



BARNLSLEY
Metropolitan Borough Council

Local Housing Allowance Safeguards Policy

AIMS AND OBJECTIVES

- To provide a safeguard for the most vulnerable tenants and reassure them that their benefit and rent will be paid
- To help prevent rent arrears and tenants being put at risk of eviction
- To help sustain tenancies for vulnerable tenants
- To reassure landlords that their rent 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 so they can 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

Section 1

TENANT IS LIKELY TO HAVE DIFFICULTY MANAGING AFFAIRS

Introduction

Where the Local Authority considers that the tenant 'is likely to have difficulty managing their affairs' we may consider making payment direct to the landlord.

The phrase '*is likely*' means that there must be a degree of certainty that the tenant will be unable to manage their affairs and therefore we need to distinguish between tenants who choose to manage their finances in a less than organised way and those that genuinely have difficulty managing their affairs.

We will consider evidence from professional bodies such as doctors, social workers, probation officers, welfare organisations, support or advisory services etc.

1) Identifying Potential 'Vulnerable' Tenants

The list below is an indicator of possible vulnerable status. Each case will be considered on its own merits taking into account the evidence and representations made. Please note that this is not an exhaustive list of possible indicators

Learning Disabilities

(Mild or severe problems) Seek confirmation from a

- Support Worker
- Doctor
- Social Worker
- Interview with CAB/advice agencies/Benefits Service staff

Medical Condition

That is likely to seriously impair a person's ability to manage on a day to day basis.

- a) **Mental illness** (schizophrenia, depression, any memory impairment such as Alzheimer's)
- b) **Physical conditions** which may make it difficult for a person to manage their affairs.

- In these situations we may consider how a tenants other financial affairs are conducted.
- Obtain confirmation from doctor/hospital
- Confirmation from support groups
- Interview with CAB/advice agencies/Benefits Service staff

Illiteracy

This could be difficulty in reading and writing or financial illiteracy.

- How has the current claim (and any other recent claim) been made.
- Ability to deal with payments issued
- Failure to reply to correspondence
- Unpresented cheques

NB) A person who is unable to complete their claim form may be entirely capable of dealing with their finances or may have adequate support in place to help them when needed.

- Seek confirmation from support worker
- Interview with CAB/advice agencies/Benefits Service staff

Language Difficulties

Representation and evidence may be made by

- Landlord
- Support group or community group
- Consider other family who could assist tenant in managing their affairs
- Interview with CAB/advice agencies/Benefits Service staff

Language difficulties alone are unlikely to lead to a decision that a tenant is unable to manage their financial affairs. The support worker could assist the tenant to open a bank account and set in place a system for paying the rent on a regular basis.

Addiction to Drugs, Alcohol or Gambling

Representation could be made in writing by

- Doctor/hospital
- Care workers
- Social services
- Probation services
- Support organisations
- Interview with CAB/advice agencies/Benefits Service staff

Severe Debt Problems / Recent County Court Judgements

Consider representation and evidence from

- Help groups
- Creditors
- Court order/ solicitors letter etc
- Interview with CAB/advice agencies/Benefits Service staff

Undischarged Bankruptcy

- The court order should be sufficient evidence.

Inability to obtain a Bank Account

- Letters from banks
- Evidence from money advisers

In the absence of evidence or where the validity of evidence provided does not satisfy the decision maker that the tenant is unable to manage their affairs an interview will be carried out to resolve any further questions.

Appointees

Appointees acting on a tenant's behalf who are "unable for the time being to act", should not be considered as vulnerable. Nor can the tenants they act for, until such time as they cease to have an appointee acting for them.

2) Dealing with Representations

Potential cases will mostly be identified through representation made in person, on the phone or in writing by one or several of the following sources:

The Tenant

- Arrange for the tenant to be interviewed by a home visitor
- Consider whether the tenant should be referred to CAB for money and/or debt advice.

