LOCAL HOUSING ALLOWANCE

Safeguarding and Direct Payments
Policy and Procedure

April 2008

Amendment March 2011
Safeguarding and Direct Payments under LHA

1. **DWP Guidance**

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

The Department of Work and Pensions have 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 continue to 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 is more complicated. Senior Officers will decide whether a tenant is ‘vulnerable’ and ‘can’t pay’ so the LHA can be paid directly to the landlord. All decisions under the ‘can’t pay’ category must be made in accordance with this policy.

**From April 2011** the Housing Benefit (Amendment) Regulations 2010 outline that it may be possible for us to consider paying direct to the Landlord if it will assist the customer in securing or retaining a tenancy. For a tenancy to be secured or retained it is **implicit** that the rent should be affordable to the tenant.

2. **FBC Policy**

The primary concern of the vulnerability safeguard is to minimise the risk of tenants falling into rent arrears with their landlord and therefore ensuring that they ‘keep a roof over their head’.

The aim of the vulnerability policy in Fareham 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
• To assist tenants in securing or retaining a tenancy that is affordable.

The policy is not designed to:

1. 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
2. Be used by landlords to circumvent the aims of LHA
3. Be a blanket policy for agencies providing support to private tenants

3. **Emerging Grounds of Vulnerability**

<table>
<thead>
<tr>
<th>Grounds</th>
<th>Evidence</th>
</tr>
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<tbody>
<tr>
<td><strong>Long Term</strong></td>
<td></td>
</tr>
<tr>
<td>Tenant has a learning disability that prevents them from managing on a daily basis</td>
<td>Care / support Workers, GP, Adult Social Care, DWP – (evidence of benefits)</td>
</tr>
<tr>
<td>Tenant suffers from a Medical Condition that makes it hard for them to cope with routine tasks E.G. schizophrenia, dementia, terminal illness</td>
<td>Care / support Workers, GP, Adult Social Care, Hospital</td>
</tr>
<tr>
<td>Tenant has a physical disability that means that they are often housebound making it difficult for them to manage their affairs.</td>
<td>Care / support Workers, GP, Adult Social Care, Hospital, Evidence of benefits</td>
</tr>
<tr>
<td><strong>Temporary / Short Term</strong></td>
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</tr>
<tr>
<td>Tenant has experienced recent changes that has meant they need additional support in managing their affairs</td>
<td>Care / support workers, GP, Hospital, Probation officers, Family / Friends</td>
</tr>
<tr>
<td>E.G. bereavement; (violent) relationship breakdown; period in hospital; leaving prison, leaving care</td>
<td>Adult Social Care</td>
</tr>
<tr>
<td>Tenant speaks English only as a second language, presenting obstacles to them in opening and running bank accounts; reading and dealing with invoices and bills.</td>
<td>Written Evidence from Support Organisations that arrears / debts have occurred as a result of not understanding correspondence</td>
</tr>
<tr>
<td>Tenant is dealing with (or has a history of) addiction to drugs, alcohol, gambling and a substantial monetary payment to them would present a risk of relapsing.</td>
<td>Support Organisations, GP, Adult Social Care, Hospital, Care / support workers, Supporting People</td>
</tr>
<tr>
<td>Tenant has a history of homelessness and / or rough sleeping and is receiving help to sustain a tenancy in the private sector.</td>
<td>Housing Advice, Advice / Welfare Agencies, Homelessness Teams, Big Issue</td>
</tr>
</tbody>
</table>

## Financial

| Tenant has severe debt problems | Creditors, Court orders, Solicitors, CAB, DWP JobCentre Plus are paying other paying benefit direct to Utility company |

### E.G. CCJs, Bad credit rating that prevents opening bank accounts; undischarged bankruptcy

**Safeguarding Tenancy**

In order to retain an existing tenancy or secure a new tenancy a reduction in rent is made to an agreed affordable level. In most cases this will be to the relevant LHA rate.

If there has been a reduction and a shortfall remains then it must be affordable to the tenant.

| Written Agreement, Evidence from Housing Team, Income and expenditure shows shortfall is affordable | Landlord Declaration, Previous tenancy for address showing a higher rental charge |
4. Decision Making Process

- Receiving an application for Potential Vulnerability

  This will normally be by letter from the landlord, tenant or their representative asking for payments to be made to the landlord because they are potentially vulnerable.

  Written evidence must be obtained before a decision is made.

- Gathering information and evidence

  The Senior Benefit Officers will consider the information that has been received and whether there is enough evidence to make an appropriate decision. Ideally this will be written evidence from a third party; e.g. Adult Social Care, G.P., support or advisory services such as the CAB or MIND. Evidence from the tenant’s family or friends is also acceptable but not the landlord alone.

  If the evidence is not sufficient, then a request for further information from the tenant or their representative must be made. A discussion with the tenant or their representative may assist in the decision making process.

  If there is no response to requests for further information then the case will be considered on the information already received.

  In some situations it may be impossible to collate further information. In these cases a ‘common sense’ judgement should be made.

- Making a decision

  One of the following decisions will be made by the Senior Benefit Officers and the affected parties notified accordingly (use of standard templates in Anite).

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

  Consideration should be given as to whether the tenant has a short-term situation and can receive help to overcome any problems, if so an appropriate ‘diary’ date should be set to review the decision. In some cases tenants will have long
term situations in which case payments to the landlord will be ongoing.

A direct payment decision that is made in order to retain or secure a new tenancy will remain in force while the rent remains affordable.

We will review a decision to make direct payments in order to retain or secure a new tenancy if the customer reports either an increase in their rent or a change in their circumstances that results in a change of the LHA rate.

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

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

If the tenant has issues that are not felt serious enough to warrant 'vulnerability status' there may be support that they can get and we will seek to help identify these agencies.

➢ Notifying affected parties

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

We will write to the tenant and/or their representative 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
- If direct payment is agreed to either retain or secure a new tenancy the tenant will be notified that it is conditional on the rent being kept at an affordable level.
We will write to the landlord advising that:

- LHA up to the contractual rent will be paid directly to them on behalf of the tenant
- Request bank details if not previously received
- The minimum length of time that this arrangement will stand if the decision is to be reviewed.
- Obtain completion of the ‘Payment to Landlord’ form before payment is made direct to the landlord.
- If direct payment is agreed to either retain or secure a new tenancy the Landlord will be notified that it is conditional on the rent being kept at an affordable level.

  \[b\] Where the tenant is not vulnerable and payment of LHA will be made to the tenant:

We will write to the tenant and / or their representative advising them of:

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

- **Updating the system**
  - The system will be updated to amend the payee if claimant is vulnerable
  - A ‘diary’ date for the review of the decision will be set if appropriate

- **Reviewing a Decision**

Where a tenant needs short term help they will 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.

Tenants 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 tenant 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.

Caroline Quirk, Head of Benefits

July 2007

Amendment
Zoey Hillary, Benefits Assessment Manager

March 2011