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**LOCAL HOUSING ALLOWANCE SAFEGUARD POLICY UPDATE**

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**Responsible Cabinet Member – Councillor Copeland,  
Adult Social Care and Housing**

**Responsible Director – Murray Rose, Director of People**

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**SUMMARY REPORT**

**Purpose of the Report**

1. The purpose of this report is to seek approval from Cabinet for the updated Local Housing Allowance Safeguard Policy at **Appendix 1**.

**Summary**

2. In March 2008, members approved the Local Housing Allowance (LHA) Safeguarding Policy, in preparation for the introduction of LHA in April 2008. The policy sets out the circumstances in which the Council can pay LHA direct to the landlord.
3. From April 2011, the Housing Benefit (HB) Regulations have been amended to widen the discretion to pay LHA direct to the landlord and the Department for Work and Pensions (DWP) have issued new guidance to Councils. A number of other changes to reduce levels of LHA from April 2011 have also been introduced.
4. Darlington Borough Council's Safeguarding Policy has therefore been revised in light of these changes and approval is being sought for the updated policy.

**Recommendation**

5. It is recommended that the updated LHA Safeguard Policy at **Appendix 1** be approved.

**Reasons**

6. The recommendation is supported by the following reasons: -
  - (a) To minimise the risk of people renting accommodation in the private sector from falling into arrears with their rent and losing their accommodation.
  - (b) To minimise any negative impact the changes to LHA from April 2011 will have on private landlords and continue to give them the confidence to rent their properties to people on low incomes.

- (c) To ensure the aims and objectives of the LHA in promoting independence and financial inclusion can be achieved.

**Murray Rose**  
**Director of People**

**Background Papers**

The Housing Benefit Regulations 2006.  
DWP LHA Guidance Manual.  
Housing Benefit and Council Tax Benefit Circular A4/2011.

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S17 Crime and Disorder	It is not considered that the contents of this report have any such effect.
Health and Well Being	Homelessness and the risk of homelessness can impact adversely on the health and well-being of individuals and families.
Carbon Impact	There are no carbon impact implications in this report.
Diversity	This policy intends to reduce the adverse impacts of the changes to LHA that could affect vulnerable groups.
Wards Affected	All wards could be affected, in particular those with higher concentrations of privately rented accommodation.
Groups Affected	Private sector tenants claiming LHA and private landlords.
Budget and Policy Framework	The issues contained within this report do not represent change to Council budget or the Council's policy framework.
Key Decision	This is a key decision
Urgent Decision	For the purpose of the 'Call-in' procedure this does not represent an urgent decision.
One Darlington: Perfectly Placed	This policy will impact positively on the delivery of the 'One Darlington' priority.
Efficiency	This policy intends to reduce the adverse impacts of the changes to LHA that could reduce the number of homeless applications to the Council.

## MAIN REPORT

### Information and Analysis

#### Background

7. From April 2008, LHA replaced HB for most tenants renting property in the private sector. The DWP introduced LHA to provide tenants with more choice and responsibility about where they live and how they manage their own finances.
8. In the majority of cases, LHA is paid direct to the tenant. Under previous rules, the tenant could choose to have their HB paid to their landlord. The DWP believe that tenants should be responsible for receiving LHA themselves and paying their own rent, reflecting the way other welfare benefits are paid.
9. The DWP recognise that paying LHA directly to the tenant will not always be appropriate in every case. Issues of vulnerability and the risk of a tenant not paying their rent should be safeguarded against. In response, the Council implemented a Safeguard Policy, setting out the circumstances where payments of LHA will be made to the landlord, instead of the tenant. These are:
  - (a) Where the tenant is vulnerable, for example where they are homeless, at risk of homelessness or where they are likely to have difficulty in managing their affairs.
  - (b) Where the tenant is unlikely to pay their rent, for example where they have a history of rent arrears.
10. In addition, there are circumstances where the Council must pay LHA to the landlord. These are:
  - (a) Where the tenant is 8 weeks or more in arrears with their rent, including rent charged in advance.
  - (b) Where payments are being made direct to the landlord from other income related benefits to clear rent arrears.

#### Changes from April 2011

11. From April 2011, the HB Regulations have been amended to include an additional provision to pay LHA direct to the landlord where “the relevant authority considers that it will assist the claimant in securing or retaining a tenancy”<sup>1</sup>.
12. In addition, the DWP have issued guidance<sup>2</sup> to Councils stating:

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

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<sup>1</sup> The Housing Benefit Regulations 2006, paragraph 96(3A)(b)(iv)

<sup>2</sup> Housing Benefit and Council Tax Benefit circular A4/2011

13. Whilst this new guidance has been useful in drafting the revised Safeguard Policy, members should bear in mind that decisions relating to Housing Benefit can only be made in accordance with the legislation.
14. When approached, the Council will encourage customers to take up tenancies that are affordable to them or support them to negotiate the rent with their landlord. In addition and where practical, landlords will be encouraged to let properties to tenants on LHA that are affordable to them (in other words, within LHA rates).
15. However, there is no legal basis on which the Council can insist that a landlord makes a rent affordable to a tenant, nor can it refuse to pay LHA to the landlord solely on the basis that a rent is unaffordable to the tenant. The only consideration relating to this new provision is whether the payment of LHA to the landlord will assist the customer in securing or retaining a tenancy, in particular where this will alleviate or prevent homelessness.
16. Currently there are 3,153 private tenants claiming LHA. Of these, 900 are having their LHA being paid direct to their landlord (28.54% of all LHA claims), as follows:

<b>Reason for payment to landlord</b>	<b>Number of LHA claims</b>
The tenant is 8 weeks or more in arrears with their rent	323
The tenant is vulnerable	274
The tenant is unlikely to pay their rent	271
The tenant is unable to secure a bank account	28
The tenant needs assistance to secure or retain a tenancy	4
<b>Total</b>	<b>900</b>

It is likely that the introduction of this new provision to pay LHA direct to the landlord will significantly increase the number of LHA claims paid in this way.

### **Financial Implications**

17. There are no financial implications. Payments of LHA are fully subsidised by the DWP.

### **Outcome of Consultation**

18. The Council has undertaken consultation in relation to the updated policy with the Darlington and District Private Landlords Association, and through a Landlord's Forum held on 12<sup>th</sup> May 2011. There were no significant issues raised as a result of this consultation.