

Local Housing Allowance Safeguard Policy

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Introduction

The national roll out of Local Housing Allowance (LHA) on 7 April 2008 removes the right from customers to choose to have their Housing Benefit payments sent directly to their landlord. This change in national policy is a fundamental part of the Department for Work and Pension (DWP) agenda of 'Welfare to Work' and the reform of Housing Benefit and will support the DWP's specific aims of 'personal responsibility' and 'financial inclusion'.

It is, however recognised that certain categories of claimants may not or will not use their Housing Benefit payments to pay their rent. We believe that this risk applies only to a minimal number of our customers and this policy has been devised to ensure that the necessary safeguards are in place to protect claimants by minimising the likelihood of them falling into arrears and being threatened with eviction and to reassure landlords that action will be taken by the Local Authority to ensure that payments are made directly to the landlord where the Local Authority is satisfied that the claimant is 'vulnerable'. Where 'vulnerability' is established it may be of a 'permanent' or 'temporary' nature - such decisions will be subject to periodic reviews.

The DWP has provided guidance on when direct payments to the landlord may be appropriate, where a tenant 'can't pay' or 'won't pay' or if a tenant is 'eight or more weeks in arrears' and this guidance forms the framework of Wirral's 'Safeguard Policy'.

Aims and objectives of the policy:

- to provide a safeguard for our most vulnerable customers and reassure them that their Benefit and rent will be paid
- to help prevent rent arrears and tenants being put at risk of eviction
- to help sustain tenancies for vulnerable people
- to reassure landlords that the Local Authority will work closely with them to identify vulnerable tenants and ensure that the appropriate decisions are made regarding payment methods
- to help put tenants in touch with other agencies where necessary and give people the opportunity and support to enable them to manage their own financial affairs
- to ensure Benefit Officers make reasonable, fair and consistent decisions
- to promote a transparent and simple process that is widely understood
- to treat each case individually on own merits

The policy is not designed to:

- supersede support that is being received by customers from specialist services (such as CAB, Welfare Rights etc)
- be a blanket policy for agencies providing support to private tenants
- be used by landlords to circumvent the aims of LHA

Identifying customers who are unlikely to pay their rent

The intention of this particular element of the 'Safeguard Policy' is to prevent tenants from falling into rent arrears (and being threatened with eviction/homelessness) where it is 'improbable that they will use their Housing Benefit to pay the rent'

The phrase 'improbable' means that there must be a degree of certainty that the tenant will not pay his/her rent. It is not sufficient to assume that there is a 'possibility' that the tenant may not pay his/her rent. Many tenants, regardless of their benefit status, carry a risk that they may not pay their rent.

Our Housing Benefit/Council Tax Support claim form includes a 'trigger' question about 'vulnerability' and the claimant's ability to manage rent payments. Where the claimant indicates that he or she may have problems paying their rent a special pro-forma will be issued for completion by the claimant and/or their representative and a decision regarding the payee will be made by a Senior Housing Benefit Officer, based on the information provided and any other evidence available (see 'examples of evidence required'). Requests for us to invoke the Safeguard Policy during the 'benefit period' (i.e. when Housing Benefit is already in payment to the claimant) will be considered in the same way.

It is important that we distinguish between claimants 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. Each case will be looked at individually, on its own merits and it may be necessary to seek information from professional bodies such as CAB, Welfare Rights, Support Workers etc.

We will however, assume that unless evidence to suggest otherwise is received that all tenants affected by LHA will pay their rent and so payment will usually be made to the claimant unless any of the other criteria for making payment to the landlord are met.

Indicators that a tenant may be unlikely to pay their rent

Possible indicators that may suggest that a tenant is unlikely to pay their rent include:

- a history of bad debt
- evidence of previous rent arrears
- arrears of gas, electric, water rates etc.
- outstanding credit card/store card/catalogue debts
- addiction issues (drugs, alcohol, gambling)

This list is not exhaustive and there may be other reasons why a customer may be unlikely to use their Housing Benefit to pay the rent

Examples of evidence required

1. Rent account statements
2. Letters from utility companies
3. Letters from creditors
4. Letters from bank
5. Letter from GP, support worker, hospital, care worker, Social Services (addiction issues)
6. Identifying customers who are likely to have difficulty managing their financial affairs.

This regulation allows for payments to be made directly to the landlord where the Local Authority considers that the tenant is 'likely to have difficulty managing their financial affairs'. The intention is to prevent tenants from falling into rent arrears (and being threatened with eviction/ homelessness).

The phrase 'is likely' means that there must be a degree of certainty that the tenant will be unable to manage their financial affairs. It is not sufficient to assume that there is a possibility that the tenant may have difficulty managing their financial affairs or that tenants in certain circumstances carry a risk that they may be unable to manage their financial affairs.

We must distinguish between tenants who choose to manage their finances in a less organised way and those that genuinely have difficulty managing them.

Tenants who are likely to have difficulty managing their financial 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 directly to their landlord. The 'vulnerability' provision cannot be used to get circumvent the fact that there is no longer a provision for the tenant to request payment direct to their landlord.

