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## SUFFOLK HOUSING BENEFITS

### Local Housing Allowance Vulnerability & Safeguarding Guidance

Under Local Housing Allowance (LHA) a tenant cannot simply request that their payments are made to their landlord. However there are certain circumstances in which the Council must pay the landlord direct and others where it has discretion to do so to protect vulnerable tenants. This guidance sets out the guidelines under which consideration should be given to individual cases and decisions made. This guidance has been developed in consultation with stakeholders in the council's area.

### Aims and Objectives

- To provide a safeguard for the most vulnerable tenants and reassure them that their Housing Benefit will be paid
- To help prevent rent arrears and to avoid tenants being put at risk of eviction
- To help sustain tenancies for vulnerable tenants
- To reassure landlords that their Housing Benefit will be paid if they have vulnerable tenants or are approached by vulnerable tenants
- To help put tenants in touch with other agencies where necessary and give people the opportunity and support to manage their own affairs
- To ensure council officers make reasonable, fair and consistent decisions
- To promote a transparent and simple process that is widely understood
- To treat each case individually and to avoid making assumptions about people's situations

The guidance is not designed to:

- Replace support that is being received by tenants already
- Be a blanket policy for agencies providing support to private tenants
- Be used by landlords to circumvent the aims of LHA

## **Office Procedures**

### **1. Alerting the council of potential vulnerability**

The tenant or any person acting on their behalf makes the council aware that they would prefer their LHA to be paid to the landlord. The request needs to be supported with written evidence from a third party, but initially can be by:

- A letter/email
- A phone call
- The application form

### **2. Gathering information and evidence**

Officers will consider the information that has been provided and whether there is enough evidence to make an appropriate decision. Examples of those who can provide this information are:

- Adult Social Care Teams (Suffolk County Council)
- Homelessness Prevention Caseworkers
- Support or advisory services like the Citizens Advice Bureau, Supporting People Providers
- A tenant's family or friends
- General Practitioners

Evidence from a landlord cannot be accepted alone.

### **3. Making a decision**

The council will make one of two decisions

1. The tenant is vulnerable and payment of LHA will be made to the landlord
2. The tenant is not vulnerable and payment of LHA will be made to the tenant

#### **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
- Appeal rights
- Advice agencies, voluntary or statutory organisations that may help them
- Contact details for the independent advice agencies if they don't have a bank account (e.g. in cases where they will be receiving excess LHA)

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 landlord's appeal rights against this decision

#### **Examples of Vulnerability**

There are a number of reasons for a tenant having problems managing their money that might lead us to decide they are vulnerable. These include cases where a tenant:

- Has a medical condition (affecting their mental or physical health)
- Has a learning disability or a physical disability
- Has previously been homeless
- Is going through some life-changes that mean he/ she needs some extra support
- Is dealing with an addiction to e.g. alcohol, gambling or drugs
- Has severe debt problems e.g. county court judgement's, bankruptcy, or a bad credit rating preventing them opening a bank account

NB This list is not exhaustive, nor does meeting one or more of the criteria guarantee that a person is vulnerable e.g. a person recovering from an addiction problem may be attempting to manage their financial affairs as part of their rehabilitation.

## **Local Housing Allowance Direct Payment Guidance**

Under the new Local Housing Allowance (LHA), claim payments will be paid directly to the claimant (tenant), rather than the landlord.

Circumstances in which the payment of the Local Housing Allowance must be made direct to the Landlord (regulation 95) are:

- The claimant has rent arrears equivalent to eight weeks or more, except where the authority considers it to be in the overriding interest of the claimant not to make direct payments; or
- An amount of income support, state pension credit or either kind of JSA payable to the claimant, or partner, is being paid direct to the landlord to meet arrears.

Circumstances in which payment of Local Housing Allowance may be paid to the Landlord include the following:

- The claimant is likely to have difficulty managing their affairs
- It improbable that the claimant will pay their rent

However, in recognition of the difficulty some claimants may have with this for a number of reasons, there will be safeguards in place within the assessment process to enable payments to be made to a third party, for the protection of both tenants and landlords.

