

Doncaster Metropolitan Borough Council
Local Housing Allowance
Safeguard Policy

Background

In April 2008, a new way of working out Housing Benefit was introduced known as Local Housing Allowance. Local Housing Allowance applies to most tenants who rent their home from a private landlord and either make a new claim for Housing Benefit or change address on or after 7 April 2008.

Some of the fundamental aims of Local Housing Allowance are to promote:

- **Personal responsibility**

Under the new scheme, Housing Benefit will normally be paid to the tenant rather than the landlord. The Government believes that, empowering people to budget for and to pay their rent themselves, rather than having it paid for them, helps develop the skills unemployed tenants will need as they move into work.

- **Financial Inclusion**

Ideally, the Government want people to have their Housing Benefit paid into a bank account and to set up a standing order or direct debit to pay the rent to their landlord. This has the advantage of being a safe and secure method of payment and provides certainty for landlords that rent will be paid.

In recognition of the risk that some tenants may struggle with the responsibility of budgeting for, and paying, their rent, local authorities must develop a Safeguard Policy setting out when payments will be made to the landlord. The term 'Safeguard' is used where direct payments to the landlord helps tenants who might not otherwise be able to pay the rent themselves. That is, direct payment will serve as a safeguard to ensure that rent is paid on time and the tenant and his family can continue to maintain their home.

Statute does not set out conditions that must be satisfied in order for a Local Authority to apply the safeguards. However, **the overriding consideration should be to act in a way that is in the best interests of the tenant.** Local Authorities will have discretion to make payment to the landlord if they consider that:

- it is unlikely that the tenant will pay their rent; or
- the tenant is likely to have difficulty managing their own affairs.

Local Authorities are expected to regularly review cases where a decision has been made to make direct payment to the landlord. Rarely should direct payments be made in perpetuity.

The Council's Policy

Purpose

The purpose of this policy is to specify how the authority will operate the safeguard provisions including:

- the circumstances in which we will consider paying Housing Benefit directly to the landlord;
- how representations should be made for the landlord to receive payments of Housing Benefit under the safeguard provisions;
- the evidence we need and who should supply this evidence;
- the factors we will take into account in reaching a decision;
- how we will review decisions to pay Housing Benefit to the landlord under the safeguard provisions.

Policy Aims and Objectives

- To provide a safeguard for the most vulnerable tenants and reassure them that their benefit and rent will be paid.
- To help to prevent rent arrears and tenants being put at risk of eviction.
- To help to sustain tenancies for vulnerable tenants.
- To help to put tenants in touch with other agencies where necessary and allow people the opportunity and support to manage their own financial affairs.
- To reassure landlords with vulnerable tenants that they will receive payment and so promote acceptance within the private rented sector of vulnerable tenants.
- To provide a framework enabling council officers to make reasonable and consistent decisions.

The policy is not intended to:

- replace support that the tenant may already be receiving to manage their everyday affairs and finances;
- be used by landlords to avoid and abuse the aims and objectives of Local Housing Allowance;
- be a blanket policy for organisations providing support to tenants of private landlords;
- undermine the rights of tenants to receive payment of Housing Benefit themselves.

General Policy Statement

Unless we receive evidence to suggest otherwise, we will assume that all tenants receiving Housing Benefit under the Local Housing Allowance scheme will pay their rent. Consequently, we will normally make payment of Housing Benefit to the tenant unless any of the other criteria for making payment to the landlord are met.

The circumstances in which we will consider paying Housing Benefit directly to the landlord

We **will** normally pay Housing Benefit direct to a landlord where:

- the tenant has rent arrears of eight weeks or more;
- the tenant has left the property owing rent arrears and there is an outstanding payment of Housing Benefit due;
- part of the tenant's Income Support or income-based Jobseeker's Allowance is being paid direct to the landlord to pay off rent arrears.
- the rent has been set or reduced to an affordable level and the tenant requests payment to the landlord.

Payments to landlords under safeguarding provision

We will consider payment of Housing Benefit to the landlord on an ongoing basis in the following circumstances.

- It is unlikely that the tenant will pay their rent because:
 - they have rent arrears and have consistently failed to pay;
 - they have a history of arrears with previous landlords.
- The tenant is likely to have difficulty managing their own affairs. This may include tenants:
 - who have financial difficulties which mean they are unable to open a bank/building society account, have severe debt problems or are bankrupt;
 - with a learning disability which prevents them from dealing with day to day money management;
 - with a medical condition that makes it hard for them to cope with routine tasks, for example, schizophrenia, dementia or a terminal illness;
 - with a physical disability or infirmity that means they are often housebound making it difficult for them to manage their affairs;
 - who have experienced recent changes that has meant they need additional support in managing their affairs, for example, bereavement, relationship breakdown, period in hospital, leaving prison;
 - who speak English only as a second language, presenting obstacles to them in opening and running bank accounts, reading and dealing with invoices and bills.
 - who are dealing with (or have a history of) addiction to drugs, alcohol, gambling, and a substantial monetary payment to them would present a risk of relapsing;
 - who have a history of homelessness and/or rough sleeping and are receiving help to sustain a tenancy in the private sector.