Tenants who may be considered as being vulnerable and unable to manage their own financial affairs may include:

- People with learning disabilities
- Claimants with medical conditions such as; mental ill health, Alzheimer's Disease or a terminal illness
- Illiteracy or inability to speak English
- addiction issues (drugs, alcohol, gambling)
- A person who has recently experienced changes in their lifestyle that means they are temporarily unable to deal with their financial affairs (e.g. bereavement, fleeing domestic violence, leaving prison, leaving care etc). Such cases will be reviewed periodically and may be switched to 'pay claimant' when this is appropriate.

This list is not exhaustive and there may be other causes of vulnerability that prevent the claimant from receiving direct payments.

Our Housing Benefit/Council Tax Support claim form includes a 'trigger' question about 'vulnerability' and the claimant's ability to manage rent payments. Where the claimant indicates that he or she may have problems paying their rent a special pro-forma will be issued for completion by the claimant and/or their representative and a decision regarding the payee will be made by a Senior Housing Benefit Officer, based on the information provided and any other evidence available (see 'examples of evidence required'). In most cases we would be seeking evidence from professional bodies such as doctors, social workers, probation officers etc.

In many cases we will identify potential vulnerable cases through representation (either in person, by telephone or in writing) by one or more of the following sources:

- The claimant
- Friends or family of the claimant
- The landlord
- Welfare/advice organisations
- Social Services, GP's, probation officers

If the claimant, the landlord or the claimant's representative makes a request for payment to be made directly to the landlord the Local Authority may issue a special pro-forma to gather the evidence to support the application. Any written representation must include the required evidence:

Possible sources of evidence:

- Reason for vulnerability Suitable sources of evidence
- Learning disabilities Letter from support provider
- Letter from doctor
- Letter from social worker
- Medical condition(s) Letter from GP
- Letter from hospital
- Illiteracy/inability to speak Letter from support worker
- Addiction to drugs, alcohol, gambling Letter from GP
- Letter from support worker
- Letter from hospital
- Letter from care worker
- Letter from Social Services

Rent arrears and the eight-week rule

The Housing Benefit regulations require the Local Authority to make a decision to pay the landlord where the tenant:

- has rent arrears totalling eight weeks or more
- is having deductions made from their Income Support or Jobseekers Allowance to pay off rent arrears

In these cases payment will be made to the landlord unless the landlord is deemed not a 'fit and proper' person to receive such payments or it is in the overriding interest of the tenant not to make payment to the landlord (for example, the tenant may be withholding rent payments awaiting repairs on the property). This is a separate regulatory requirement to the 'Vulnerability' provision (although there could be a degree of overlap).

Under LHA the Local Authority has the discretion to make payment of any excess Housing Benefit (where the claimant's entitlement is more than the contractual rent), to the landlord in order to assist with paying off rent arrears (even if the 'main' payment of Housing Benefit is being made to the claimant), but only until such time as the rent arrears are cleared, when excess Housing Benefit will revert to being paid to the claimant.

Additionally, in all cases where payment is made to the landlord because of rent arrears or deductions are being made from Income Support/Jobseekers Allowance to clear rent arrears, a review period will be set and the cases looked at to see if arrears are reducing or have reduced to less than eight weeks (or the deductions from Income Support/Jobseekers Allowance have ceased). If this is the case then future Housing Benefit payments will be normally sent to the tenant.

We will make very effort to work with landlords where there are rent arrears or there is a concern that a tenant may not pay their rent. Landlords should contact the Local Authority on 0151 606 2002, email: hblandlordliaison@wirral.gov.uk - fax 0151 666 3139 or call into any One Stop Shop immediately they have any concerns, even if this is before the eight week point is reached. If Benefit Officers become aware that a claimant is failing to use their Housing Benefit payment to pay their rent then they will contact the claimant in an effort to establish why this is happening.

Decisions relating to the 'eight or more weeks in arrears' will be based on evidence of arrears from the landlord (the Local Authority may check the validity of the statement with the customer and allow them an opportunity to comment before implementing this payment method)

Evidence required (one of the following):

1. Rent book (up to date) or Rent Account Statement
2. Court document confirming rent arrears
3. Eviction notification (if due to rent arrears)
4. Making a decision

Notifying affected parties

Affected parties will be notified once a decision has been made (claimant, landlord and representative if applicable)

Money advice

Money advice will be available at our One Stop Shops and Call Centre to claimants who require information or assistance with setting up and managing a basic bank/building society account and also to offer advice on daily budgeting and prioritising financial commitments.

Where a claimant has severe financial or debt problems a referral to an appropriate Money/Debt Advice agency will be offered (Citizens Advice Bureau).

Appointees

Claimants with appointees or for whom somebody has Power of Attorney are excluded from these arrangements. This is because they have someone who has been appointed to act on their behalf.

Appeal rights of persons affected by a decision

As is currently the case, any person affected by a decision relating to the direct payment of Housing Benefit may appeal against that decision. Persons affected may include the claimant or the landlord.

The 'person affected' can ask the Local Authority to review any decision made regarding direct payments of Housing Benefit under LHA. They can:

- ask for an explanation of the decision
- ask the Council to reconsider the decision
- appeal against the decision

In all cases the person must contact us, in writing, giving their reasons, within one calendar month from the date of the decision.

We will then look at the decision again and notify all persons affected of the outcome.