

# EAST AYRSHIRE COUNCIL

CABINET– 21 MAY 2008

## LOCAL HOUSING ALLOWANCE – SAFEGUARD POLICY

### Report by Executive Head of Finance and Asset Management

#### 1. PURPOSE OF REPORT

- 1.1 To seek the approval of Cabinet of the proposed Local Housing Allowance Safeguard Policy.

#### 2. BACKGROUND INFORMATION

Local Housing Allowance (LHA), which was introduced nationally from 7 April 2008 is central to the government's reform of Housing Benefit and provides for a more transparent system by basing payments on a flat rate of rental charge which takes account of household size and composition together with the area in which the claimant resides. It currently will only affect new tenants, tenants who have changed address or where there is a break in the Housing Benefit claim after the 7 April 2008.

The rent payable is based on the Broad Market Rental Area (BMRA) which represent average rents within an area and are calculated in a similar way to existing local reference rents. The Rent Registration Service defines the broad market rental area that the LHA will cover.

Tenants will no longer able to choose to have payments made direct to their landlord and all payments must be made to the tenant. However, if the local authority thinks that the tenant is unlikely to pay their rent or is unable to cope with this responsibility, they retain the discretion to make payment to the landlord. Direct payments will therefore be made to appropriate landlords where

- a claimant is deemed to be vulnerable
- a claimant is considered unlikely to pay their rent

The Safeguard Policy is intended to protect and reassure vulnerable claimants through helping to reduce rent arrears and the possibility of eviction for tenants, whilst at the same time providing assurance to appropriate landlords that rent can be paid direct in certain situations. The proposed Policy is attached as an appendix to this report.

#### 3. DEFINING AND IDENTIFYING VULNERABILITY

- 3.1 The Department of Works and Pensions have not provided within the guidance for LHA a definitive list of those persons or circumstances whereby an individual would be considered as being a vulnerable person. The guidance does however indicate that the local authority should assume that certain tenants will be considered as vulnerable and be likely to have difficulty managing their affairs.

3.2 THE DWP guidance indicates that a claimant may be considered as being vulnerable where their circumstances are contained within the criterion in the local safeguard policy.

#### **4 FINANCIAL IMPLICATIONS**

4.1 The costs associated with the introduction of Local Housing Allowance which include software development; start up activities; staff training and communication activities will be met from specific grant provided by Department of Works and Pensions of £0.152M

#### **5 POLICY/LEGAL IMPLICATIONS**

5.1 The adoption of the Safeguard Policy will support the Council in meeting its overall Community Planning objectives and in particular supports the elimination of poverty.

#### **6 RISK MANAGEMENT IMPLICATIONS**

6.1 Failure to adopt a Safeguard Policy could result in claimants who would otherwise be deemed as vulnerable building up rent arrears and facing possible eviction from privately rented accommodation.

#### **7 RECOMMENDATIONS**

7.1 It is recommended that the Cabinet

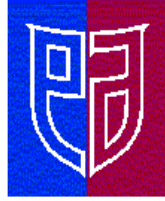
- I) endorse the Local Housing Allowance Safeguard Policy as detailed in the attached Appendix.
- II) Otherwise note the content of the report.

Alex McPhee  
**Executive Head of Finance & Asset Management**

RB  
2 April 2008

#### **LIST OF BACKGROUND PAPERS NIL**

Any person who wishes any further information on this report should contact Robin Baker, Financial Controller (Tel 01563 576331) or Karen Ironside, Revenues & Benefits Manager (Tel 01563 554861)



**East Ayrshire**  
COUNCIL

**EAST AYRSHIRE COUNCIL**  
**REVENUES/BENEFITS SECTION**  
**LOCAL HOUSING ALLOWANCE**  
**SAFEGUARD POLICY**

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## **1. BACKGROUND**

- 1.1 On 17 October 2002 the Government announced a programme of reform to Housing Benefit which included the introduction of a standard Local Housing Allowance (LHA) scheme in 9 pathfinder areas.

Following an extensive evaluation process of the 9 pathfinder authorities, it was decided that Local Housing Allowance would be introduced nationally from 7 April 2008.

- 1.2 LHA is a new way of calculating Rent Allowance for the deregulated private rented sector. It is based on the size, composition and location of the household. It was introduced from 7 April 2008 and it will only affect new tenants, tenants who have changed address or where there is a break in the Housing Benefit claim after that date.

The rent payable is based on the Broad Market Rental Area (BMRA) which represent broadly average rents in an area and are calculated in a similar way to existing local reference rents. The Rent Registration Service defines the broad market rental area that the LHA will cover.

Tenants will no longer be able to choose to have payments made to the landlord and all payments must be made to the tenant. However, if the local authority thinks that the tenant is unlikely to pay their rent or is unable to cope with this responsibility, they can make payment to the landlord in accordance with the provision of its Safeguard Policy.

## **2.0 OBJECTIVES OF THIS SAFEGUARD POLICY**

- 2.1 In recognition of the risk that some tenants may struggle with the responsibility of budgeting for and paying their rent East Ayrshire Council has put in safeguards to protect these tenants.

The term "Safeguard" is used where direct payments to the landlord helps tenants who might not otherwise be capable of paying the rent themselves.

## **3.0 IDENTIFYING TENANTS WHO ARE LIKELY TO HAVE DIFFICULTIES IN PAYING THEIR RENT**

- 3.1 There are no statutory conditions that must be satisfied in order to apply the safeguards. However the overriding condition is that it must be in the best interests of the tenant.