Friends and Family of the Tenant

- All representations must be in writing
- May be supported by evidence
- Interview tenant
- Consider referring to CAB for money and/or debt advice.

The Landlord

- Representations must be made in writing
- Further evidence should be obtained in support
- Arrange for the tenant to be interviewed and consider whether the tenant should be referred to CAB for money and/or debt advice if/ where appropriate.

Welfare Groups, Money Advisors

- All representations must be in writing (usually prompted by the tenant contacting the welfare group/ money advisor for help).
- Should be supported by evidence to show that the tenant is likely to have difficulty managing their affairs.
- In most cases it will not be necessary to interview the tenant where Welfare groups have made representation unless all relevant information has not been obtained.

Social Services, Doctors, Probation Officers

- Representations must be in writing detailing the reasons why the tenant is deemed to be likely to have difficulty managing their affairs.
- Where evidence from Social Services, Doctors and Probation Services are provided no separate interview with tenant is required unless all relevant information has not been obtained by them.

Jobcentre Plus, Pension Service or Bond Guarantee Scheme Staff etc

- Representations must be in writing and detail the reasons why the tenant is likely to have difficulty managing their affairs.
- Where appropriate, evidence should be provided.
- In most cases it may still be necessary to interview the tenant & consider referring to CAB for money and/or debt advice.

Making a Decision

A decision on vulnerability will be made once sufficient information and evidence has been gathered

An interim decision may be made based on the information that is available at that time pending further investigation.

Tenants deemed vulnerable should be encouraged to seek support and advice, to enable them to be in a better position to manage their affairs.

Notification of Decision

All persons affected by the decision will be notified in writing and where applicable reasons for the decision will be given. Appeal rights will also be given.

Section 2

IT IS IMPROBABLE THAT THE TENANT WILL PAY HIS RENT

Introduction

Where the Local Authority considers that 'it is improbable that the tenant will pay his rent' we may consider making payment direct to the landlord.

- The phrase '*is improbable*' means that there must be a degree of probability that the tenant will not pay his rent. A possibility is insufficient as many tenants, regardless of their benefit status, carry a risk that they may not pay their rent.
- We need to distinguish between tenants who are genuinely unlikely to pay their rent and those who may claim that they are not likely to pay their rent because they would prefer not to take responsibility.

1) Possible Indicators that a Tenant is unlikely to pay their Rent

The list below is an indicator that a tenant is unlikely to pay their rent. Where records show persistent arrears or a failure to keep to arrangements which have been made, the tenant may be considered as unlikely to pay their rent.

- Poor credit history
- Arrears of utility charges
- Letters from tenant's bank
- Evidence of unpaid standing orders/direct debits could indicate that the tenant does not manage his money sufficiently well and is unlikely to do so in the future.
- Records kept by the Housing Department demonstrating failure to keep to arrangements
- Records kept by the Council Tax Office – as previous
- Records kept by the Housing Benefit Debt Management Section – as previous
- County Court Judgements would not automatically render a person "unlikely to pay" however these could be taken into account along with other evidence. Consideration should be given to the reason the judgement was gained. Greater credence should be given to those that were awarded as a result of non-priority debts.
- A history of rent arrears - this indicates that the tenant may not place great importance on paying their rent. However the consideration that we are required to make is whether "a person is unlikely to pay their rent" not whether a person has a history of failing to make other payments or has experienced debt problems.

Appointees

Appointees acting on a tenant's behalf who are "unable for the time being to act", should not be considered as unlikely to pay. Nor can the tenants they act for, until such time as they cease to have an appointee acting for them.

2) Dealing with Representations

Friends and Family of the Tenant

All representations must be in writing

- Must be supported by evidence from other sources as to why the tenant is considered unlikely to pay his rent. (To prevent cases where the tenant simply doesn't want to have the financial responsibility.)
- Interview tenant
- Consider referring to CAB for money and/or debt advice.

