



**Portsmouth**  
CITY COUNCIL

## **Revenues & Benefits Service**

### **SAFEGUARD POLICY**

15-January 2008  
Revised June 2009

## Safeguards in place for 'Direct Payments' under LHA

### 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 is more complicated. The Revenues and Benefits Service will have to decide whether a tenant is 'vulnerable' and 'can't pay' so the LHA should be paid directly to the landlord.

### 2. PCC Policy

The primary concern of the 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 safeguard policy in Portsmouth 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
- To sign post tenants to other agencies where necessary to 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 income and expenditure
- Be used by landlords to circumvent the aims of LHA
- Be a blanket policy for agencies providing support to private tenants

### **3. Making an application for a direct payment to Landlord**

#### **I. Receiving representation that a claimant will have or is having difficulty in paying their rent**

The tenant or their representative can make the council aware that a person will have or is having difficulty in paying their rent

This application can be made via the standard pro-forma or via a letter detailing the reasons for the request for direct payment.

Ideally the pro-forma or letter will include written evidence to support the written application.

See section 4 for some definitions of tenants that we consider may have difficulty in managing their financial affairs and the accepted sources of evidence.

#### **II. Receiving representation that the claimant 'won't pay their rent'**

If Portsmouth City Council is made aware that the tenant has consistently failed to pay their rent and has rent arrears of 8 weeks or more or is having deductions from other benefits to pay off rent arrears then direct payment to Landlord can be considered.

**\*\*By arrears we mean rent that has not been paid for a period that has already been served. This does not refer to the tenant not making advance payments.**

This information can be provided to the Benefits Service by means of a letter, email or phone call detailing the amount and period of arrears. Landlords or agents should ensure that they make contact at the earliest opportunity if a tenant is failing to pay their rent. They should not wait for 8 weeks of arrears to accrue.

Evidence to support this representation must be provided. Types of evidence required would include:

- Arrears notification sent to the tenant
- Rent Book
- Bank Statements if rent is paid via standing order
- Receipts and/or collection documentation
- Confirmation of arrears deductions from other benefits

### **III. Making the Decision**

The Benefits Service will consider the information that has been received and whether there 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 services such as the CAB. We will also accept evidence from the tenant's family or friends, but do not accept evidence from the landlord alone when considering the 'can't pay' criteria.

If the evidence is not sufficient, then we will request further information from the tenant or their representative by telephone or letter giving one month to respond. We may also consider having a discussion with the tenant or their representative to assist us in making a decision.

If there is no response within a month we will consider the case on its own merits after making further enquiries where possible.

### **IV. Notifying the affected parties of the decision to pay Landlord**

#### **a) Where the decision is made that we will pay payments of LHA to the Landlord under the 'can't pay' safeguard.**

We will 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

We will write to the landlord advising that:

- LHA up to the contractual rent will be paid directly to them on behalf of the tenant
- Request bank details if not previously received
- The minimum length of time that this arrangement will stand if the decision is to be reviewed.

**b) Reviewing the 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 a year feels confident enough to manage their financial affairs and wishes to receive their LHA directly.

Tenants are not expected to complete the standard form again, in the first instance it will be enough to write to them or speak to their representative / support worker to get an update of the situation.

**V. Notifying the affected parties of the decision not to pay Landlord**

***Where the decision is made that we will not pay payments of LHA to the Landlord under the 'can't pay' safeguard***

We will write to the tenant and / or their representative and their Landlord advising them of:

- The decision
- Reasons for the decision
- Appeal rights
- Include a leaflet containing any advice agencies, voluntary or statutory organisations that may help them

#### 4. Emerging Grounds of Vulnerability

Grounds	Evidence	
<b>Long Term</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> </ul>	<ul style="list-style-type: none"> <li>• Adult Social Care</li> <li>• DWP – (evidence of benefits)</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>• Pension Service</li> </ul>	<ul style="list-style-type: none"> <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>• Pension Service</li> </ul>	<ul style="list-style-type: none"> <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>• Pension Service</li> </ul>	<ul style="list-style-type: none"> <li>• Hospital</li> <li>• Probation officers</li> <li>• Family / Friends</li> </ul>
Tenant speaks English only as a second language, presenting obstacles to them in opening and running 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> </ul>	<ul style="list-style-type: none"> <li>• Hospital</li> <li>• Care / support workers</li> <li>• Supporting People</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 ( Advice / Welfare Agencies</li> </ul>	<ul style="list-style-type: none"> <li>• Homelessness Teams</li> <li>• Big Issue</li> </ul>
<b>Financial</b>		
Tenant has severe debt problems E.G. CCJs, Bad credit rating that prevents opening bank accounts; undischarged bankruptcy	<ul style="list-style-type: none"> <li>• Creditors</li> <li>• Court orders</li> </ul>	<ul style="list-style-type: none"> <li>• Solicitors</li> <li>• CAB</li> <li>• DWP Job Centre Plus are paying benefit direct to Utility company</li> </ul>