



Greenwich Council

Safeguards for tenants and landlords policy

1.0 Safeguards for tenants and Landlords Policy

The primary concern of the safeguard is to:

Minimize the risk of tenants falling into rent arrears with their landlord and ensure they 'keep a roof over their head'.

Ensure that benefit claimants who are able to manage their financial affairs are paid their benefit in line with the Governments Aims under the Welfare Reform policy.

1.2 The aim of the safeguard policy 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

1.3 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

2.0 Mandatory Direct payments in which payment is to be made to a landlord

Reg 95 outlines situations where the LA is required to by law to pay direct to landlord. This regulation has changed little and does not need to be looked at in much detail.

The grounds for mandatory direct payments are

- Equivalent of 8 weeks or more of rent arrears
- Claimant has vacated leaving rent arrears
- Claimant is having deductions out of other benefits for rent arrears (for the same landlord that they have now.)

and

the landlord is a 'fit and proper person' to receive direct payments

2.1 Landlords seeking direct payments on grounds of rent arrears

When dealing with applications from landlords for direct payments on the ground of rent arrears, we will seek proof that such arrears exist. We will suspend payment of benefit and notify the claimant that a request for direct payments has been made.

In the event of a dispute between landlord and tenant we will decide on available evidence and make payment to the relevant parties.

2.2 If the benefit exceeds the contractual rent, we will seek proof of the rent arrears and the amount that the landlord has specified for paying off the arrears. We will calculate the likely time in which the arrears will be paid off and resume payment of the excess to the claimant.

2.3 HB Reg 96 Circumstances in which payment *may* be made to a landlord

2.4 Discretionary direct payments

For non-Local Housing Allowance the Council may pay direct where:

- The claimant requests it or if it is in the best interests of the claimant **and** the landlord is a 'fit and proper person' to receive direct payments

For claims paid under the Local Housing Allowance, the council is prevented by law from making direct payments where the **only** reasons are because the claimant has requested direct payments or because it is in the claimants best interests to make direct payments.

The remainder of this document covers direct payments where the claim is paid under the Local Housing Allowance.

3.0 Direct payments under the Local Housing Allowance

Where the claim is paid under the Local Housing Allowance there are 4 grounds for paying direct payments. It's worth pointing that these reasons are discretionary.

3.1 The four grounds for making direct payments

1. Claimant may have difficulty managing financial affairs
2. It is improbable that the claimant will pay their rent
3. Previously required by law to pay direct (only during current claim)
4. Considering direct payment decision under 1 and 2

To pay under grounds 1, 2 and 4 there must be a written application for direct payment

The Council will

- Gather sufficient information and evidence and make a decision about how payments will be made.
- Decide, where a claimant has failed to co-operate in establishing the facts, whether or not that failure to co-operate demonstrates the claimant's vulnerability and / or that the claimant is unlikely to pay rent.
- Encourage claimants deemed vulnerable to seek support and advice, either elsewhere in the Council or from other agencies, to enable them to be in a better position to manage their affairs. This could be anything from money advice to tackling more fundamental underlying issues.

3.2 Identifying claimants who may have difficulty managing financial affairs

We may receive requests for consideration from the claimant, landlord or a third party such as DWP, Social Services, GP, friend or family member. The request must be made in writing.

Requests from an independent source who are acting in the claimants interests e.g. social worker, probation officer, GP, DWP or charity will be given greater credence than those from the landlord of claimant. Evidence from these sources should be accepted without question.

We can only respond to the landlord or third party if there is written consent from the claimant to do so. If no consent is given, we will still investigate the matter and contact the claimant where appropriate. We will look at any information held on file when considering requests for direct payments.

Each case must be considered on its own merits when making a decision on vulnerability, taking into account any supporting evidence. Many circumstances may affect a person's ability to manage his or her financial affairs. For example;

- Learning Disabilities - These can range from mild to severe. In more severe cases, the claimant is likely to have an appointee to act on his or her behalf, in which case a decision not to pay the landlord should be made.
- Medical Conditions - Those which seriously impair someone from managing his or her affairs on a day-to-day basis, e.g. mental illness (schizophrenia, Alzheimer's, senile dementia). However, again, there may be an appointee acting on a claimant's behalf in most of these situations.
- Illiteracy or an inability to speak English.
- Addiction to drugs, alcohol or gambling.
- Fleeing domestic violence; single homeless (care leavers); people leaving prison.

3.3 Where financial independence is part of a recovery programme

The DWP have advised that direct payment should not be made where a claimants ability to manage money is part of a recovery programme. This will be a question that will need to be asked when considering a request for direct payments.

3.4 Documents in support of a request for direct payments

In most instances, a request for direct payments will be supported by proof that can be verified. Ideally, any proof provided should show how the claimant's circumstances relate to them being unable to manage their financial affairs.

