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East Dunbartonshire Council

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**LOCAL HOUSING ALLOWANCE
DIRECT PAYMENTS AND VULNERABLE CLAIMANTS POLICY**

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1.0 Introduction

- 1.1 From 7th April 2008 new private sector tenants who qualify for benefit to assist them in meeting the cost of their rental liability will receive a benefit called Local Housing Allowance (LHA).
- 1.2 Under the terms of the LHA scheme, payments of LHA will normally be made direct to claimants.
- 1.3 A Local Authority has the discretion to make direct payments to landlords in prescribed circumstances. Direct payments can and will be made to fit and proper landlords:
- If a claimant is deemed to be vulnerable.
 - If a claimant is unlikely to pay their rent.
 - If a claimant has rent arrears of eight weeks or more.

Payments will only be made direct to landlords that are not considered to be fit and proper if the claimant's receipt of direct payments will put the claimant at greater risk in comparison to the level of risk involved in paying the landlord direct.

- 1.4 This policy is intended to:
- Protect and reassure vulnerable claimants.
 - Prevent rent arrears and the possibility of eviction for claimants.
 - Reassure fit and proper landlords.

2.0 Defining and Identifying Vulnerability

- 2.1 Within the context of LHA, a vulnerable claimant is a person that a Local Authority considers to be likely to have difficulty managing their affairs. This includes claimants who are actually 'vulnerable' and those who are 'unlikely to pay'.
- 2.2 In order to avoid ambiguity, the definition of a 'vulnerable' person, as stated in the policy 'East Dunbartonshire Multi-Agency Adult Protection Procedures', is as follows:

'use is made of the broad definition of a 'vulnerable adult' suggested by the Law Commission (1995) and includes any person aged 16 or over (but not the responsibility of the local authority under child care legislation) who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is unable to take care of him/herself against significant harm or exploitation'.

The criterion used to indicate and establish the potential vulnerability of a claimant is as detailed in the following list:

Addiction - alcohol, drugs, gambling
Compulsorily supported persons
First language is not English
Fleeing violence
Homelessness - caused by social/financial/other factors
Illiteracy
Inability to obtain a bank account
Learning difficulties - any level
Living alone - in the area, or having no support network
Medical conditions - mental illness, terminal illness
Older people
People leaving prison
Tenancy attained or retained due to the contractual rent being reduced to an affordable amount
Young persons leaving care

2.3 The criterion that should be used to indicate and establish likelihood of payment is as detailed in the following list:

Addiction - alcohol, drugs, gambling
Bankruptcy/Sequestration
Competent claimant requests that payments be made to an appropriate third party
Consistent rent arrears shown - less than eight weeks
Current rent arrears of more than eight weeks
Direct deductions are currently being made by the DWP – for current rental liability
Homelessness – eviction caused by failure to pay rent correctly due
Inability to obtain a bank account
Severe debt problems

2.4 The Revenues and Benefits Teams will seek to identify potentially vulnerable claimants by:

- Providing information regarding the issue of vulnerability whilst publicising the terms and conditions of LHA as a whole.
- Providing information and advice to claimants and landlords.
- Providing information and advice to internal and external Services and agencies.
- Providing establishing vulnerability claim forms and making these available to claimants and internal and external Services and agencies.
- Providing potential vulnerability referral forms for landlords and internal and external Services and agencies.

2.5 Those that are **not** considered vulnerable are as follows:

- Claimants who are temporarily unable to act for themselves.
- Persons appointed to deal with the affairs of these claimants.

3.0 Potentially Vulnerable Claimants

- 3.1 Decisions made regarding vulnerability will be made on the basis of the individual circumstances of each claimant, and in conjunction with any evidence and information available. Criterion and evidence are as detailed in 2.2 and 3.2 below.

In addition, the decision must also be in the best interests of the claimant and based on the claimant's ability to manage their financial affairs specifically, not just in terms of the claimant's ability to manage their affairs generally.

- 3.2 The evidence and information received to establish any criteria/criterion identified should be, where possible, in a written or printable format for retention in the claimant's file. Acceptable sources of evidence and information are as detailed in the following list:

Citizens Advice Bureau (CAB)

Claimant

Claimant's appointee, care worker, family or friends as appropriate

Council Services and Departments - Housing, Social Work and others as appropriate

Creditors

Department for Work and Pensions (DWP)

GP or other medical sources as appropriate - Consultants, hospital records

Landlord

Police or Courts

Probation Officer

Reputable financial institutions - building societies and any others as appropriate

Welfare Rights

While all sources of evidence should be considered, the evidence received from Courts, DWP, GPs, reputable financial institutions, and Social Work Services is to be considered above evidence from any other sources.

