

**REPORT TO:** POLICY AND RESOURCES COMMITTEE - 28 JANUARY 2008  
**REPORT ON:** LOCAL HOUSING ALLOWANCE VULNERABILITY POLICY  
**REPORT BY:** DEPUTE CHIEF EXECUTIVE (FINANCE)  
**REPORT NO:** 44- 2008

## **1.0 PURPOSE OF REPORT**

This report is to inform the Elected Members of the policy to be adhered to by the Revenues Division in dealing with vulnerable tenants and the payment of Housing Benefit under the Local Housing Allowance.

## **2.0 RECOMMENDATIONS**

It is recommended that the Committee approve the policy.

## **3.0 FINANCIAL IMPLICATIONS**

None

## **4.0 MAIN TEXT**

- 4.1 Report number 657-2007 advised elected members of the introduction of the Department for Work and Pension's Local Housing Allowance on 7 April 2008. One of the main elements of the Local Housing Allowance is to promote personal responsibility. The aim of this element is the empowerment of claimants to budget and pay for their rent themselves and to help develop the budgetary skills tenants will need especially for those claimants moving into work.
- 4.2 Currently, under existing Housing Benefit rules, private tenants in receipt of Housing Benefit can elect to have their benefit paid directly to themselves or to their landlord. Under Local Housing Allowance rules, benefit will be paid direct to the tenant, unless there are exceptional circumstances.
- 4.3 The Department for Work and Pensions have provided guidance on when direct payments to a landlord may be appropriate, where a tenant "can't pay" or "won't pay" or if a tenant is eight weeks or more in arrears. Decisions for the categories of "won't pay" or if a tenant is "eight weeks or more in arrears" are fairly straightforward and will be based on evidence from the landlord.
- 4.4 The decision as to whether a tenant "can't pay" and falls into the vulnerable category is a much more sensitive issue and the decision making more complicated, hence the introduction of this policy.
- 4.5 The aim of the policy is to:-
- provide a safeguard for the most vulnerable tenants and reassure them that their benefit and in turn their 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 individuals 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 widely understood.
- to treat each case individually and not make assumptions about a claimant's situation.

## **5.0 POLICY IMPLICATIONS**

This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management and no issues have been identified.

## **6.0 CONSULTATIONS**

The Chief Executive, Depute Chief Executive (Support Services), Director of Housing, Head of Finance, Director of Social Work, Citizens Advice Bureau, Dundee North Law Centre, Money Advice Support Team and Shelter have been consulted in the preparations of this report.

## **7.0 BACKGROUND PAPERS**

None

<b>D K Dorward</b> <b>Depute Chief Executive (Finance)</b>		<b>Date:</b>	<b>18 January 2008</b>
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# DUNDEE CITY COUNCIL

## POLICY

### **Vulnerability and Direct Payments to Landlords under Local Housing Allowance**

#### **Introduction**

As part of the Government's plans to simplify Housing Benefit (HB) and support the wider objectives for welfare reform, a change to the way in which HB is administered for claimants in the Private Sector is to be introduced with effect from 7th April 2008.

The Government's fundamental objectives of the Local Housing Allowance (LHA), as the new scheme is known, are to promote:

**Fairness** - LHA bases the maximum amount of HB awarded to tenants on the size, composition and location of the household. Therefore two households in similar circumstances and in the same area, will be entitled to similar amounts of benefit.

**Choice** - Tenants can take greater responsibility and choose how to spend their income in a similar way to tenants who are not in receipt of Benefits. Like other tenants, claimants will be able to choose whether to rent a larger property or to spend less on rent and increase their available income.

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

**Personal Responsibility** - Empowering claimants to budget for and pay their rent themselves, rather than having it paid for them, helps develop the skills unemployed tenants will need as they move into work. To that end, wherever possible LHA, like most other Benefits and Tax Credits, should be paid to the tenant and not directly to the landlord.

**Financial Inclusion** - The Government wants claimants to have their HB payments paid into a bank account and 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 provides certainty for landlords that rent will be paid.

**Improved Administration and Reduced Barriers to work** - A simpler system helps speed up the administration of HB payments. There will no longer be complex rent restrictions and rent referrals to the Rent Registration Service, leading to a quicker, more efficient and less

complicated method of process. For working age tenants, LHA provides greater certainty about what help is available in and out of work. A simpler system also helps to give tenants more confidence when starting a job that any in-work benefit will be paid quickly.

The 3 key changes to the existing HB regulations for tenants in the Private Sector are:

1. the intention that unless exceptional circumstances exist under LHA, HB will be paid directly to the tenant
2. the rate of LHA is fixed wholly by household size and income and bears no relation to the level of rent charged by the landlord
3. where the contractual rent is below the level of LHA, the tenant is allowed to keep the difference, subject to a cap of £15 per week

At present, LHA will only apply to mainstream private tenants who submit a New Claim for Benefit or Change of Address from 7th April 2008. LHA will not apply to existing claimants until they have a break in their entitlement or change address, Housing Association tenancies, protected cases e.g. supported housing provided by charities, pre 1989 tenancies, Hostels and Board and Lodging accommodation, where a substantial part of the rent is attributable to the provision of meals.

