



CORPORATE RESOURCES OVERVIEW AND SCRUTINY COMMITTEE

Committee Report

Public

Date of Meeting: 21 February 2008

Title: HOUSING BENEFITS ADMINISTRATION LOCAL HOUSING
ALLOWANCE 'SAFEGUARD' POLICY

Report of: The Director of Corporate Services

Report reference: CORP81/07

Summary:

The report asks members to consider the safeguard policy for the payment of Housing Benefit Local Housing Allowance designed to protect vulnerable tenants' rent payments.

Questions for / input required from Scrutiny:

Does this 'safeguard' policy give enough protection to vulnerable housing benefit claimants and landlords who rent out their properties to such vulnerable tenants.

Recommendations:

Members are asked to scrutinise the Housing Benefits Administration Local Housing Allowance 'safeguard' policy.

Contact Officer: Peter Mason

Ext: 7270

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None



REPORT TO EXECUTIVE

PORTFOLIO AREA: FINANCE AND PERFORMANCE MANAGEMENT

Date of Meeting: 21 January 2008

Public

Key Decision: Yes

Recorded in Forward Plan: Yes

Inside Policy Framework

Title: HOUSING BENEFITS ADMINISTRATION LOCAL HOUSING ALLOWANCE 'SAFEGUARD' POLICY

Report of: The Director of Corporate Services

Report reference: CORP81/07

Summary:

The report asks the Executive to consider the draft safeguard policy for the payment of Housing Benefit Local Housing Allowance designed to protect vulnerable tenants' rent payments.

Recommendations:

Members are asked to consider/comment on the policy before referring to Corporate Resources Overview and Scrutiny Committee on 21 February 2008.

Contact Officer: Peter Mason

Ext: 7270

CITY OF CARLISLE

To: The Executive
21 January 2008

CORP81/07

HOUSING BENEFITS ADMINISTRATION
LOCAL HOUSING ALLOWANCE

1. INTRODUCTION

1.1 In the report of 28 August 2007 members were advised on the introduction of the Local Housing Allowance (LHA), it being the cornerstone of the Government's Housing Benefits reform programme which aims to simplify Housing Benefits and ensure it supports the wider objectives for welfare reform.

1.2 As advised on 28 August 2007, the aims of the scheme are as follows:

- (i) Fairness – Pay same amount of housing benefit to tenants with similar circumstances living in the same area.
- (ii) Choice – Tenants can trade quality for cost, i.e. they can decide to take cheaper accommodation and pocket the difference between HB (based on LHA) and actual rental liability (up to £15.00) to spend on whatever they want.
- (iii) Transparency – Advance knowledge of amount to be paid helps tenants (and landlords) know how much financial help is available. Removes the need for any pre-tenancy determination.
- (iv) Personal Responsibility – To encourage direct involvement in budgeting and payment of rent developing the skills unemployed tenants will need to move back into work. Rents will be more meaningful and landlords will need to collect and recover the rent from tenants.
- (v) Financial Inclusion – Ideally payments are made directly into bank account that can support standing order payments. Landlords need not be aware that tenants are in receipt of Housing Benefit.
- (vi) Improved Administration and Reduced Barriers to Work – Simpler system that should be easier to understand and provide certainty about what help is available in and out of work.
- (vii) The provision for a claimant to have Housing Benefit paid direct to the landlord (except in exceptional circumstances) has been removed.

1.3 Under LHA regulations the Council must set out and adhere to a safeguard policy designed primarily to safeguard the interests of vulnerable claimants. A draft policy is attached at Appendix 1.

2. SAFEGUARD POLICY FOR THE PAYMENT OF HOUSING BENEFIT LOCAL HOUSING ALLOWANCE

2.1 The draft policy (see Appendix 1), which has been based on Department of Works and Pensions guidance, introduces the term 'safeguard' to benefits administration. Safeguard policy, practices and procedures should be followed where direct payment to the landlord will help claimants who might not otherwise be able to pay their rent themselves.