The guidance is designed to introduce procedures that are fair, consistent and sympathetic for claimants and landlords. This guidance has been developed in consultation with stakeholders in the council's area.

LHA does not apply to all tenancies, so councils should also check that the tenant does not fall into a group that is exempt from the LHA e.g. they have a regulated (pre 15.1.89) tenancy.

### **Claimants who are likely to have difficulty paying their rent**

The council has the discretion to pay the landlord directly where it considers claimants are likely to have difficulty in relation to managing their financial affairs.

### **People who should not be considered as vulnerable**

- People who have been appointed to act on behalf of a claimant who is 'unable for the time being to act for themselves' and
- The claimants they act for, until such time as they cease to be an appointee acting for them

## **Identifying potentially vulnerable claimants**

We may receive requests for consideration from the claimant, landlord or a third party such as DWP, Adult Community Care, Children Young People Community Care, GP, friend or family member. The request should be made where possible in writing - this will normally be using a Direct Payment Application Form available from the councils benefit offices or website. If it comes from anyone other than the claimant the council will contact the claimant either by phone, or preferably by conducting an interview, to find out what the issues are.

The council will only respond to the landlord or third party if there is written consent from the claimant to do so. If no consent is given the council will have no authority to contact any other person with regards to the claim.

There are two indicators to consider when identifying vulnerable claimants - the cause and effect. It is necessary to consider either or both when trying to establish vulnerability or the need for safeguards for the tenancy, although a claimant is not automatically vulnerable because they match one indicator.

## **Causes**

Each case must be considered on its own merits when making a decision on vulnerability, taking into account any supporting evidence. Many circumstances may affect a person's ability to manage their own financial affairs. Those include the following.

- **Learning Disabilities.**

These can range from mild to severe. People with learning difficulties find it harder to learn and understand than most people. Most have difficulty in learning new things and understanding how they fit into their lives. They have difficulty with everyday practical skills like cooking or using public transport, or social skills like holding conversations. In some cases like these it may be appropriate to pay benefit directly to the landlord so to ensure the security of the tenancy.

The council recognises that in many cases a learning difficulty does not mean that the customer is unable to learn, as with the right support progress can be made. When appropriate, the council will seek to put the customer in touch with agencies to obtain this support and would review any decision made on direct payments during the period of support. In more severe cases, the claimant is likely to have an appointee to act on their behalf, in which case a decision not to pay the landlord should be made.

- **Medical Conditions.**

Those which seriously impair someone from managing their affairs on a day-to-day basis, e.g. mental illness (schizophrenia, Bipolar Disorder). Alzheimer's, senile dementia. Physical disabilities or a medical condition that would make paying rent on time difficult e.g. people who cannot leave their home, someone with impaired hearing or sight may have difficulty communicating/ dealing with financial matters. Again, there may be an appointee acting on a claimant's behalf in most of these situations.

- **Illiteracy or an inability to speak English.**

Illiteracy or where English is not the first language can create barriers when attempting to deal with financial matters or other organisations. This could include banks, landlords or advice agencies. It may be in the tenant's interest to pay direct to the landlord while they receive the assistance they need in dealing with the problem, until they are able to deal with their own financial affairs.

- **Addiction to drugs, alcohol or gambling.**

A person with an addiction may find they are unable to receive payment of benefit without risking a relapse of their addiction or the temptation to continue with the addiction. Part of their treatment may include making payments of LHA direct to the landlord, until such time their care worker feels they need to accept responsibility in order to aid rehabilitation.

- **Fleeing domestic violence; single homeless (care leavers); people leaving prison and ex-offenders.**

In such cases the tenant can initially find the prospect of dealing with organising rental payments too much to cope with while trying to deal with other urgent problems such as the safety of children with trauma. In such cases, it may be advisable to make the payment of LHA direct to the landlords for a short time, while other support is obtained and the tenant is better able to take on the responsibility of rental payments. On leaving a custodial sentence a customer may find dealing with financial affairs daunting. In such cases, consideration should be given to make direct payments to the landlord to safeguard the tenancy and work with the Probation Service to review the decision after a short period. The council may wish to offer money management advice or refer the customer to other agencies.

