



Safeguard Policy for LHA Claimants and Landlords

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 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 more complicated. Team Leaders will have to decide whether a tenant is 'vulnerable' and 'can't pay' so the LHA should be paid directly to the landlord.

2. The Policy

When faced with the task of making a decision under the 'can't pay' category it is important to remember the aims of the policy so you are able to apply it appropriately. The primary concern of the vulnerability safeguard is to minimise the risk of tenants falling into rent arrears with their landlord and ensure they 'keep a roof over their head'.

The aim of the vulnerability policy in Elmbridge, Runnymede and Spelthorne 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

The policy is not designed to:

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

3. Decision Making Process

I. Receiving an application for Potential Vulnerability

A tenant or a representative makes the council aware that a person is potentially vulnerable

This will normally be by using an application form for direct payments. However, there may be occasions where you receive a letter from either a tenant or their representative asking for payments to be made to the landlord because they are potentially vulnerable.

Ideally the direct payment application form or letter will include written evidence that the tenant is unable to handle their own affairs..

II. Gathering information and evidence

The Council will consider the information that has been received and whether it is enough to make an appropriate decision. Ideally this will be written evidence from a third party; Adult Social Care; a G.P., support or advisory service such as the CAB. You can also accept evidence from the tenant's family or friends, but do not accept evidence from the landlord alone.

Where a request for vulnerability has been received, but supportive evidence required has not yet been provided, then ongoing payment of LHA will be made to the landlord. This will allow sufficient time for the evidence to be provided. If all supportive evidence is not supplied within one month, then payments will be resumed to the tenant.

III. Making a decision

You will make one of the following decisions and write to affected parties.

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

This will be subject to review.

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

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

IV Notifying affected parties

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

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.

Write to the landlord advising that:

- LHA up to the contractual rent will be paid directly to them on behalf of the tenant and the decision will be reviewed.

- b) ***Where the tenant is not vulnerable and payment of LHA will be made to the tenant you should:***

Write to the tenant and / or their representative and write to landlord (if applicable)

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

A manager would need to look at the decision if an appeal is made.

V 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 some time feels confident enough to manage their financial affairs and wishes to receive their LHA directly.

Periodically all decisions on vulnerability will be reviewed.

If no responses are received then an announced home visit may be arranged before any decision to revert payments back to the claimant is made.

V1 What supporting proof will be required?

Documentary proof supporting the claim of the tenant being unable to cope leading to vulnerability must meet the conditions below:

For medical grounds

- For mental disability, mental health issues, addiction problems, inability to read or write, physical disability etc. supporting letters will be required from a suitable professional. Suitable professionals can include a GP medical practitioner, Social Services, Occupational Health. These letters must clearly indicate that this tenant is unable to cope with his/her financial affairs and is therefore unlikely to pay rent as a consequence of this vulnerability.

For acute financial problems

- For history of rent arrears (unrelated to Housing Benefit payment problems), history of financial management/debt problems etc. supporting letters, together with a financial assessment, will be required from another agency eg. Citizens Advice Bureau.
- Evidence must be supplied by a reputable third party body/agency.
- Evidence provided from the landlord alone will not be accepted (except when eight weeks in arrears and evidence of arrears is required.)

An appeals leaflet is available from your local authority.

VULNERABILITY DECISION SHEET			
Claim Ref:			
Name:			
Address:			
Team Leader			
Recommendation		Y/N	Date:
Comments			
Direct payment decision		Y/N	
Is case to be reviewed?		Y/N	Diary date Y/N
Reasons why case is or isn't being reviewed			
Time until review			
Date decision letter sent			
L/L fit and proper test		Y	
REASON FOR DIRECT PAYMENTS (GIVE DEETAILS IN RELEVANT BOX)			
Learning disability		Medical condition	
Physical disability		Addiction	
Language difficulties		Mental health reasons	
One-off situation (e.g. bereavement, relationship breakdown)		Financial/debt problems	
History of homelessness or rough sleeping		Elderly	
Support provider or third party? (family or friends / CAB etc.)			