This list is not exhaustive and there may be other circumstances that mean it is in the tenant's best interest to pay their Housing Benefit to the landlord. We will consider each case on its own merits and will not operate a blanket policy approach to cases of vulnerability.

If a tenant deemed unlikely to pay their rent or likely to have difficulty managing their own affairs has an appointee, we will normally pay Housing Benefit to the appointee rather than the landlord.

How representations should be made for the landlord to receive payments of Housing Benefit under the safeguard provisions

Initial representations can be made by telephone, but this must be followed up by a written application for us to consider paying the tenant's Housing Benefit to their landlord. All representations must be supported by detailed reasons and, where available, evidence of why it is considered unlikely that the tenant will pay their rent or is likely to have difficulty managing their own affairs. We will make an application form available specifically for making representations under these provisions.

Representations can be made at the same time as a Housing Benefit form is submitted for new tenants. The authority will accept representations from:

- the tenant;
- the tenant's support worker, social worker or probation officer;
- appointees;
- relatives;
- Jobcentre Plus or The Pension Service;
- the landlord.

Where representations are made by a third party on behalf of the tenant on the grounds of inability to manage their affairs, those representations must include written authority from the tenant to act on their behalf.

Landlords are encouraged to notify us at the earliest opportunity if a tenant is not paying their rent and therefore may fall into the 'unlikely to pay' safeguard category. However, we cannot conclude from the landlord's representations alone that the tenant may fall into the 'likely to have difficulty managing their own affairs' safeguard category.

We will also be pro-active in identifying tenants who may have difficulty managing their own affairs. We will check application forms and existing records for possible indicators. We will also look out for possible indicators during face to face contact, for example, when carrying out home visits. In cases where it appears to us that the customer is likely to have difficulty managing their own affairs, we will make enquiries and, where appropriate, issue a questionnaire to the tenant, their support worker or other appropriate representative.

The evidence we need and who should supply this evidence

Some tenants may wish to be classed as unlikely to pay or likely to have difficulty managing their own affairs because they would prefer to have payments sent direct to their landlord. We cannot use the safeguard provisions to circumvent the fact that, under Local Housing Allowance rules,

there is no provision for the tenant to simply request payment to their landlord. In most cases, we will be looking for evidence from:

- a GP or other health worker;
- a social worker;
- other support or advice worker;
- a family member or friend;
- the landlord.

Note: This list is not exhaustive.

Appendix 1 to this policy lists suitable types of evidence for the various criteria covered by the safeguard provisions.

We will accept without question evidence provided by Social Services, GP's, Probation Services, and reputable financial institutions and welfare groups who have the legal services quality mark or Supporting People accreditation. Evidence does not have to be addressed to the council and could be something that pre-dates the investigation, however, older evidence may be less relevant or reliable.

Evidence from the tenant, their friends and family will be important, but must be balanced against the possibility that some tenants might want to do everything possible to secure direct payment to the landlord and thus avoid the responsibility the Local Housing Allowance rules seek to promote.

Similarly, landlords have a vital role to play, but their representations will normally require verification from another source. We will only accept evidence from the landlord alone in cases relating to rent arrears or the 'unlikely to pay' criteria. In these cases, it is vital that landlords provide clear records showing the date rent is due, the amount due and the level of rent arrears.

If we do not think there is sufficient evidence, we will request further evidence either by telephone or letter. If further evidence is not available, we will make a decision based on the evidence we have. In some cases, we may interview the tenant with their representative or support worker if they have one.

We will not delay payment of Housing Benefit whilst waiting for further evidence. If in doubt, we will normally err on the side of caution using the safeguard provisions to pay Housing Benefit to the landlord until a decision can be made.

The factors we will take into account in reaching a decision

- **Decisions under the 'Unlikely to Pay' criteria**

For representations received under the 'unlikely to pay' criteria, we will consider the past behaviour of the tenant; whether they have had any previous rent arrears; whether they continually miss payments; or whether they have any other known underlying debt indicators as well as the evidence

presented by the landlord and any support workers or health care professionals.

Our decision will not be based on a *possibility* that the tenant may not pay their rent. Many tenants, regardless of their benefit status, carry a *risk* that they may not pay their rent. We will only decide to pay the landlord where we consider that it is *improbable* that the claimant will pay their rent. Similarly, we will aim to distinguish between tenants 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.