- **Is the tenant at risk of financial abuse?**

A tenant could have a former partner whose accesses her bank account.

## Cause - examples of evidence required

Description	Examples of evidence required
Learning Disability	Written evidence from GP, Social Services, Care Workers, DWP etc.
Medical Condition	Written evidence from GP, Social Services, Care Workers, hospital etc.
Illiteracy/Inability to speak English	Written evidence from support organisation, etc.
Addiction to drugs/alcohol/gambling	Written evidence from support organisation, etc.
Fleeing domestic violence/ single homeless/leaving prison	Written evidence from support organisation, probationary service, social services, etc
Tenant at risk of financial abuse	Written evidence from support organisation, etc.

## Effects

The effects of vulnerability can illustrate quite clearly the inability of a claimant to manage their own affairs and some examples are:

- **Severe (multiple) debt problems/recent County Court Judgements.**
- **Undischarged Bankrupt.**
- **Inability to obtain a bank account** - in practice the vast majority of people should be able to obtain a basic bank account at one of the High Street banks or building societies.
- **DWP making deductions from IS/JSA IB to pay utility companies directly to clear outstanding arrears** - should only be considered if part of the debt is still outstanding.
- **In receipt of Supporting People (SP) help.**
- **In receipt of help from homeless charity.**

If the claimant fails to provide information/ evidence required, this may in itself demonstrate vulnerability, especially when coupled with another factor.

## Effect - examples of evidence required

Description	Examples of evidence required
Severe debt problems/ recent CCJ's	Evidence from help groups, creditors, court orders, solicitors, etc.
Undischarged bankrupt	Copy of court order
Inability to open a bank account DWP making payments of IS/JSA direct to utility companies with outstanding arrears	Letters from banks or money advisors Only consider if there is evidence part of debt is still outstanding
In receipt of Supporting People help providers	Evidence from social services and support

### Claimants who are unlikely to pay their rent- the Eight-Week Rule

LHA payments will be made direct to the landlord where the tenant has built up rent arrears of eight weeks or more. The landlord will have to provide documented evidence of rent arrears and any recovery action taken. The council may decide to continue paying the landlord even after the arrears have fallen below eight weeks.

Landlords are also encouraged to contact the council before 8 weeks arrears have accrued so that the council can consider discretionary safeguards rather than mandatory ones.

**The council may in addition to any legislative requirement, decide to make first payment of Local Housing Allowance to the landlord where doubts have arisen regarding the claimants ability to make rent payment**

### Making a Decision

It is important to note that just because a claimant falls into one or more of the above categories, this does not mean they are 'vulnerable'. Each case must be treated on it's own merits, based on the information and evidence collected. In some circumstances it may be appropriate to conduct an interview with the claimant, or at the very least, a telephone call could be used in addition to paper evidence, prior to making a final decision.

We might have to seek other information to help us make a decision if the only evidence provided by the claimant is from a non-independent source such as a landlord or friend of



the family. We accept that in a small minority of cases we may have to rely on non-independent information.

To ensure consistency in decision-making, information and evidence should always be obtained. The decision whether to treat a claimant as vulnerable and make payment directly to the landlord to safeguard the tenancy will be the responsibility of a designated officer.

All decisions will be recorded stating what information/ evidence was taken into account and why it resulted in direct payment being granted or refused. This will assist with any reviews of the decision and potential appeals.

### **Reviewing the decision**

Two types of review can take place:

1. An appeal from a relevant person (the rules for appealing are the same as the rules for Housing Benefit).
2. A review of the claimant's circumstances, to establish whether the vulnerable/safeguard decision is still appropriate.

With the customer's permission the council will seek and consider views of external organisations, e.g. probation service, adult and community services, children and community services, advice agencies.

A review can be conducted by a home visit or office interview.

The decision to treat a claimant, as 'vulnerable' or requiring additional safeguards to continue the tenancy will be reviewed after an appropriate period of time as decided by the council.