

**REPORT TO: POLICY AND RESOURCES COMMITTEE**

**REPORT ON: SAFEGUARD POLICY FOR HOUSING BENEFIT PAYMENTS UNDER THE LOCAL HOUSING ALLOWANCE SCHEME**

**REPORT BY: DIRECTOR OF CORPORATE SERVICES**

**REPORT NO: 112-2013**

## **1.0 PURPOSE OF REPORT**

- 1.1 This report is to inform the Elected Members on the revised policy for Vulnerability and Direct payments of Housing Benefit to landlords under the Local Housing Allowance Scheme. The revised policy has been renamed Safeguard Policy for Housing Benefit Payments under the Local Housing Allowance Scheme.
- 1.2 It should be noted that this is an amendment to an existing policy and is not directly connected to the current changes to Benefit as a result of Welfare Reform.

## **2.0 RECOMMENDATION**

- 2.0 It is recommended that the Committee note and approve the revised policy. (Appendices 1 & 2).

## **3.0 FINANCIAL IMPLICATIONS**

- 3.1 None.

## **4.0 MAIN TEXT**

- 4.1 This policy has been revised to incorporate legislative changes that allow the Revenues Division wider scope when making decisions on direct payments of Housing Benefit to landlords. This legislation provides that in order to assist claimants in securing and retaining tenancies a Local Authority can decide to make payment of benefit directly to a landlord.
- 4.2 A tenancy can be secured by paying Housing Benefit direct to a landlord provided the Local Authority considers that the rent is affordable to the tenant. This change is intended to encourage landlords to lease properties to Housing Benefits claimants, when they would not otherwise have done so. For example a person is interested in taking a tenancy with a rent charge of £500 per month however; they know that due to the Local Housing Allowance Rate, they would only be entitled to Housing Benefit of £450 per month. They advise the landlord that they are in receipt of Housing Benefit and will only be entitled to £450 per month. The landlord states he would not normally lease his property to someone in receipt of Housing Benefit but agrees to do so, on condition that Housing Benefit is paid directly to him.
- 4.3 A tenancy can be retained by paying Housing Benefit directly to a landlord in cases where the tenancy would otherwise be terminated. A further condition would be that the Local Authority considers the new rent charged is affordable to the tenant. For example a tenant is in receipt of Housing Benefit which is paid to himself. He has a change in circumstances which reduces his Housing Benefit entitlement by £10 per week and cannot afford to make up the shortfall, thereby accruing rent arrears. He advises his landlord of the situation and the landlord agrees that he can keep his tenancy at a reduced rent charge on condition that Housing Benefit payments are paid directly to the landlord.

## **5.0 POLICY IMPLICATIONS**

- 5.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Risk Management and Equality Impact

Assessment. The Equality Impact Assessment which has been carried out will be made available on the Council's website <http://www.dundee.gov.uk/equanddiv/equinpact/>. There are no major issues.

## **6.0 CONSULTATION**

6.1 The Chief Executive and the Head of Democratic and Legal services have been consulted in the preparation of this report.

## **7.0 BACKGROUND PAPERS**

7.1 Equality Impact Assessment.

<b>M M Stewart</b> <b>Director of Corporate Services</b>	<b>Date:</b>	
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## Dundee City Council

### **Safeguard Policy for Housing Benefit Payments under the Local Housing Allowance scheme**

#### **Introduction**

From 7 April 2008, as part of the Government's plans to make Housing Benefit more straightforward and support the wider aims of welfare reform, the rules on administering Housing Benefit for people who are renting homes from private landlords were changed.

The Government's basic aims in creating the new scheme, the Local Housing Allowance scheme (LHA), are as follows.

#### **Being fair**

Under the LHA scheme, the maximum amount of Housing Benefit given to tenants is based on the number of people in a household, their financial situation, and where the property is. This means that two households of the same size, in the same financial situation and in the same area, will be entitled to the same amount of benefit.

#### **Providing choice**

Tenants can take greater responsibility and choose how to spend their income in a similar way to tenants who are not receiving benefits. Like other tenants, people who are claiming Housing Benefit will be able to choose whether to rent a larger home or to spend less on rent and increase the amount they have to spend on other things.

#### **Being clear**

A clear set of allowance rates will help tenants (and landlords) know how much financial help is available from the Government. Tenants will be able to compare how much support they can get towards their housing costs in different areas and for different sizes of property.