We will also consider whether the tenant would be likely to pay their rent themselves with the appropriate help and support. In these cases, we will refer the tenant to the appropriate advice agencies.

Where there is insufficient evidence that a tenant is unlikely to pay their rent, we will make payment to the tenant. What the tenant chooses to do with the first payment they receive will be considered as evidence in determining the likelihood that future payments will be used to pay the rent. In these circumstances, we may restrict the first payment to the tenant to two weeks benefit rather than four. We can continue to pay at two weekly intervals if we consider this to be appropriate.

- **Decisions under the ‘Likely to have difficulty managing their own affairs’ criteria**

For representations received under the ‘likely to have difficulty managing their own affairs’ criteria, each applicant’s current ability will be assessed along with the likelihood of the applicant gaining skills required to manage their own affairs. We will also take into account any support already in place. We will consider the tenant’s credit history, for example, arrears of utility charges, letters from the tenant’s bank, evidence of unpaid standing orders or direct debits that could indicate that the tenant does not manage their affairs sufficiently well. In reaching a decision, we will aim to distinguish between tenants who choose to manage their finances in a less than organised way and those that genuinely have difficulty managing their affairs.

Tenants deemed unable to manage their own affairs (and those deemed able but close to being unable) will be encouraged to seek support and advice to enable them to be in a better position to manage their affairs. This could be anything from money advice to more fundamental underlying issues.

Based on all the information and evidence available, we will decide whether payment of Housing Benefit directly to the landlord is in the best interests of the tenant.

- **Notifying the decision**

All persons affected by the decision will be notified in writing of the decision and, where applicable, reasons for the decision will be given. Appeal rights will be clearly stated in the notification.

How we will review decisions to pay Housing Benefit to the landlord under the safeguard provisions

If we make a decision to pay Housing Benefit to the landlord, we will normally set a timeline to review the decision. The review period will depend on the reasons why we have decided to pay the landlord but will normally be six or 12 months. Setting a review period allows the tenant time to access any support and advice in order for them to reach a situation where they may be able to accept payments of Housing Benefit themselves and deal with these payments responsibly.

We will contact the tenant and/or their representative no later than four weeks from the end of the review period to determine whether their situation has changed and if they can receive their Housing Benefit payments. Tenants will not be required to complete any further forms. Payments will continue to be paid to the landlord until the review process is completed.

If the situation has not changed, we will set a further review period and continue to pay the landlord. But, where the circumstances of the tenant have changed, which means they can accept the responsibility of direct payments and pay rent to their landlord, we will make a new decision to pay Housing Benefit to the tenant. We will notify all persons affected of our decision.

There will clearly be some instances where a tenant's inability to manage their affairs is long-term although we expect this to be the minority. In these cases, we may decide not to set a review date.

Appendix 1

Evidence requirements

Safeguard Criteria	Suitable types of evidence
Rent arrears/History of rent arrears	<ul style="list-style-type: none">• Landlord – rent records• Housing Benefit records• Letter from support organisation
Inability to open a bank account	<ul style="list-style-type: none">• Letter from bank / building society• Letter from official Money Advisor
Other financial difficulties, ie severe debt problems or undischarged bankrupt	<ul style="list-style-type: none">• Courts – CCJ's, Court Orders• Bank Building Society statements• Letter from solicitors• Letter from creditors• Letter from support worker/ organisation eg. CAB• DWP records – paying utility companies direct
Learning Disability	<ul style="list-style-type: none">• Letter from GP• Information from Social Services• Letter from Care Worker• DWP records
Medical Condition ie, Mental ill health. terminal illness or physical disability	<ul style="list-style-type: none">• Letter from GP• Information from Social Services• Letter from Care Worker• Letter from hospital• DWP records• Letter from Support Organisation
Experienced recent changes, eg. bereavement, relationship breakdown, period in hospital	<ul style="list-style-type: none">• Letter from GP• Letter from Social Services• Letter from Support Organisation• Letter from Hospital
Prison Leavers	<ul style="list-style-type: none">• Letter from Social Services• Letter from Probation Service• Letter from support organisation
Fleeing Domestic Violence	<ul style="list-style-type: none">• Letter from GP• Letter from Police• Letter from Social Services• Letter from support organisation• DWP records
English as second language	<ul style="list-style-type: none">• Letter from support worker/group• Internal records, eg. Asylum Seekers Team
Addiction problems ie, Drugs, Gambling, Alcohol	<ul style="list-style-type: none">• Letter from GP• Letter from Social Services• Letter from Hospital• Letter from Police• Letter from care worker• Letter from support organisation
Leaving care or previously homeless	<ul style="list-style-type: none">• Letter from GP• Letter from Social Services• Homeless Team confirmation• Letter from support organisation / Homeless charity