2.2 The aim of the policy is to ensure that safeguards are in place to :

- protect vulnerable claimants;
- prevent rent arrears building for claimants at risk of eviction;
- help claimants to take responsibility for receiving direct payments, e.g. put claimants in touch with other agencies and support them in managing their own financial affairs;
- reassure landlords that their rent will be paid if they have vulnerable tenants. Also work with landlords where tenants consistently fail to pay rent.

2.3 Overall it will also help to promote a transparent and simple process that is understood widely, treats each case individually and make reasonable, fair and consistent decisions.

2.4 The policy sets out in detail:

- (i) the circumstances where the Council will consider payment LHA to the landlord;
- (ii) the decision making process;
- (iii) the appeals process.

2.5 As stated in the policy all relevant staff will be made aware of the policy as part of their LHA training, particularly when to consider direct payments to landlords.

3. CONSULTATION

- 3.1 Consultation Undertaken – Presentation and consultation on the policy held with Landlords Forum on 17 December 2007. Landlords requested to respond to consultation 7 January 2008.
- 3.2 Consultation Proposed – With Corporate Resources Overview and Scrutiny Committee on 21 February 2008.

4. RECOMMENDATIONS

- 4.1 Members are asked to consider/comment on the policy before referring to Corporate Resources Overview and Scrutiny Committee on 21 February 2008.

5. REASONS FOR RECOMMENDATIONS

- 5.1 To enable Benefit practitioners to follow laid down policy, practices and procedures agreed by the Council in protecting vulnerable benefit claimants.

6. IMPLICATIONS

- Staffing/Resources – Staff training built into LHA introduction timetable.
- Financial – Not applicable.
- Legal – Not applicable.
- Corporate – SMT considered the arrangements put in place to introduce LHA in April 2008.
- Risk Management – Risks being managed via detailed action plan which is currently on target.
- Equality and Disability – Policy designed to protect vulnerable Housing Benefit claimants.
- Environmental – Not applicable.
- Crime and Disorder – Not applicable.
- Impact on Customers – Policy supports Housing Benefit customers particularly vulnerable claimants.

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**CARLISLE CITY COUNCIL SAFEGUARD POLICY
FOR THE PAYMENT OF HOUSING BENEFIT
LOCAL HOUSING ALLOWANCE**

Glossary of Terms

CCA	Community Care Assessment: usually carried out by Social Services to determine the level of support/care required.
Deregulated	Tenancies created from ¹ 15 th January 1989 onwards.
DWP	Department for Work and Pensions.
HA	Housing Association.
HB	Housing Benefit.
LHA	Local Housing Allowance.
Private Sector	Landlords who are not a Local Authority, Registered Social Landlord, Housing Association, Registered Charity or Voluntary Organisation.
Regulated	Tenancies created before 15 th January 1989.
Safeguard	Term used within this policy for making payment to the landlord where it is in the best interests of the claimant

¹ 15th January 1989 is the date The Housing Act 1988 replaced The Rent Act 1977.

Introduction

Local Housing Allowance (LHA) will be introduced from Monday 7th April 2008 and will apply to Housing Benefit claimants in deregulated private sector accommodation when they move house, make a brand new claim for Housing Benefit (HB) or have a break in existing HB entitlement.

Claimants residing in the following types of accommodation are not included in the LHA scheme and will remain under existing Rent Officer rules:

- Registered Social Landlord (RSL) and Housing Association (HA) tenancies
- 'Supported accommodation' i.e. accommodation provided by Local Authorities (Las), Social Landlords, Charitable Organisations, Voluntary Organisations where the claimant is in receipt of Supporting People Grant or Private Landlords where the claimant is the subject of a Valid Community Care Assessment. (CCA)
- Tenancies that started before 1989 i.e. Regulated Tenancies
- Tenancies with substantial board and attendance including hostels and some bed and breakfast accommodation
- Exceptional cases: including tenancies in caravans, houseboats, mobile homes

Where the LHA scheme applies claimants cannot choose to have their Housing Benefit paid to their landlord as LHA will normally be paid to the claimant rather than the landlord. However, in recognition that some claimants may have difficulty managing their own affairs, or it is improbable that they will pay their rent, the Local Authority has discretion to make payment direct to the landlord.