#### **Personal responsibility**

Giving people who are claiming Housing Benefit the power to budget for and pay their rent themselves, rather than having it paid for them, helps develop the skills that unemployed tenants will need as they move into work. To achieve this, wherever possible, the Housing Benefit will be paid to the tenant and not direct to the landlord.

#### **Financial independence**

The Government wants people who are claiming Housing Benefit to have their Housing Benefit payments paid into a bank account and for them to set up a standing order to pay rent to their landlord. This has the advantage of being a safe and secure method of payment and lets landlords know that their tenants will pay the rent.

#### **Better administration and fewer barriers to work**

A more simple system makes it easier to pay out Housing Benefit. There are no complicated rent restrictions and rent referrals to the Rent Registration Service. This makes it quicker, and less complicated to process claims. For tenants who are of working age, the LHA scheme makes clearer what help is available in and out of work. A more simple system also helps to give tenants more confidence when starting a job that any benefit they still receive once they find work will be paid quickly.

The two most important changes to Housing Benefit regulations for tenants who rent privately are that:

1. except in unusual cases, as described in the LHA scheme, councils will pay Housing Benefit direct to the tenant; and
2. under LHA, the amount of Housing Benefit due is based only on the income and size of the household and is not based on the amount of rent charged by the landlord.

The LHA scheme applies to ordinary private tenants who fill in a new claim for benefit, or a change of address form, on or after 7 April 2008. LHA does not apply to:

- people who were already claiming Housing Benefit before 7 April, 2008 (until their benefit stops for at least one week and then they claim again, or they change address);
- housing-association tenants;
- protected cases such as supported housing that charities provide;
- tenancies that began before 1989; and
- hostels and board-and-lodging accommodation, where a large part of the rent goes towards paying for meals.

Under the LHA scheme a tenant can't simply ask their council to pay their Housing Benefit to a landlord to cover their rent. The Department for Work and Pensions have given councils guidance on when it is appropriate to make direct payments to a landlord. For example if a tenant owes eight or more weeks rent, when a tenant can't pay, won't pay or from 1<sup>st</sup> April 2011, paying the landlord will assist the tenant in securing or retaining a tenancy.

Deciding whether a tenant won't pay or owes eight or more weeks rent is fairly straightforward. Decisions will be based on evidence from the landlord of how much the tenant owes.

Deciding whether paying the landlord will assist the tenant in securing a new tenancy or retaining an existing tenancy will be done only if the rent is at a level that the council considers the tenant can reasonably afford whilst receiving Housing Benefit. For example if a tenant has a shortfall between their Housing Benefit entitlement and the rent they have to pay and can't afford it, paying the landlord direct will not help retain their tenancy.

Deciding whether a person can't pay is more sensitive, and because of this it is more complicated to make a decision. Revenues officers need to decide whether a tenant is at risk and can't pay, and because of this, pay their Housing Benefit direct to the landlord. A list of examples where we consider a tenant to be at risk is in Appendix 1

However, we are aware that under the LHA scheme, we must strike a balance between trying to pay Housing Benefit direct to the tenant and making sure the tenant actually pays their rent.

### **Policy statement**

We recognise the Government's aims for the LHA scheme, in particular making sure that, wherever possible, we pay Housing Benefit direct to the tenant. We will also do our best to provide tenants with the support they need to help them manage their own financial affairs.

We will take the aims of this policy into consideration when we make any decisions affecting tenants who we have decided can't pay rent themselves.

The main aims of this policy are to protect tenants at risk from falling into debt with their landlords, resulting in eviction and help tenants secure a tenancy they may not otherwise have obtained, by paying their landlords.

The aim of the safeguard policy in Dundee is to:

- protect tenants who are at risk and reassure them that by paying benefit to their landlord, their rent will be paid;
- prevent tenants from getting behind with their rent, and from being put at risk of eviction;
- help tenants who are at risk to keep their tenancies;
- reassure landlords that their rent will be paid if they have tenants who are at risk, or if they are asked to rent to someone who is at risk;
- help to put tenants in touch with other agencies where necessary and give people the opportunity and support to manage their own financial affairs;
- make reasonable, fair and consistent decisions;
- promote a clear and simple process that is widely understood; and
- treat each case individually and not make assumptions about the situation of people claiming Housing Benefit.

The policy is **not** designed to:

- take the place of support that people claiming Housing Benefit are receiving to help them to be responsible tenants and be in control of their own income and spending.
- be used by landlords to ignore the aims of the LHA scheme; or
- be a policy for all agencies that provide support to private tenants.

### **The decision-making process**

#### **Range of reasons for deciding whether someone is at risk**

A list of examples where we consider a tenant to be at risk is in Appendix 1.