The following broad categories may indicate that a tenant could have difficulties in paying their rent, however this is not an exhaustive list and each case will be considered on its own merit:

- has severe debt problems from any source
- has had a recent Summary Warrant and enforcement action against them
- is an undischarged bankrupt
- is unable to open a bank or building society account
- has some of their Income Support or Jobseeker's Allowance paid direct to the gas, electricity or water company, rent arrears, council tax arrears or a crisis loan deducted from their income by the DWP or is getting Supporting People help
- homelessness – caused by social/financial/other factors
- has recognised learning difficulties
- has an illness that stops them managing on a day-to-day basis
- has communication issues – for example:
  - English as a second language
  - sensory impairments
  - literacy issues
- is addicted to drugs, alcohol or gambling

We may also identify tenants who are potentially in need of safeguard action from face to face contact either at the counter or when carrying out a home visit.

- 3.2 When a tenant has been identified an application to change the payment to the landlord must be made in writing, an application form is available for this purpose.
- 3.3 The application can be submitted by the tenant, family/friends, landlord, General Practitioner or other appropriate representative but must be signed by the tenant. Where the tenant has not signed the form we will contact them to confirm an application has been made on their behalf.
- 3.4 Supporting evidence may need to be provided before a decision can be made. We will consider evidence from one or more of the following but again this list is not exhaustive:
  - the tenant
  - friends and family of the tenant
  - the landlord
  - welfare groups (including money advisers)
  - Social Services/Support Workers
  - GP
  - probation officers
  - Jobcentre Plus
  - The Pension Service
  - Citizens Advice Bureau

We may contact the claimant directly to ensure any evidence is accurate. Where required we will request a signed consent form from the claimant to

enable us to access this information in compliance with Data Protection legislation.

#### **4.0 MAKING A DECISION**

- 4.1 Where sufficient information and evidence has been gathered a decision will be made by a Benefits Officer. Decisions regarding payment of benefit and to whom payment will be made will be carried out within 14 days of receiving all relevant information, or as soon as is reasonably practicable.
- 4.2 Where it has been decided that a tenant is a vulnerable person, arrangements will be made for payment to be made direct to the landlord with immediate effect. In these cases both the tenant and the landlord will be notified of the decision.
- 4.3 Where there is an excess due over the rent charge this will be paid direct to the tenant but there will be discretion to pay this to the landlord where rent arrears currently exist.
- 4.4 Where a decision has been made that deems the tenant capable of managing their own affairs, payment will be made direct to them. The tenant will be advised of this decision and if appropriate any other interested parties will also be notified.
- 4.5 Where the landlord is not registered or is deemed not to be 'fit and proper' (as defined by the Benefit Regulations) payments will not be made to them, even where the tenant is considered vulnerable. In these circumstances we will work with the tenant and any Support Workers to find a suitable solution.
- 4.6 Where the safeguard criteria regards rent arrears the following considerations should be made:
  - Where there are rent arrears of 8 weeks or more and it is in the best interest of the tenant payments should be made directly to the landlord. In order to allow prompt investigation landlords will be encouraged not to wait until arrears have reached this level before contacting East Ayrshire Council. Applications must be made in writing and an application form will be available for this purpose.
  - Where we are notified by the landlord that a tenant is in arrears with their rent payment of less than 8 weeks we will consider suspension of direct payments to the tenant until the case has been fully investigated. We will advise both the tenant and the landlord of the action we have taken
  - Where direct payments are being made due to rent arrears, and a decision is made to make payment of any excess to the landlord to assist with the repayment of arrears we will estimate the length of time it would take to clear any arrears by this method and review the case when it is estimated that the arrears should have been repaid.

## **5.0 REVIEWING A DECISION**

- 5.1 There are two types of review – an appeal from either the tenant or the landlord (or their agent) which will follow the normal Decision and Appeal Regulations; and a review of circumstances within an agreed timescale following the original decision to establish whether it remains appropriate. Appeals against our decision normally have to be made within a calendar month of the date of the determination.
- 5.2 Where the tenant/landlord disagrees with a decision we have a process in place for the decision to be reviewed by a senior member of staff. If the decision is unchanged then the case will follow the normal Decision and Appeal Regulations. The tenant will be involved throughout the process.
- 5.3 Where we decide direct payments are appropriate a review date will be set, within a maximum period of 12 months, to reconsider the decision. The date of this review will be advised to both the tenant and the landlord. This decision may be reviewed at an earlier date if there is a relevant change in circumstances identified or if requested by the tenant.

## **6.0 REFERRALS TO THE CITIZENS ADVICE BUREAU**

- 6.1 Where it is considered that there is a risk that a tenant may fail to pay their rent they should be encouraged to seek money advice. In many cases, effective advice on handling money and everyday expenses may remove or reduce the need for direct payments to be made.

Referrals to the Citizens Advice Bureau (CAB) may be made regardless of the outcome of the decision on making direct payments as the tenant may benefit from the provision of money advice. Consent from the tenant will be sought before any referral is made to the CAB. Where direct payments are being made, money advice may help a claimant towards eventually managing their own financial affairs.

## **7.0 UPDATING AND MONITORING OF THE POLICY**

- 7.1 This safeguard policy will be reviewed on an annual basis or more often should the regulations change.
- 7.2 The Revenues and Benefits Manager or the Assistant Benefits Manager will carry out regular reviews of those decision made to pay the landlord directly to ensure that the Safeguard Policy has been applied appropriately and consistently.
- 7.3 Where payment to the landlord is inappropriate a new review will be carried out by a senior manager and the tenant and landlord notified of the decision if it is changed. Staff will be regularly trained to ensure compliance.