, whatever decision we make we inform all affected persons of this decision. This means that if it was the landlord who requested the direct payments then we must ensure we inform him of our decision, whatever the outcome of the decision.

All notifications must include:

- the actual decision
- the reason for the decision
- if and when the decision will be reviewed
- the right to request a review of this decision
- the right for the decision to be looked at again
- appeal rights
- advice agencies, voluntary or statutory organisations that may help them

**The landlord will also be written to and advised:**

- where their tenant has been found vulnerable and that the council will pay the landlord LHA (up to the contractual rent)
- where the landlord has been involved in the vulnerability application and the tenant has been found not to be vulnerable, we will advise the landlord of the process of appeal against this decision