The DWP has provided guidance on when direct payments to the landlord are appropriate and has also advised that the term safeguard should be used where direct payment to the landlord will help claimants who might not otherwise be able to pay their rent themselves. The overriding consideration in these cases will be to act in the best interests of the claimant whilst upholding their basic human rights.

Carlisle City Council Safeguard Policy

The aim of the policy is to ensure that safeguards are in place and are applied correctly. It is intended to:

- Provide a safeguard for vulnerable claimants and reassure them that their benefit and rent will be paid;
- Prevent rent arrears and claimants being put at risk of eviction;
- Help to sustain tenancies for vulnerable claimants;
- Help claimants to take responsibility for receiving direct payments of LHA: where appropriate;
- Help to put claimants in touch with other agencies where necessary and give people the opportunity and support to manage their own financial affairs;
- Reassure landlords that their rent will be paid if they have vulnerable tenants;
- Work with landlords where the tenant consistently fails to pay the rent;
- To make reasonable, fair and consistent decisions;

- Promote a transparent and simple process that is understood widely; and
- To treat each case individually and not make assumptions about people's circumstances.

The policy is not intended to:

- Supersede support that is being received to allow claimants the opportunity to be responsible tenants and be in control of their own income and expenditure;
- Supersede the services already available in the area for claimants who require money or debt advice;
- Be used by landlords to circumvent the aims of LHA; or
- Be a blanket policy for agencies providing support to private tenants.

All relevant staff will be made aware of the policy and also when direct payments should be made.

Circumstances where we will consider paying the Local Housing Allowance to the landlord are if:

- The claimant is likely to have difficulty paying their rent because they are considered to be vulnerable and unable to manage their own financial affairs, this may include;
 - People with medical conditions such as mental ill health, Alzheimer's disease or a terminal illness;
 - People with learning difficulties;
 - People with physical disabilities and are housebound;
 - Illiteracy or inability to speak English;
 - A person who lives alone with no support;
 - A person receiving assistance from a homeless charity;
 - A person with alcohol/substance/gambling addiction;
 - A person receiving funding from the Supporting People Grant; or
 - A person who has recently experienced changes in their lifestyle that means they are temporarily unable to deal with their financial affairs e.g. bereavement, fleeing a violent relationship, leaving prison, leaving care, homelessness.
- The claimant is likely to have difficulty paying their rent because they have financial difficulties which mean they are unable to open a bank/building society account, have severe debt problems or are bankrupt.
- The claimant is unlikely to pay their rent because he or she:
 - has rent arrears and consistently failed to pay; or
 - has previously absconded from a property leaving rent arrears.

This list is not exhaustive and there may be other factors preventing the tenant from receiving direct payments of the Local Housing Allowance.

Each case will be considered on its own merits and there will not be a blanket approach for all claimants.

Under Housing Benefit Regulations, Local Authorities must (subject to conditions and exceptions) make direct payments to landlords where the claimant:

- Has rent arrears of eight weeks or more; or
- Is having a deduction from their Income Support or Job Seekers Allowance to pay rent arrears.

A Local Authority also has discretion to send the first payment of LHA, by cheque directly to the claimant but payable to the landlord.

If the amount of the claimant's LHA is greater than their contractual rent and a decision has been made to pay the landlord because of the safeguard criteria, a split payment will be made and the claimant will receive the excess.

Decision making process

Receiving an application

The claimant, representative or landlord may make a request for payment of LHA to be made directly to the landlord. This request should normally be made using the standard proforma provided by the Authority. However a letter from the claimant, representative or landlord may be accepted if it provides sufficient information in order to reach a decision.

