



Local Housing Allowance

Safeguard and Direct Payments Procedure

Revenues and Benefits Section

Resources and Support Services

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Safeguard and Direct Payments Policy and Procedure

Safeguard and Direct Payments under LHA

1. Introduction

Under LHA a tenant cannot simply request that payment is made directly to a landlord to cover their rent. To safeguard tenants likely to have difficulty in paying their rent, the Council has the discretion to pay the Landlord direct. Safeguard in this circumstance means someone who may have difficulty managing their money. This does not mean someone who does not want to pay their rent.

A safeguarded tenant might be someone who:

- has severe debt problems;
- has a recent County Court judgment against them;
- is an un-discharged bankrupt;
- is unable to open a bank or building society account;
- has some of their Income Support or Jobseeker's Allowance paid direct to the gas, electricity or water company by DWP;
- is getting Supporting People help;
- is getting help from a homeless charity;
- Has received help from the authority to pay a deposit, rent deposit scheme;

Other indicators to take in to consideration are if the tenant:

- has learning difficulties;
- has an illness that stops them managing on a day-to-day basis;
- cannot read English;
- cannot speak English;
- is addicted to drugs, alcohol or gambling;
- is homeless.
- Is fleeing violence

The Department of Work and Pensions have provided guidance on when direct payments to the landlord may be appropriate. These will be where a tenant is unable to pay the rent themselves and may therefore be classed as a safeguarded tenant. Direct payments may also be made to the landlord where a tenant is eight or more weeks in arrears.

Deciding whether a claimant falls into one of these categories can be a sensitive issue and therefore this policy sets out the guidelines by which decisions will be made. Senior Officers will need to decide whether a tenant is safeguarded (i.e. unable to pay) so that the LHA can be paid directly to the landlord.

2. Policy aims

The primary concern of the safeguard is for tenants, likely to have difficulty in paying their rent, to minimise the risk of them falling into rent arrears with their landlord and therefore ensuring that they 'keep a roof over their head'.

The aim of the safeguard policy is to:

- Provide a safeguard for tenants likely to have difficulty paying their rent and reassure them that their benefit and rent will be paid
- Prevent rent arrears and tenants being put at risk of eviction
- Help to sustain tenancies for safeguarded tenants
- Reassure landlords that their rent will be paid if they have safeguarded tenants or are approached by safeguarded tenants
- Help to put tenants in touch with other agencies where necessary and give people the opportunity and support to manage their own financial affairs
- To make reasonable, fair and consistent decisions
- Promote a transparent and simple process that is understood widely
- To treat each case individually and not make assumptions about people's situations

The policy is not designed to:

- Supersede support that is being received to allow tenants the opportunity to be responsible tenants and be in control of their own income and expenditure
- Be used by landlords to circumvent the aims of LHA
- Be a blanket policy for agencies providing support to private tenants

3. Decision Making Process

I. Receiving an application for Potential Safeguarded Tenants

The claimant (the tenant) or a representative makes the council aware that a person is potentially safeguarded.

This could be by:

- Letter/email from either the landlord, the claimant or their representative
- By telephone in which case a formal application form should be issued
- completion of the Council's formal application form
- confirmation of receipt of payment from the rent deposit scheme

Whilst the application is being considered the regulations allow for the payments to be made direct to the Landlord for a period of up to 8 weeks.

II. Gathering information and evidence

A Senior Officer will consider the application that has been received and whether there is enough information to make an appropriate decision. When considering an application the Senior Officer should have in mind the factors set out by the DWP that constitute safeguarded tenants as previously stated.

This should be supported by written evidence from a third party such as Social Services, a G.P., or support or advisory services such as the CAB. You may also wish to look at evidence from the claimant's family or friends. Evidence from the landlord alone is not acceptable.

If the evidence is not sufficient, the Senior Officer will then need to request further information from the claimant or their representative by telephone. A discussion with the claimant or their representative may assist in making a decision.

If there is not a phone number available then a letter will need to be sent to the claimant or representative giving them one month to respond. If there is no response within a month consider the case on its own merits and make further enquiries if possible.

In some situations it may be felt that less is required or it would be impossible to collate further information. In these cases a common sense judgment will need to be made, but note this will always have to be justified.

III. Making a decision

Having made a decision the Senior Officer will need to write to the claimant and affected parties advising them of the decision.

The letter to the claimant and /or their representative should advise them of:

- The decision
- Reasons for the decision
- That the decision will be reviewed and when
- Appeal rights
- Any advice agencies, voluntary or statutory organisations that may help them

The letter to the landlord should advise:

- If the claimant has been found to be a safeguarded tenant that LHA up to the contractual rent will be paid directly to them
- The length of time that this arrangement will apply if the decision is to be reviewed.
- If their tenant has been found not to be safeguarded, the landlords appeal rights against this decision

If the claimant's situation is a short-term issue only and they can receive help to overcome any problems, it will be necessary to set an appropriate date to review the decision.

If the LHA is above the claimants contractual rent, a split payment will occur and claimants should be encouraged to open bank accounts if they have not already got one.

IV Reviewing a Decision

Where a claimant needs short term help they should be contacted again to determine whether their situation has changed. For example someone with English as a second language may have received help and support and after

a year feels confident enough to manage their financial affairs and wishes to receive their LHA directly.

Claimants are not expected to apply for continuation of payment to landlord, in the first instance it will be enough to write to them or speak to their representative / support worker to get an update of the situation.

If no responses are received then payment should continue to be paid to the Landlord. Only where the claimant requests that they be paid directly would payments to landlords be stopped.

If payment to a Landlord is stopped a letter informing the Landlord of this decision should be sent.

In all cases, a review should be undertaken at least every 12 months to check if the circumstances have changed and that it is still appropriate to pay the Landlord direct.

4. Procedure for claimants who are 8 weeks or more in arrears

If a tenant is 8 weeks or more in arrears with their rent then the law allows for payment of Local Housing Allowance to be made directly to the Landlord unless it is in the overriding interests of the claimant or his family not to do so.

Official evidence is required before the payee can be changed. This should be provided in conjunction with the completed 8 weeks in arrears application form.

When this information is received a Senior Officer will consider the application and whether there is enough information to make an appropriate decision. If so the payee can be changed and a letter should be sent to the Landlord advising:

- It has been found that it is in the claimants best interests that LHA will be paid directly to them
- Request bank details if not previously received
- The minimum length of time that this arrangement will apply if the decision is to be reviewed.
- If there is insufficient evidence to determine that their tenant is incapable of or is having difficulty in managing their own affairs, the landlords appeal rights against this decision

A letter should also be sent to the claimant advising them of:

- The decision
- Reasons for the decision
- If and when this decision will be reviewed
- Appeal rights
- Any advice agencies, voluntary or statutory organisations that may help them
- The importance of paying rent and the consequences if they fail to do so

If the claimant's situation is a short-term issue only and the situation may be resolved in the future, it will be necessary to set an appropriate date to review the decision

Note that where the LHA is higher than the contractual rent the full amount of the LHA can be paid direct to the Landlord whilst the rent arrears continue to exist.