

# Perth and Kinross Council Housing and Community Care

## Local Housing Allowance Safeguard Policy

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## **Introduction**

Under Local Housing Allowance a tenant cannot simply request that payment is made to their landlord to cover their rent. Payment will normally be paid to the claimant.

However, Perth and Kinross Council will have the discretion to make payments direct to the landlord if we consider:

- **That the tenant is likely to have difficulty managing their own affairs.**
- **It is improbable that the claimant will pay their rent.**

The Department for Work and Pensions have provided guidance on when direct payments to a landlord may be appropriate, where a tenant 'can't pay' or 'won't pay' or if a tenant is in rent arrears of eight or more weeks.

Decisions for the 'won't pay' and 'eight or more weeks in rent arrears' categories should be based on evidence of arrears from the landlord and any evidence of previous problems in maintaining rent payments.

Decisions for the 'can't pay' category should be based on evidence regarding the tenant's vulnerability. Characteristics that may indicate that a claimant is likely to have difficulty managing their own affairs can include severe debt problems, learning disabilities, mental health problems, illiteracy or inability to speak English or addiction to drugs, alcohol and gambling.

Perth and Kinross Council has therefore introduced a 'Vulnerability Safeguard' in order to minimise the risk of tenants falling into rent arrears with their landlord and to ensure that they can continue to keep their tenancy.

## **Policy Aims**

To:

- Provide a safeguard for the most vulnerable tenants
- Prevent rent arrears and tenants being put at risk of eviction
- Help sustain tenancies for vulnerable tenants
- Reassure landlords that their rent will be paid if they have vulnerable tenants or are approached by vulnerable tenants

- make reasonable, fair and consistent decisions
- Promote a transparent and simple process that is widely understood

### **Equal Opportunities**

Perth and Kinross Council is committed to equality of opportunity and will ensure that its Local Housing Allowance Safeguards Policy and Procedures will not unfairly discriminate against persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions. The housing service has facilities to provide for:

- Translation and interpretation for customers whose first language is not English.
- Sign language facilities for the profoundly deaf.
- Large text or audio tapes for the visually impaired.

There are many other reasons that service users may have difficulties accessing our services. These may include dyslexia, illiteracy and mental health issues. It is the duty of all staff to ensure these issues are taken into account to ensure that information is appropriately communicated in ways that the tenant can understand.

### **Complaints**

Perth and Kinross Council operates a Complaints Procedure that is available to any tenant who is not satisfied with the way their case has been dealt with. Details of the complaints procedure are detailed in the Council's 'Complaints' leaflet that is available from any Council office.

Complaints about our Local Housing Allowance Safeguards Policy and Procedures will be used to monitor and improve our service.

### **Applications**

Applications for payments direct to a landlord will normally be on our LHA Direct Payments Application Form or may take the form of a letter. These can be from the tenant or the tenant's representative. Ideally written evidence should be included. The form must always be signed by the tenant.

## **Making a decision**

The information that has been received should be considered and an appropriate decision reached. If there is not sufficient evidence to come to a decision then further information should be requested from the tenant or their representative. This request should ideally be by telephone.

If there is no response within a month the claim for vulnerability collapses and the tenant must start the process again.

The payment of Local Housing Allowance should not be delayed pending the outcome of the decision and the tenant must continue to be paid pending the outcome. How the tenant handles these initial payments may help reach a decision on vulnerability.

## **Notifications**

Where the tenant is vulnerable and payment of Local Housing Allowance is made to the landlord, the tenant and/or their representative will be written to advising them of:

- The decision
- Reason for the decision
- If and when the decision will be reviewed
- Right of Appeal

The landlord should also be written to advising that:

- Local Housing Allowance 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.

Where the tenant is considered not vulnerable and payment of Local Housing Allowance will be made directly to the tenant, the tenant and/or their representative should be written to advising them of:

- The decision
- Reasons for the decision
- Right of Appeal

- Any advice agencies, voluntary or statutory organisations that may help them

## **Reviews**

Dates for review should be set depending on whether or not the tenant's vulnerability is deemed to be long term or short term. Tenants should not be expected to complete the process again. In the first instance it will be enough to write to them or speak to their representative or support worker to get an update of the situation. If no responses are received then payment should continue to the Landlord.

Only when the tenant requests that they be paid directly would payments to the landlord be stopped.

## **When Local Housing Allowance MUST be paid to the landlord**

- **There are rent arrears exceeding eight full weeks**  
Evidence of the arrears e.g. Rent book or a copy of the landlord's record showing when the rent was due and what payments have been made and when.
- **Tenant is having deductions from Income Support/Job Seekers Allowance to pay off previous rent arrears**

The direct payments to the landlord in these cases can only continue until the arrears have cleared. Once the arrears have been cleared the payments must then be made to the tenant.

## **When Local Housing Allowance MAY be paid to the landlord**

Perth and Kinross Council has the discretion to make payments to the landlord in the following circumstances:

- **If a large payment of benefit is due to be made because of a delay in processing, or backdating**  
In this situation Perth and Kinross Council may choose to make the first payment to the claimant but payable to the landlord
- **Perth and Kinross Council considers that there is a serious risk that the claimant won't pay their rent**  
For example, the claimant has a history of refusing to pay their rent or the claimant has a persistent record of accruing

arrears with a landlord. There may also be evidence of a previous eviction, homelessness or sleeping rough. In these instances Perth and Kinross Council may decide it is better for the claimant to make direct payment to their landlord.

Learning Disability	People with learning disabilities may experience difficulties with everyday practical skills or social skills. They find it harder to understand and learn.
Physical Disability	It will be in only a few cases that physical disability affects how a person manages their affairs. For example, severe impairment in both sight and hearing may mean additional problems with communication, mobility and access to information. Physical problems may also be because of age.
Mental Health Problems	Common forms of mental illness include anxiety, phobias, Alzheimer's, Dementia, Eating Disorders, Schizophrenia, Obsessive Compulsive Disorder, Personality Disorders, Manic Depression (Bipolar Disorder), Depression, Postnatal Depression.
Addiction	Someone who is experiencing (or has a history of) addiction, for example to alcohol, drugs or gambling, may find it difficult to prioritise their rent.
Not Fluent in English	The barriers faced by people who are not fluent in English can inhibit their ability to deal with agencies and organisations. This can extend to banks/landlords/letting agencies when trying to organise benefits and rent payments
Short Term Crisis	Such situations can cover bereavement, relationship breakdown, coming out of hospital, going in to hospital, or a terminal illness of a close relative.