Where a request for direct payments, on the grounds of vulnerability or financial difficulties, is received from a representative of the claimant, the third party must have express written authority to act on behalf of the claimant.

In all cases appropriate evidence must be provided in order to support the application.

Evidence

The relevant member of staff will consider the information and evidence that has been received and assess whether this is sufficient to make an appropriate decision. The member of staff making the decision will have access to guidance on what constitutes acceptable evidence.

Where appropriate a Local Authority Visiting Officer or Welfare officer may visit the tenant to gather more information in support of the application.

If the evidence is insufficient, further information will be requested from the claimant, their representative, the landlord and/or any other relevant parties. A discussion with the claimant or their representative may also assist in making a decision.

If further information is requested, one calendar month will be given for the person to respond. If there is no response within that month, further enquiries may be made or the case will be considered on the information available.

In all cases, where the claimant has rent arrears or has consistently failed to pay their rent, reasonable written evidence will be required.

Making a decision

Using the information and evidence available, the decision will be made in the best interests of the claimant.

Relevant notes will be made in the claimant's Benefit records: by the member of staff making the decision. These notes will include details of the application, the decision made and the reasons leading to the decision. Diary dates will be set to keep decisions under review.

Each application for direct payment to the landlord will result in one of the following decisions:

- Payment of LHA to be made to the claimant; or
- Payment of LHA to be made direct to the landlord.

Notifications of the decision will be sent to the relevant person(s).

Where a decision has been made to make direct payments to the landlord, a diary date will be set to keep the decision under review. The review date will be set for an appropriate period of time: depending on the circumstances of the individual case. However the review date will not be more than 12 months from the date of the original decision.

The claimant and/or representative will be contacted again, in writing, before the end of the review period to determine whether the situation has changed and if the claimant can receive payment of LHA directly.

Payment will continue to the landlord until the review is completed. If the situation remains unchanged, a further review period will be set on the claim.

Where the circumstances of the claimant have changed, and the change means they can accept the responsibility of receiving LHA payments and pay rent to their landlord, we will make a new decision to pay LHA to the claimant.

Notification of decisions

When a decision has been reached, the affected parties will be notified in writing.

Where payment of LHA is to be made to the claimant we will write to the claimant and/or their representative advising them of:

- Details of the decision; and
- Appeal rights.

Where payment of LHA is to be made to the Landlord we will:

- Write to the claimant and/or their representative advising them of:
 - Details of the decision;
 - When the decision will be reviewed; and
 - Appeal rights.
- Write to the landlord advising them of:
 - Details of the decision;
 - LHA up to the value of contractual rent will be paid directly to them;
 - When the decision will be reviewed; and
 - Appeal rights

Where the original decision to make direct payment to the landlord has been reviewed and a new decision is made we will:

- Write to the claimant and/or their representative advising them of:
 - Details of the decision;
 - When the decision will be reviewed again (if applicable);
 - Date payment will commence (if applicable); and
 - Appeal rights
- Write to the landlord advising them of:
 - Details of the decision;
 - When the decision will be reviewed again (if applicable);
 - When direct payments will cease (if applicable); and
 - Appeal rights

Reconsideration and Appeals

A person affected by a decision to pay LHA directly to the landlord may appeal against that decision.

They can

- Ask for an explanation for the decision;
- Ask the council to reconsider the decision; and
- Appeal against the decision

In all cases the person must contact the council with their reasons, in writing, within one calendar month from the date of the decision.

The council will then either:

- Provide a written explanation of the decision; or
- Look at the decision again and change it; or
- Look at the decision again and uphold the original decision.

Should the council uphold the original decision then they will send the appeal and any other relevant papers to the Tribunals Service – an independent tribunal.

A copy of the appeal papers would be sent to the claimant/landlord together with a form, which they would have to complete and return to the Tribunals Service within 14 days or the appeal would lapse.