Under LHA a tenant can no longer simply request that their HB entitlement is paid to a landlord to cover their rent. The Department of Work and Pensions have provided guidance on when direct payments to a 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 categories of "won't pay" and "eight or more weeks in arrears" are fairly straightforward. They will be based on evidence of arrears from the landlord.

Deciding whether a person "can't pay" however is more sensitive, and therefore the decision - making process more complicated. Revenues Officers will need to decide whether a tenant is 'vulnerable' and 'can't pay', and therefore pay their HB entitlement directly to the landlord.

The Council is aware however, that under the LHA scheme, there is a balance to be met between ensuring HB is paid directly to the tenant and ensuring the tenant actually pays their rent.

## **Policy Statement**

Dundee City Council recognises the Government's aims and objectives with regard to LHA, in particular the intention that wherever possible, HB should be paid directly to the tenant. The Council is committed to ensuring that unless exceptional circumstances exist, HB will be paid directly to the tenant and to providing them with the support needed to help manage their own financial affairs.

The aims of this policy will be taken into consideration when any decisions are made under the "can't pay" category.

The primary concern of the vulnerability safeguard is to minimise the risk of tenants falling into rent arrears with their landlord and to ensure they 'keep a roof over their head'.

The aim of the vulnerability policy in Dundee is to:

- Provide a safeguard for the most vulnerable tenants and reassure them that their benefit and in turn their 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 individuals 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 a claimant's situation

The policy is not designed to:

- Supersede support that is being received to allow individuals the opportunity to be responsible tenants and be in control of their own income and expenditure
- Be used by landlords to circumvent the aims of LHA
- Be a blanket policy for agencies providing support to private tenants

## **Decision Making Process**

### **Range of reasons**

The grounds for an individual to be treated as potentially vulnerable are outlined in Appendix 1. This is not an exhaustive list and Revenues Officers will be required to consider all requests for vulnerability in accordance with the policy.

### **Procedure**

1. Requests should normally be made on the form "Application for Direct Payments of Local Housing Allowance to your Landlord", however requests in the form of a letter from either a tenant or their representative asking for payments to be made to the landlord because they are potentially vulnerable will also be accepted. Ideally the form or letter will include written evidence in support of the request
2. Revenues Officers will require to 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; Adult Social Care, a GP, support or advisory services such as the CAB, etc. Information from the tenant and the tenant's family or friends can also be accepted, but information from the landlord alone will not be sufficient.
3. Payment of HB should not be delayed pending the outcome of a decision for "vulnerability status". As a safeguard, and to prevent rent arrears and potential eviction, payment directly to the landlord should be made in the first instance, unless there is a fundamental reason for the payment to be made directly to the tenant. If a decision has

been made to pay the landlord in the first instance pending the outcome of a decision for "vulnerability status", that payment will be for a maximum period of 8 weeks.

4. Information received from the tenant, the tenant's family or friends and the landlord should only be treated as identification of potential vulnerability. This information should be used in conjunction with the written evidence received, when deciding on the issue of vulnerability and whether payment of HB should be made directly to the landlord.
5. If insufficient evidence has been provided, further information from the tenant or their representative will be requested, initially by telephone. An interview with the tenant or their representative will also be conducted if necessary, to assist in making a decision. Ultimately however, written evidence will be required before an appropriate decision is made.
6. In certain situations, it may not be possible to collate any further information or evidence regarding vulnerability. In these cases, a common sense judgement will be made on the basis of the information and evidence provided. If there is any doubt regarding the claimant's ability to manage their financial affairs, payment should be made directly to the landlord and the decision reviewed within the stipulated timescale.
7. Where a decision has been made confirming vulnerability, consideration will be given as to whether the situation is a short term or long term problem. If the situation is considered to be a short term problem, an appropriate date will be set to review the decision to pay HB directly to the landlord. If the situation is considered to be a long term problem, payments of HB directly to the landlord will be ongoing.
8. Where the application for payment of HB directly to the landlord has been approved and the HB entitlement is above the tenant's contractual rent, a split payment will occur. The tenant will be encouraged to open a bank account, if they do not already have one, to allow this split payment to be made.
9. Where HB is being paid directly to the landlord, there is an excess due to the HB entitlement being above the tenant's contractual rent and the tenant has rent arrears, the excess will also be paid to the landlord until such time as the arrears are cleared. At that point, payment of the excess will be made to the tenant.
10. Where the application for payment of HB directly to the landlord has been approved, a letter will be issued to the tenant and/or their representative, advising of:
  - the decision
  - the reasons for the decision
  - if and when the decision will be reviewed
  - their appeal rights
  - any advice agencies, voluntary or statutory organisations that may be able to help them

Included with the letter will be a pack, giving advice on how to open a basic bank account, if the tenant doesn't have a bank account and will be receiving a part payment of HB.