Circumstances	Examples of evidence required
Learning Disability	Written evidence from GP, Social Services, Care Workers, DWP, etc.
Medical Condition	Written evidence from GP, Social Services, Care Workers, hospital, etc.
Illiteracy / Inability to speak English	Written evidence from support organisations, etc.
Addiction to drugs / alcohol / gambling	Written evidence from support organisations, etc.
Fleeing domestic violence / single homeless / care leavers or leaving prison	Written evidence from support organisations, probationary service, social services, etc.
Extreme youth i.e. Claimant is a young person aged under 18	Letter from support organisations

Indicators that a person may have difficulty in managing their financial affairs

People unable to pay their own rent will often have difficulty managing financial affairs more generally. This inability to manage financial affairs may be demonstrated by:

- **severe debt problems/ recent County Court Judgements** – we will consider evidence from financial help groups, creditors, courts, solicitors, etc
- **undercharged bankruptcy** - consider evidence from court documents
- **an inability to obtain a bank account** - consider evidence from banks and money advisers
- **DWP is making deductions from Income Support (IS) or income-based Jobseeker's Allowance (JSA(IB)) in respect of housing costs** - housing costs include service charge, utility bills which are part of the rent. You should only consider this as being an indicator if part of the debt is still outstanding
- **the claimant is in receipt of Supporting People (SP) help** - consider information that is already available from benefit systems as well as evidence from social services departments and support providers
- **the claimant is in receipt of help from a homeless charity or LA** - consider evidence from the charity or the homelessness section of the LA

4.0 Improbable that the claimant will pay the rent Reg 96(3A)(b)(ii)

We only need to consider this if the claimant circumstances indicate that they are otherwise able to manage their financial affairs.

Claimants, or persons acting on their behalf, may make representations that they are unlikely to pay their rent.

All requests should be in writing with any proof in support of the request.

We may take into account information that already held within the LA. This may, for example, include information passed on by Social Services or housing departments which suggest that a claimant is unlikely to pay their rent.

We will identify if a claimant has a history of not paying their rent, this may indicate to you that they may not do so in the future (although past behaviour does not necessarily determine future actions).

It will **not** be sufficient to make direct payments simply because the claimant has said that he will not pay his rent. We will need to consider factors such as

- why they say they will not pay their rent
- whether they have paid rent in the past to the same landlord or more generally
- how they would pay rent if they were working
- whether rent arrears have built up and what action has been taken by the claimant or landlord
- whether payment by Automated Credit Transfer (ACT) and then standing order would provide a solution
- whether the landlord is likely to have exerted pressure on the claimant
- whether other tenants renting from the same landlord have made similar representations

4.1 Considering previous history

When we consider past behaviour the evidence must indicate a pattern of non payment of rent. Occasional missed payments do not demonstrate that the claimant is unlikely to pay their rent in the future. Evidence must show a sustained period of non-payment.

We will consider the following

- look for early evidence where it appears that the tenant is unlikely to pay their rent
- how far back are the missed payments? More recent and persistent non payment will carry greater weight. For instance, one payment missed 18 months ago is not sufficient evidence that the claimant will not presently pay their rent
- is the tenant experiencing wider cash flow or debt problems and making payment to non priority creditors rather than prioritising payment of rent? If so financial literacy or budgeting advice may be more appropriate

4.2 Making a decision

Ultimately, the decision will be based on what is in the best interests of the claimant, not the landlord, and that most claimants will benefit from paying rent for themselves. When evaluating evidence, we will take into account whether:

- the individual landlord already receive direct payments in respect of other tenants?
- the landlord shown that he has tried to recover the missing payments from the claimant?
- it appears that pressure has been brought to bear on the claimant to present their circumstances in a particular light?

4.3 Previous direct payments made under mandatory grounds

This is fairly straightforward. If we were required to make direct payments during the **current claim**, we have the discretion to continue to make direct payments, even if the arrears are cleared.

We consider whether it is appropriate to continue paying the landlord once the arrears have been cleared. We will consider whether direct payments should continue to be made under grounds 1 or 2.

We may not continue with direct payments if the claimant can show valid reasons and proof of these reasons why we should not pay direct.

For example

- If the claimant feels the landlord is not keeping proper records of the payments
- If the landlord is not providing receipts to the claimant
- If the landlord is not a fit and proper person to receive direct payments
- Claimant is in dispute with landlord over repairs or payments

4.4 LA Suspects that grounds for direct payment apply and is considering the issues

If an application has been made for direct payments under grounds 1 or 2 and reasons have been given which would be appropriate for paying direct, The Council may make direct payments for a maximum period of 8 week while considering the issues or gathering information.

The Council will only do this where **all** of the following apply:

- An application has been made for direct payments under grounds 1 or 2
- There are compelling reasons for paying direct under grounds 1 or 2
- There are documents to support the request but are not available, but will be made available.
- There is a high likelihood that direct payments would be made when proof becomes available to support the reasons for the request.
- The landlord is a fit and proper person the receive direct payments

4.5 Where payments will not be paid direct to landlord

Do **not** make direct payments, on safeguard grounds, in respect of

- people who have been appointed to act on behalf of a claimant who is 'unable for the time being to act' **and**
- the claimants they act for, until such time as they cease to have an appointee acting for them
- where this would supersede the support being given to tenants to help them take responsibility in managing their own affairs
- where it is the landlord who is the person likely to have difficulty managing his affairs. For example direct payments should not be considered where the landlord is unable to leave the house to collect the rent
- The landlord is not a fit and proper person to receive direct payments

4.6 Review of direct payment decisions

Where appropriate, the council will review direct payment decisions either:

- written request from an affected party
- the reason for paying direct no longer applies
- a change of circumstances (e.g. someone is appointed to act for the claimant)
- following a periodic review of the case.

4.7 Making direct payments to landlord

All direct payments will be paid into a bank account.