



# Uttlesford District Council

## Local Housing Allowance Safeguard Policy

### **Introduction**

The Local Housing Allowance (LHA) is a scheme of Housing Benefit for people living in private rented sector accommodation, with some exceptions to the scheme including:

- Local Authority tenancies
- Housing Association tenancies
- Supported accommodation provided by local authorities, social landlords, charities or voluntary organisations

- Tenancies that started before 15/01/1989
- Tenancies in caravans, houseboats, mobile homes and hostels
- Tenancies with substantial board and attendance

Local Housing Allowance is usually paid to the tenant. Under LHA a tenant cannot simply request that payment is made to a landlord to cover their rent.

### **DWP Guidance**

The Department of Work and Pensions have provided guidance on when direct payments to the landlord may be appropriate, where a tenant cannot pay or is unlikely to pay their rent. In most cases the council decides whether it is appropriate to pay the landlord the Local Housing Allowance. However, the LHA **must** be paid to the landlord where:

- The tenant is 8 full weeks or more in arrears with their rent
- The tenant is having deductions made from their Income Support or Jobseekers Allowance to pay for rent arrears

## **SECTION 1: OBJECTIVES**

### **Aims of the Policy**

This document sets out Uttlesford District Council's policy with regard to Safeguarding and protecting those tenants deemed to be "Vulnerable" and unable to manage financial affairs sufficiently to pay Local Housing Allowance awards over to their Landlords.

Our aim is to 'pay the right people, the right benefit at the right time', and as a consequence to assist in reducing levels of rent arrears and possession orders by;

- Effective procedures to pay Housing Benefit to Landlords where the tenant is deemed to be "Vulnerable" or "Unlikely/Unable to Pay".
- Providing clear forms and leaflets to prevent misinterpretation and misunderstanding
- Well trained staff with access to comprehensive procedures and an awareness of problems relating to rent arrears and vulnerability.

The intention is to prevent tenants who are likely to experience difficulties from falling into rent arrears and ultimately face the risk of being evicted. One of the aims of the reforms is to encourage tenants to take responsibility for their rent payments and the authority must therefore balance this with the provisions available to pay the Landlord direct. Each case will be considered on its merits and this policy has been drafted for guidance in order to ensure that the authority acts in a transparent and consistent manner.

The policy is not designed to:

- supersede support that is being received by tenants in helping them to be responsible for their own income and expenditure
- be a blanket policy for agencies providing support to private tenants
- be used by landlords to circumvent the aims of LHA.
- Undermine the good work that is already being undertaken within other sections/departments of the LA
- Undermine the rights of tenants to receive payment directly to themselves.

We will

- Provide a safeguard for vulnerable tenants and reassure them their Housing Benefit and rent will be paid
- Prevent rent arrears and tenants being put at risk of eviction

- Help to sustain tenancies for vulnerable tenants
- Help tenants to take responsibility for receiving direct payments of LHA, where appropriate
- Help to signpost tenants to other agencies where necessary and give people the opportunity and support to manage their own affairs
- Reassure landlords that their rent will be paid if they have vulnerable tenants
- Work with landlords where the tenant consistently fails to pay the rent
- 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
- To work closely with the statutory and voluntary sector in supporting vulnerable members of our communities, to contribute towards the prevention of homelessness and work towards a safe and decent homes standard
- To help people with the transition from non-working to working and to support and advise people through the process

## **Legislative Background**

Local Housing Allowance amendment to regulation 12 amends the Housing Benefit (general) regulations 95 and 96. The regulations set out the circumstances where payment of Rent Allowance may be made direct to a persons' landlord. The new regulation 96(3a) states that "payment of a rent allowance to a persons landlord may be made where the authority considers that the claimant is likely to have difficulty managing his/her affairs, or considers that it is improbable that the claimant will pay his/her rent".

## **SECTION 2: INTERPRETATION OF TERMS**

For the purpose of this policy it is necessary to provide an interpretation of the terms used in the regulations. It is important to distinguish between those tenants that choose to manage their finances in a less than organised way from those who genuinely have difficulty in managing them.

**Vulnerable** – Tenants who are likely to have difficulty in managing their affairs are deemed to be ‘Vulnerable’. In most of these cases we would be looking for evidence from professional bodies such as Social Services, Doctors, and Probation Officers etc. The Vulnerability provision cannot be used to circumvent the fact that there is no longer a provision to simply request payments direct to the landlord.

#### Examples of Vulnerability

- has a medical condition (affecting their mental or physical health)
- has a learning disability, physical disability or who may be housebound
- Illiterate or has an inability to speak English
- People who have a temporary change in their life such as a relationship breakdown or bereavement which may mean they need support on a short-term basis
- is dealing with an addiction (to alcohol or drugs)
- has severe debt problems e.g. CCJ's, bankruptcy, or a bad credit rating preventing them from a bank account
- People fleeing domestic violence and have the support of either the police, or a statutory or voluntary agency
- People being supported by a statutory or voluntary agency, such as young care leavers/single homeless adults and families
- Prison Leavers being supported by an appropriate organisation or agency

This is merely an example list for guidance only and is by no means a comprehensive list. Each and every case will be considered on its own merit and their will not be a blanket policy approach to cases of vulnerability.

**2.3 Unlikely to pay** – The consideration we are required to make is whether it is improbable that the person will pay their rent. A factor to consider would be whether a person has a history of failure to make other payments or has experienced debt problems.

#### Examples of Unlikely to pay

- History of rent arrears and/or other priority debt such as utilities, Council Tax etc.
- Historic records of having to change previous Housing Benefit Payments direct to Landlords due to non payment of rent. Not paying shortfalls to the landlord where the benefit has not covered the contractual rent is an indicator of a ‘won’t payer’.

