

Safeguard Policy for LHA Claimants and Landlords

This policy sets out the approach that the above Local Authorities will adopt in dealing with requests for payments of LHA to be made direct to the landlord. It reflects current Government guidance and the wider policy aims of LHA.

1. DWP Guidance

Under LHA a tenant cannot simply request that payment is made to a landlord to cover their rent.

The Department for Work and Pensions 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**.

Decisions for the **'won't pay'** and **'eight or more weeks in arrears'** categories are fairly straightforward. They will be based on evidence of arrears from the landlord.

Deciding whether a person **'can't pay'** is more sensitive, and therefore the decision- making process more complicated. The Council will have to decide whether a tenant is 'vulnerable' and 'can't pay' so the LHA should be paid directly to the landlord.

2. Definition of Vulnerable

This policy is concerned with those tenants who are unable to pay their rent. In this context Vulnerability is defined as customers who are identified as having difficulty paying their rent, due to a physical or mental illness or disability, a demonstrated inability to manage their financial affairs, an addiction or substance abuse problem or some other trauma causing short term problems dealing with financial management.

3. The Policy

The primary concern of the vulnerability safeguard is to minimise the risk of tenants falling into rent arrears with their landlord and ensure they 'keep a roof over their head' and to provide landlords with a degree of reassurance and encourage them to continue to let their properties to more vulnerable tenants.

The aims of the safeguard policy in Elmbridge, Runnymede and Spelthorne is to:

- Provide a safeguard for the most vulnerable tenants 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 vulnerable tenants
- Reassure landlords that their rent will be paid if they have vulnerable tenants or are approached by vulnerable 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 finances
- Be used by landlords to circumvent the wider aims of LHA
- Be a blanket policy for agencies providing support to private tenants

4. Decision Making

I. Receiving an application for Potential Vulnerability

A tenant or a representative makes the council aware that a person is potentially vulnerable

The direct payment application form or letter will include written evidence confirming that the tenant is unable to handle their own affairs.

II. Gathering information and evidence

The Council will consider the information that has been received and whether it is sufficient to make an appropriate decision. Ideally this will be written evidence from a third party; Adult Social Care; a G.P., or a support or advisory service such as the CAB. Evidence may also be provided by the tenant's family or friends, but evidence from the landlord alone is not acceptable.

Where a request for vulnerability has been received, but supportive evidence required has not yet been provided, ongoing payment of LHA will be made to the landlord. This will allow sufficient time for the evidence to be provided. If all supportive evidence is not supplied within one month, then payments will be resumed to the tenant.

III. Making a decision

- a) ***The tenant is deemed vulnerable and payment of LHA will be made to the Landlord.***

This will be subject to review depending on individual circumstances.

If the LHA is above the tenant's contractual rent, any excess will be paid to the tenant, unless the tenant is in arrears, in which case the excess will be paid to the Landlord until the arrears are cleared.

- b) ***The tenant is deemed not vulnerable and payment of LHA will be made to the tenant.***

IV Notifying affected parties

- a) ***Where the tenant is deemed vulnerable and payment of LHA will be made to the Landlord the Council will:***

Write to the tenant and /or their representative advising them of:

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

Write to the landlord advising that:

- LHA will be paid directly to them on behalf of the tenant and the decision will be reviewed.

- b) ***Where the tenant is deemed not vulnerable and payment of LHA will be made to the tenant. The Council will:***

Write to the tenant and / or their representative and write to landlord (if appropriate) notifying them of:

- The decision
- Reasons for the decision

- Appeal rights
- Any advice agencies, voluntary or statutory organisations that may help them.

Appeals – if either party wishes to appeal against the decision made under this policy, any additional evidence will be considered by a senior officer who was not involved in the original decision. An appropriate leaflet will be available to explain the process for appeal in each Local Authority.

V Reviewing a Decision

Where a tenant needs short term help they will be contacted to determine whether their situation has changed.

All decisions on vulnerability will be reviewed.

When conducting a review, if no response is received then an announced home visit may be arranged before any decision to revert payments back to the claimant.

V1 What supporting evidence will be required?

Documentary evidence supporting the claim of the tenant being unable to cope leading to vulnerability must meet the conditions below:

For medical grounds

- For mental disability, mental health issues, addiction problems, inability to read or write, physical disability etc. supporting letters will be required from a suitable professional. This can include a GP, medical practitioner, Social Services, etc. These letters must clearly indicate that the tenant is unable to cope with his/her financial affairs and is therefore unlikely to pay rent as a consequence of this vulnerability.

For acute financial problems

- For history of rent arrears (unrelated to Housing Benefit payment problems), financial mismanagement/debt problems etc. supporting letters, together with a financial summary, will be required from another agency eg. Citizens Advice Bureau.
- Evidence must be supplied by a reputable third party body/agency.
- Evidence provided from the landlord alone will not be accepted (except when the tenant is eight weeks in arrears and evidence of this is required.)