



**TORRIDGE DISTRICT COUNCIL**

**SAFEGUARDING POLICY**

## **Direct Payment of Housing Benefit to Landlords**

### **Safeguard provisions for claims assessed under the Local Housing Allowance (LHA) arrangements from April 2011**

#### **BACKGROUND**

The LHA arrangements require housing benefit to be paid to the customer in the first instance. However, Councils must make payment direct to the landlord in the circumstances prescribed in Housing Benefit Regulation 95 when;

- Payments are being made to the landlord from other income-related benefit to clear arrears (Regulations 95(1)(a))
- The customer is in arrears equivalent to eight weeks with rent (HB Regulation 95(1)(b))

Councils also have discretion in Regulation 96(3A) to make payment to the landlord where the;

- Council considers that the customer is likely to have difficulty in relation to management of his financial affairs. For example, this may be due to drug dependency or because of a serious medical condition such as Alzheimer's disease (Regulation 96(3A)(b)(i))
- Council considers that it is improbable that the customer will pay his rent, for example the Council knows from past experience that the tenant is likely to abscond with the rent payment (HB Regulation 96(3A)(b)(ii))
- Customer has previously had payments made to the landlord under HB Regulation 95 (arrears)

#### **CHANGES FROM APRIL 2011**

From 01 April 2011 the government has widened this discretion (HB Reg 96 (3A)) so that Councils can make a payment direct of HB to a landlord where they consider that by doing so, it will assist the customer in **“securing or retaining a tenancy”**.

For a tenancy to be secured or retained it is implicit that the rent should be affordable to the tenant.

#### **POLICY INTENTION**

The new safeguard provision is being introduced to exert a downward pressure on rents for HB customers after April 2011 when changes to LHA rates take effect as follows:

- The removal of the five-bedroom LHA rate so that the maximum level is for a four-bedroom property
- The introduction of absolute caps for LHA rates

- LHA rates to be set at the 30<sup>th</sup> percentile of rents in each Broad Market Rent Area rather than the median

### **WHO WILL BE AFFECTED?**

- These changes will affect new customers who claim from 01 April 2011 straight away
- Existing customers up to nine months after their anniversary date

### **THE CHANGES**

LHA rates are likely to reduce after April 2011, therefore leaving a possible shortfall between HB entitlement and rent levels. Some tenants may choose to move, but in other cases, it might be possible for the tenant to negotiate a reduction of rent with the landlord, to a level the tenant can afford.

The new safeguard provision could facilitate the negotiation as some landlords may agree to a reduction in exchange for direct payment of benefit.

In new cases, the new provision could encourage landlords to let at rent levels that HB tenants can afford.

### **ABILITY TO RETAIN OR SECURE A TENANCY**

The Council must consider if the rent is at a level that will mean that the tenant can reasonably afford whilst in receipt of HB.

Once direct payment is agreed under this clause, it will continue until the rent becomes unaffordable.

### **WHO SHOULD APPLY?**

Generally, it will be the tenant.

However, on occasions it could be;

- The landlord
- Housing advice officers or the homeless prevention team
- Welfare advice organisations, including money advisors
- The Council's own officers

### **WHAT IS AN AFFORDABLE RENT?**

Government intention is that the rent should be at a level which is affordable to the tenant. In most cases – this will be the LHA rate.

## **EXISTING TENANCIES – EVIDENCING REDUCTION IN RENT**

The Council will need to be satisfied that there has been a genuine reduction in the rent charged. This could be shown in the following format:

- Written agreement to vary the rent
- Renewal of a tenancy at a lower rate
- Supporting evidence from the homeless prevention team

## **NEW TENANCIES – APPLYING THE SAFEGUARD**

The Council will need to be satisfied that;

- There has been a genuine reduction in the rent charged;
- It is affordable; and
- The letting would not have taken place without direct payments

Consideration of the following will be needed:

- Evidence may be requested to substantiate that the property had been let at a higher rate
- If the landlord is known to routinely let to HB customers at affordable rents without direct payments

## **DECISION TO MAKE A DIRECT PAYMENT**

The rent must have been reduced to enable affordability to retain and/or secure a tenancy.

Direct payments are conditional on the rent being kept at an affordable rate.

## **NOTIFICATION AND REVIEW**

The Council will notify the tenant and landlord in the normal manner.

The decision to make a direct payment will be reviewed if there is an increase in rent and/or there is a change in the tenant's circumstances that results in a change in the category of dwelling.