**2.4 Unable to pay** - Where it is identified that the person does not hold a bank account and therefore cannot receive direct payments, the customer will be signposted to relevant organisations and support groups and given every assistance to obtain a bank account.

## **SECTION 3: PROCEDURES**

### **3.1 Alerting the council of potential vulnerability/unlikely to pay.**

The request needs to be supported with written evidence, but initially can be by:

- letter / email
- a phone call
- Complete the 'Vulnerable Tenant' form

Landlords are encouraged to notify the service at the earliest opportunity if a tenant is not paying their rent.

The tenant or their representative (examples listed below) makes the council aware that they would prefer their LHA to be paid to the landlord:

- Spouse or civil partner
- family
- friends
- landlord
- GP/Doctor
- Probation Officer
- Local/council rent deposit schemes
- welfare organisations
- the national rent deposit forum
- money advisors
- Social Services

- DWP (e.g. Jobcentre plus, The Pension Service), Homeless charities/organisations
- Supporting People Team
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Note: This list is not exhaustive.

### **3.2 Gathering information and evidence**

Officers will consider the information that has been received and whether there is enough evidence to make an appropriate decision. Landlords do have an important role to play in providing information, however their evidence alone should not be considered as sufficient to make a decision on whether someone is likely to have difficulty paying their rent or people unlikely to pay.

Any representations from these sources must be signed and be in writing, and must always be investigated. This is important as it may be the case that the claimant will be the least likely person to identify themselves as being people who are likely to have difficulty paying their rent or unlikely to pay their rent.

It is always important to try to get enough satisfactory evidence to make a decision. If we cannot get enough evidence we will seek to interview the customer or their representative either at our offices or in the customer's own home if that is more convenient.

Degrees of weight should be added to each source of information or evidence. Information from the following groups should be accepted without question.

- Social Services
- GPs
- DWP
- Courts
- Reputable financial institutions

Evidence should also normally be accepted from welfare groups who have the 'legal services quality mark'.

Both the landlord and the tenant will be given one calendar month to provide any information / evidence requested.

When considering any evidence, officers will take into account:

- the past behaviour of the tenant; have they had previous arrears, do they continually miss payments or do they have any other known underlying debt indicators.
- whether landlords are only making such a request for their own financial interest. Caution and consideration will be given to other tenants of the landlord and their payment destination and recovery action taken by the landlord in an attempt to recover any arrears.

### **3.3 Making a decision**

In order to maintain consistency Trained Officers within the relevant authority will undertake the decision making process taking into consideration all the evidence that that has been gathered. One of two decisions will be recommended by the officer and subsequently checked and countersigned by a Senior Officer, those being:

- the tenant is vulnerable or unable/unlikely to pay and payment of LHA will be made to the landlord.

If the Local Housing Allowance is above the tenants' contractual rent, a split payment will occur and the tenant will receive the 'excess' amount direct, except in cases where arrears exist. To receive this, tenants are encouraged and supported in opening a basic bank account if they do not already have one.

- the tenant is not vulnerable or unable/unlikely to pay and payment of LHA will continue to be made to the tenant.

The decision that a tenant is vulnerable/unlikely to pay cannot be made without all the evidence being considered. If a tenant is considered to be vulnerable the 'Vulnerable Tenant' form must be signed by the Senior Officer and scanned on to the claim with the appropriate 'alert' placed on the claim.

### **3.4 Notifying affected parties**

The tenant and/or their representative will be written to and advised of the following:

- the decision
- if and when the decision will be reviewed, usually 6 months from the date of the decision
- appeal rights
- advice agencies, voluntary or statutory organisations that may help them
- contact details for the CAB Money Advice Service if they don't have a bank account and will be receiving excess LHA themselves

The landlord will also be written to and advised:

- if their tenant has been found vulnerable and the council will pay them LHA up to the contractual rent
- if and when the decision will be reviewed
- request bank details if not previously received
- if their tenant has been found not to be vulnerable, the landlords appeal rights against this decision

### **3.5 Reviewing decisions**

There are four occasions when a decision on who to pay has to be reviewed. Payments will continue to be paid directly to the landlord until the review process is completed.

1. On appeal from a relevant person (normal DMA rules)
2. At a set time after the original decision to check the customer's current circumstances and that the original decision is still correct/applicable
3. There is a change that would affect your decision e.g. someone who was previously unable to manage now has adequate support
4. Where the claimant requests a review

In instance **1)** above, any person affected can appeal against our decision on who to pay. This could be the claimant, landlord, appointee, etc.

In instance **2)** above, a review date should only be set if safeguard criterion or 'unwilling to pay' has been satisfied and payments are to go to the landlord.

In instance **3)** above, we may receive information from the claimant that they are now in a position to manage as they have for example an appointee, or that they were fleeing domestic violence but have now sorted out their situation and are in a position to manage their affairs.

In instance **4)** above, the claimant may request a review, at this point we should review the information provided and make a fresh decision based on this new information.

If we feel that the condition experienced by the claimant is likely to be of a short-term nature, we should set an appropriate review date (not exceeding 12 months) to look again at the decision. Where the condition is likely to be of a long-term nature, we may decide that it is not appropriate to set a review date. We may also wish to set a review date where a claimant has been referred to advice agencies for help in managing their financial affairs or obtaining a bank account. The decision may still be reviewed if there is a relevant change in circumstances or if requested by the claimant.

People who are deemed to have difficulty paying their rent or unwilling to pay should be encouraged to seek support and advice from either elsewhere in the council or from voluntary groups so that they may be in a better position to manage their affairs. This could be anything from money advice to health issues.

### **3.6 Appeals**

The tenant or the person who has made the application or referral can ask the council to review any decision made regarding direct payments of the 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 the council, in writing with their reasons within one month from the date of the decision. We will then look at the decision again.