This is not a complete list, and revenues officers will consider all requests for someone to be considered to be at risk under the guidelines of the policy.

#### **Procedure**

- 1 Tenants should normally make requests by filling in the form 'Application for direct payments of Local Housing Allowance to your landlord', However we will accept requests in the form of a letter from either a tenant or someone writing on their behalf asking us to make payments to the landlord because they might be at risk.  
The person writing the form or letter should include written evidence that supports the request.
- 2 Our Revenues officers will have to consider the information that we have received and whether there is enough evidence to make the right decision. Ideally this will be written evidence from someone else, such as Social Work Department, a GP, or support or advisory services such as Citizens Advice Bureau and so on. We can accept information from the tenant and the tenant's family or friends, but information from the landlord alone will not be enough.
- 3 We will not stop paying Housing Benefit while we are waiting for the outcome of a decision for 'at risk status'. To stop people getting into debt or being at risk of eviction, we will pay benefits direct to the landlord straight away, unless there is a good reason for us to make the payment direct to the tenant. If we have decided to pay the landlord immediately while we wait for the outcome of a decision for 'at risk status', that payment will be for no more than eight weeks.
- 4 We will only treat information that we receive from the tenant, the tenant's family or friends and the landlord as evidence that someone **might** be at risk. We will use this information together with any written evidence we receive, when deciding whether someone is at risk and whether we should pay Housing Benefit direct to the landlord.

- 5 If we don't have enough evidence, we will phone and ask for more information from the tenant or the person who contacted us on their behalf. We will also interview the tenant or the person who contacted us on their behalf if necessary, to help us make a decision. We will need written evidence before we can make a final decision.
- 6 Sometimes, we may not be able to get more information on whether a tenant is at risk. In these cases, we will make a judgement based on the information and evidence we already have. If we have any doubts about the ability of the person who is claiming Housing Benefit to manage their financial affairs, we will pay the Housing Benefit direct to the landlord and will review the decision if we need to within 12 months.
- 7 Once we have decided that a person claiming Housing Benefit is at risk, we will decide whether the situation is a short-term or long-term problem. If we decide the situation is a short-term problem, we will set an appropriate date to review the decision to pay Housing Benefit direct to the landlord. If we decide the situation is a long-term problem, we will pay Housing Benefit direct to the landlord as long as necessary.
- 8 If we have agreed to pay Housing Benefit direct to the landlord, we will send a letter to the tenant or the person who contacted us on their behalf, telling them:
- the decision;
  - the reasons for the decision ;
  - if and when we will review the decision;
  - their right to appeal; and
  - about any advice agencies, voluntary or statutory organisations (such as Welfare Rights) that may be able to help them.

We will also send a letter to the landlord telling them:

- that Housing Benefit will be paid direct to them on behalf of the tenant;
  - the minimum length of time the arrangement will stand, if we are going to review the decision; and
  - to give us their bank details to allow payment to be made direct into their bank account, if we have not already received these.
- 9 If we have decided that the problems experienced by the tenant do not meet our requirements for 'at risk status' and we have not agreed to pay Housing Benefit direct to the landlord, we will with the tenant's agreement, make a referral to an appropriate agency to find out whether they can be given extra support to help them manage their affairs.  
We will send a letter to the tenant or the person who contacted us on their behalf, telling them:
- the decision;
  - the reasons for the decision;
  - their right to appeal; and
  - about any advice agencies, voluntary or statutory organisations (such as Welfare Rights) that may be able to help them;

We will also send a letter to the landlord telling them:

- that we will not pay Housing Benefit direct to them on behalf of the tenant;
  - the reason for the decision; and
  - their right to appeal.
- 10 If we hear from a landlord that a tenant has fallen at least four weeks behind with their rent, we will stop the tenant's Housing Benefit. We will contact the tenant to find out why they haven't paid their rent and whether we can offer them any support to help them manage their financial affairs. Based on the information provided by the person claiming Housing Benefit, we will make a decision about whether we will carry on making payments direct to the person claiming

Housing Benefit, or begin to make them direct to the landlord. We will review any decision we make to begin payments direct to a landlord within 12 months.

### **Reasons for refusal**

We will consider all applications for payment direct to landlord carefully and will base any refusals on one or more of the following reasons.