A letter will also be issued to the landlord advising of:

- the fact that HB will be paid directly to them on behalf of the tenant
- the minimum length of time the arrangement will stand, if the decision is to be reviewed
- requesting bank details to allow payment to be made directly into their bank account, if this has not already been received

11. Where a decision has been made that the problems experienced by the tenant do not constitute "vulnerability status" and the application for payment of HB directly to the landlord has not been approved, the tenant will be referred to an appropriate agency to establish whether they can be given additional support to help them manage their affairs. A letter will be issued to the tenant and/or their representative, advising of:

- the decision
- the reasons for the decision
- their appeal rights
- any advice agencies, voluntary or statutory organisations that may be able to help them

Included with the letter will be a pack, giving advice on how to open a basic bank account, if the tenant doesn't have a bank account.

12. Where notification has been received from a landlord, advising that the tenant has fallen a minimum of four weeks behind with their rent, the claimant's HB will be suspended. The claimant will be interviewed to establish the reason for their non payment of rent and whether any support can be offered to help them in managing their financial affairs. Based on the information provided by the claimant, a decision will be made regarding whether payments should continue to be made directly to the claimant, or begin to be made directly to the landlord. Any decision made to begin payments directly to a landlord should be reviewed within the stipulated timescale.

### **Reasons for refusal**

All applications for "vulnerability status" will be given careful consideration and any refusals must be based on one or more of the following grounds:

- there has been no response to a request for further evidence or information, within one calendar month of the date of request
- sufficient evidence or information has not been provided to allow a decision to be made
- the applicant's situation is not considered serious enough to warrant "vulnerability status"
- the applicant has an appointee who deals with the individual's affairs
- the applicant has been appointed to act on behalf of an individual who is unable to act for himself or herself
- the applicant is the landlord and he is the person who has difficulty in managing his financial affairs.

Where there has been no response to a request for further evidence or information, within one calendar month of the date of request, the application for "vulnerability status" falls. The applicant must start the application process again.

### **Reviewing a Decision**

Where a decision has been made confirming vulnerability, and the situation is considered to be a short term problem, a review of the decision will be made after 6 months. The applicant will not be required to complete another application form again, however the applicant or their representative will be contacted to obtain an update of the situation.

If a response is not received and there is no question that the claimant is still entitled to HB, the payment will continue to be made directly to the landlord. Another review date will be set for a further 6 months.

Only where the claimant requests that they be paid directly, will payments directly to the landlord cease.

### **Appeal Rights**

Both the claimant and the landlord have the right to appeal a decision regarding to whom HB will be paid.

In the first instance, the appeal will be considered by a Revenues Officer. Should the decision be upheld, the appeal will automatically be forwarded to the Appeals Service for consideration.

## Appendix 1

### Grounds of Vulnerability and Evidence Required

Grounds	Evidence
<b>Long Term</b>	
<b>Information required from</b>	
Tenant has a learning disability that prevents them from managing on a daily basis	<ul style="list-style-type: none"> <li>• Care / support Workers</li> <li>• GP</li> <li>• Adult Social Care</li> <li>• DWP – (evidence of benefits)</li> <li>• SMI certificate from CT records</li> </ul>
Tenant suffers from a Medical Condition that makes it hard for them to cope with routine tasks e.g. schizophrenia, dementia, terminal illness	<ul style="list-style-type: none"> <li>• Care / support Workers</li> <li>• GP</li> <li>• Adult Social Care</li> <li>• Hospital</li> </ul>
Tenant has a physical disability that means that they are often housebound making it difficult for them to manage their affairs.	<ul style="list-style-type: none"> <li>• Care / support Workers</li> <li>• GP</li> <li>• Adult Social Care</li> <li>• Hospital</li> </ul>
<b>Temporary / Short Term</b>	
Tenant has experienced recent changes that has meant they need additional support in managing their affairs e.g. bereavement; (violent) relationship breakdown; period in hospital; leaving prison, leaving care	<ul style="list-style-type: none"> <li>• Care / support workers</li> <li>• GP</li> <li>• Adult Social Care</li> <li>• Hospital</li> <li>• Probation officers</li> <li>• Family / Friends</li> <li>• Support Organisations</li> </ul>
Tenant speaks English only as a second language, presenting obstacles to them in opening and managing bank accounts; reading and dealing with invoices and bills.	<ul style="list-style-type: none"> <li>• Written Evidence from Support Organisations that arrears / debts have occurred as a result of not understanding correspondence</li> </ul>
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.	<ul style="list-style-type: none"> <li>• Support Organisations</li> <li>• GP</li> <li>• Adult Social Care</li> <li>• Hospital</li> <li>• Care / support workers</li> </ul>
Tenant has a history of homelessness and / or rough sleeping and is receiving help to sustain a tenancy in the private sector.	<ul style="list-style-type: none"> <li>• Housing Advice (Snr HOs)</li> <li>• Advice / Welfare Agencies</li> <li>• Homelessness Teams</li> </ul>
Tenant has severe debt problems e.g. Bad credit rating that prevents opening bank accounts; undischarged bankruptcy	<ul style="list-style-type: none"> <li>• Creditors</li> <li>• Court orders</li> <li>• Solicitors</li> <li>• Support Organisations</li> <li>• DWP Jobcentre Plus are paying other paying benefit direct to Utility company</li> </ul>