The Landlord

- All representations must be in writing
- Further evidence to support the representation should be obtained.
- Arrange for the tenant to be interviewed
- Consider referring to CAB for money and/or debt advice if/where appropriate

Welfare Groups, Money Advisors, Social Services, Doctors, Probation Officers

- All representations must be in writing and supported by evidence to show that the tenant is unlikely to pay their rent. Where evidence from Social Services, Doctors and Probation Services are provided no separate interview with tenant is required unless all relevant information has not been obtained by them.
- Evidence may be provided by banks and other financial institutions
- Courts
- Advisors dealing with client's debt problems can also advise on the tenant's financial management skills

Jobcentre Plus, Pension Service or Bond Guarantee Scheme Staff etc

- Representations must be in writing
- Where appropriate, supporting evidence should be obtained
- In most cases it may still be necessary to interview the tenant.
- Consider whether the tenant should be referred to CAB for money and/or debt advice.

Making a Decision

The following considerations should be made

- If the tenant is eight weeks or more in arrears, payment should be made to the landlord.
- Where the arrears arose wholly during a period for which Housing Benefit has not yet been paid, then the first payment should be made to the landlord and future payments to tenant.

- A tenant who has failed to use Housing Benefit Payments to pay his rent in the past can be assumed to be unlikely to pay his rent unless good reasons for non payment of rent are provided.
- Where arrears have arisen over a period when Housing Benefit did not meet the full rental liability and the tenant was not able to make the shortfall the tenant cannot automatically be assumed to be unlikely to pay his rent.
- Consider any arrangements that the tenant has made to pay his rent.

Where there is insufficient evidence to show that a tenant will not pay his rent, benefit will be paid to the tenant.

- A tenant's actions with the payment following the decision will be considered as evidence for future payments.

Notification of Decision

All persons affected by the decision will be notified in writing and where applicable reasons for the decision will be given. Appeal rights will also be given.

Section 3

FIRST PAYMENT TO LANDLORD

The LA can make the first payment of Housing Benefit to the landlord if it is considered that:

- The tenant has not already paid the rent for the period covered by the Housing Benefit payment
- The landlord is deemed to be a 'fit and proper' landlord.

Where the first payment totals £300 or above (not including any monies due to the tenant if entitled to any of the £15 per week excess) and it is appropriate to make the payment to the landlord a cheque will be issued to the tenant but payable to the landlord. All future payments will be made to the tenant.

The amount of rent paid to the landlord will be no more than the outstanding rent. If the tenant's entitlement is more than the rent charged any excess payment will be sent to the tenant.

Section 4

EIGHT-WEEK ARREARS CASES

Payment must be made to the landlord where a person is in rent arrears of 8 weeks or more, except where it is in the overriding interests of the tenant not to make payment to the landlord.

- The landlord must provide a statement that shows:
 - The rental liability
 - Any payments that have been made
 - The arrears is in excess of 8 weeks rent
 - Action taken in attempts to recover the arrears direct from the tenant
 - A request for benefit to be paid direct to landlord
- Representations will be considered within 14 days of the date of receipt.
- The amount payable to the landlord will be restricted to the rent charged and any arrears that are outstanding.
- The case will be closely monitored to ensure that any excess is not paid to the landlord once the arrears have been cleared.
- Each case will be monitored regularly to consider if payments should continue being paid to the landlord or whether payments should be made to the tenant.

Section 5

SPECIAL CIRCUMSTANCES

Where it appears that circumstances may have been contrived in order to secure direct payment of Local Housing Allowance to the landlord the normal provisions outlined in this procedure will not apply.

Making a Decision

In making the decision we will take into account the requirements of the Housing Benefit regulations, the circumstances of the individual case and the aims of government's welfare reform agenda as shown on page 2 of this policy.

Notification of a Decision

- The decision will be communicated to persons affected in writing.
- The persons affected may ask for a review of the decision
- The person affected may appeal to the tribunal service against this decision.