- If there has been no response to a request for more evidence or information, within one month of us asking.
- If we haven't received enough evidence or information to allow us to make a decision.
- If we do not consider the applicant's situation serious enough to deserve 'at risk status'.
- If the person applying for 'at risk status' has appointed someone to deal with their affairs.
- If the person applying for 'at risk status' is the landlord and he or she is the person who has difficulty in managing their financial affairs.
- If a payment direct to a landlord will not help to secure or retain a tenancy.

If there has been no response to a request for more evidence or information, within one month, we will end the application for payment direct to landlord. The person applying for payment direct to landlord must start the application process again.

### **Reviewing a decision**

In cases where we have decided a tenant is at risk, and we decide that the situation is a short-term problem, we will review the decision after six months. We will not ask the person applying for 'at risk status' to fill in another application form, but we will ask them for an update of their situation.

If we do not receive a response and the person claiming Housing Benefit is clearly still entitled to Housing Benefit, we will continue to pay the landlord direct. We will set another review date within 12 months.

We will usually only stop paying the Housing Benefit direct to the landlord in certain circumstances; for example if the tenant is no longer in rent arrears with their landlord or we have been advised (or have proof) that the tenant is now able to manage their financial affairs.

### **Right to Appeal**

Both the person claiming Housing Benefit and the landlord have the right to appeal against a decision we make about whom to pay Housing Benefit to.

A Revenues Officer will consider the appeal. If the decision is upheld, we will pass the appeal on to the Appeals Service.

## Appendix 2

### Examples of situations where we consider someone to be at risk, and who we need evidence from

Reasons	Evidence	
<b>Long-term</b>	<b>We would need information from</b>	
The tenant has a learning disability that prevents them from managing their finances on a daily basis.	<ul style="list-style-type: none"> <li>Care or support workers</li> <li>GP</li> <li>Social Work Department</li> </ul>	<ul style="list-style-type: none"> <li>Department for Work and Pensions – (evidence of benefits)</li> <li>Council Tax records</li> <li>Severe Mental Impairment certificate</li> </ul>
The tenant suffers from a medical condition that makes it hard for them to cope with routine tasks, for example Schizophrenia, dementia or a terminal illness.	<ul style="list-style-type: none"> <li>Care or support workers</li> <li>GP</li> </ul>	<ul style="list-style-type: none"> <li>Social Work Department</li> <li>Hospital</li> </ul>
The tenant has a physical disability that means that they are often housebound making it difficult for them to manage their financial affairs.	<ul style="list-style-type: none"> <li>Care or support workers</li> <li>GP</li> </ul>	<ul style="list-style-type: none"> <li>Social Work Department</li> <li>Hospital</li> </ul>
The tenant is dealing with, or has a history of, addiction to drugs, alcohol or gambling and a large payment of money to them would present a risk of relapsing.	<ul style="list-style-type: none"> <li>Support organisations</li> <li>GP</li> <li>Social Work Department</li> </ul>	<ul style="list-style-type: none"> <li>Hospital</li> <li>Care or support workers</li> </ul>
The tenant has a history of homelessness or sleeping rough and is receiving help to keep a tenancy with a private landlord.	<ul style="list-style-type: none"> <li>Housing Advice (Senior housing officers)</li> <li>Advice or welfare agencies</li> </ul>	<ul style="list-style-type: none"> <li>Homelessness teams</li> </ul>
The tenant has severe debt problems such as a bad credit rating that prevents them from opening bank accounts or is an un-discharged bankrupt.	<ul style="list-style-type: none"> <li>Creditors</li> <li>Court orders</li> <li>Solicitors</li> </ul>	<ul style="list-style-type: none"> <li>Support organisations</li> <li>DWP (Jobcentre Plus) are paying other benefit direct to a utility company (such as a gas or electricity company)</li> </ul>
<b>Short-term</b>	<b>We would need information from</b>	
The tenant has experienced a recent change that has meant they need extra support in managing their affairs. Examples include: <ul style="list-style-type: none"> <li>bereavement;</li> <li>violent relationship breakdown;</li> <li>a long period in hospital;</li> <li>leaving prison; or</li> <li>leaving care.</li> </ul>	<ul style="list-style-type: none"> <li>Care or support workers</li> <li>GP</li> <li>Social Work Department</li> </ul>	<ul style="list-style-type: none"> <li>Hospital</li> <li>Family or friends</li> <li>Support organisations</li> </ul>
The tenant speaks English only as a second language, and this makes it difficult for them to open and manage bank accounts, and read and deal with invoices and bills.	<ul style="list-style-type: none"> <li>Written evidence from support organisations that arrears or debts have built up as a result of not understanding correspondence</li> </ul>	