- 3.3 A claimant's inability to provide evidence may indicate vulnerability; however this does not confirm that the claimant is actually vulnerable.

Revenues and Benefits Teams staff must be pro-active in obtaining information if the claimant is unable to provide information.

- 3.4 Upon receipt of evidence and information, decisions on vulnerability and to whom payments should be made will be made by the Team Leaders or Technical Advisors.

In the eventuality that the individual circumstances of the claimant do not meet any of the criterion detailed in 2.2, or the evidence provided is not that listed in 3.2, the case should be referred to the Team Leaders and/or to the Revenues and Benefits Manager for guidance and to establish a precedent. This policy will then be updated as necessary.

- 3.5 If the claimant is deemed to be vulnerable then payments should be made direct to the landlord.

Any excess LHA must still be paid to the claimant, or any third party as appropriate, even if the landlord receives direct payments. Note that excess payments are limited to a maximum of £15.00 and have been removed from the scheme from 1st April 2011.

A letter detailing the decision and appeal rights will be issued to the claimant and/or to any appointee, support worker or agency as appropriate, *and* to the landlord.

- 3.6 If the claimant is not deemed to be vulnerable then payments should be made direct to the claimant.

A letter will be issued as above, including advice on where to obtain money advice, but will *not* be issued to the landlord unless they have also applied for payments to be made direct to them.

- 3.7 If a clear or final decision cannot be made on the basis of the information and evidence already received then payments will *not* be withheld until a decision can be made.

Payments should be made direct to the claimant or, if appropriate, the first payment can be made to the landlord. A review date of one calendar month will be applied. The claimant's handling of the receipt of payments will be an indicator if vulnerability or perhaps unlikely to pay criterion exist.

A letter will be issued to the claimant, and/or to any appointee, support worker or agency as appropriate advising that interim payments are being made to the claimant. The letter will also request further information and/or evidence will be issued detailing this interim decision, appeal rights, and where to obtain money advice.

4.0 Potentially Unlikely To Pay Claimants

- 4.1 Decisions made regarding likelihood of payment will be made on the basis of the individual circumstances of each claimant, and in conjunction with any evidence and information available. Criterion and evidence are as detailed in 2.3 and 3.2.

In addition, the decision must also be in the best interests of the claimant and based on the claimant's ability to manage their financial affairs specifically.

- 4.2 The evidence and information received to establish any criteria/criterion identified should be, where possible, in a written or printable format for retention in the claimant's file. Acceptable sources of evidence and information are as detailed in 3.2.

- 4.3 A claimant's inability to provide evidence does not mean that the claimant's circumstances should be accepted or disregarded.

Revenues and Benefits Teams staff must be pro-active in obtaining information if the claimant is unable to provide information.

- 4.4 A claimant who states that they will not pay their rent should not be deemed to be an unlikely payer on the basis of this statement alone.

The circumstances prompting any statement of this kind must be established in order to:

- prevent claimant apathy – the claimant may be unwilling to obtain a bank/building society account
- prevent claimant fraud – the claimant may be failing to declare capital
- prevent claimant and landlord collusion – the claimant may not actually live in the property or the rent stated may not be that actually paid.

4.5 A claimant who is withholding payments to their landlord due to outstanding repairs or maintenance cannot be deemed to be an unlikely payer.

4.6 Upon receipt of evidence and information, decisions on whether or not the claimant is unlikely to pay and to whom payments should be made will be made by the Team Leaders or Technical Advisors.

In the eventuality that the individual circumstances of the claimant do not meet any of the criterion detailed in 2.3, or the evidence provided is not that listed in 3.2, the case should be referred to the Team Leaders and/or Revenues and Benefits Manager for guidance and to establish a precedent. This policy will then be updated as necessary.

4.7 If the claimant is deemed to be an unlikely payer then payments should be made direct to the landlord.

Any excess LHA can still be paid to the claimant, or any third party as appropriate, even if the landlord receives direct payments. Note that excess payments are limited to a maximum of £15.00 and have been removed from the scheme from 1st April 2011. . If the claimant has rent arrears for their current liability then the Local Authority has the discretion to also pay any excess to the landlord direct. This discretion only applies if the arrears are for actual rent due as excess payments cannot be made to the landlord in respect of repairs or any other debts outstanding to the landlord.

A letter will be issued as detailed in 3.5.

4.8 If the claimant is not deemed to be an unlikely payer then payments should be made direct to the claimant.

A letter will be issued as detailed in 3.6.

4.9 The same criteria as in 3.7 will be applied.