

APPENDIX 1: Discretionary Housing Payment Guidance

1.0 Background

- 1.1 The Child Support, Pensions and Social Security Act 2000 allows local authorities to provide customers with further financial assistance, by way of discretionary housing payments, when a local authority (LA) considers that help is needed with their housing costs.
- 1.2 The regulations covering Discretionary Housing Payments (DHP's) are the Discretionary Financial Assistance Regulations 2001, referred to as 'the regulations'. These are supported by a DHP Guidance Manual, updated with effect from April 2013 to take account of the introduction of Universal Credit and the abolition of Council Tax Benefit.
- 1.3 From April 2013, government funding to the Council will increase to provide additional assistance to those impacted by a far reaching programme of welfare reform which began in April 2011.
- 1.4 This DHP Guidance intends to support the most vulnerable in the community, alleviate poverty and act as a work incentive.

2.0 Objectives

- 2.1 The vision for the Council is to make South Derbyshire 'a better place to live, work and visit' and is based on four themes on which the Council focuses its work. This guidance will achieve the aims of the Council by:
 - Encouraging social inclusion by ensuring that disadvantaged claimants are able to afford to live in communities that provide support.
 - Increasing the propensity to work and removing barriers to such to help residents retain homes.
 - Supporting the vulnerable.
 - Helping to prevent homelessness by working alongside the Homeless Prevention Strategy.
 - Helping local resident's secure alternative accommodation more suitable for their needs.
 - Helping resident's through difficult events, particularly where there are circumstances outside of their control
 - Providing support in respect of elements of the welfare reform agenda.

3.0 Finance

- 3.1 Payments will be made up to the level of grant funding provided by the Government. Any further payments will require specific approval through the Council's budgetary process.

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4.0 Conditions of qualification

4.1 The specific conditions which must apply before a discretionary payment can be made are:

- The Claimant must be entitled to:
 - Housing Benefit; or
 - Universal Credit; and
 - have a rental liability; and
 - requires further financial assistance with housing costs.

4.2 Payment will not be made where:

- Housing Benefit or Universal Credit has been suspended
- The claimant's need for additional help is as a result of Income Support or Jobseekers Allowance sanctions
- There is a shortfall between benefit awarded and rent due resulting from:
 - support or service charges that are ineligible for housing benefit, or
 - shortfalls caused by overpayment recovery.
- The permitted total expenditure for the financial year has been exceeded

4.3 Discretionary Housing Payment may not be made in respect of Council Tax.

5.0 Circumstances to consider in awarding DHP

5.1 In all instances, working in conjunction with the Housing Options Co-ordinator, priority consideration will be given to cases where there is:

- The prospect of imminent eviction;
- A risk of homelessness;
- A clear inability (of all household members) to pay, or contribute to payments of rent for the property they occupy - information to be taken from an income & expenses form completed by the claimant and validated by the Council – assets will be included in the financial evaluation;
- A period of time remaining on the tenancy agreement that is considered to restrict the claimant's ability to move, for example, a period of notice;
- The household requirements match the suitability of the accommodation provided, e.g. adapted for disability;
- Evidence of action taken by a claimant to prevent the need for DHP, e.g. asking for the level of housing benefit prior to moving into a new home, negotiating with a landlord, approaching help agencies, obtaining advice regarding managing finances, attempting to gain employment including entering training programmes including:

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- Prevocational courses (literacy, numeracy, ESOL)
- Vocational courses (NVQ and money management training)
- Considered to be an adverse impact of non-payment of DHP on vulnerable household members including:
 - The age of the claimant and the members of their household;
 - Whether changing address is likely to affect children at a critical stage in their education;
 - Any specialist support services provided by the County Council's Adult or Children Services;
 - Health or medical needs assisted by local services that are not available elsewhere;
 - How difficult it is to move to alternative accommodation elsewhere because of age or disability;
- Availability of funds;
- Any other relevant factors.

DHP when income is too high to qualify for maximum benefit

5.2 When benefit is reduced because of:

- excess income; or
- due to non-dependant deduction(s),
- and the claimant is having difficulty paying the shortfall between benefit and the full rent, the Council will consider the following:
 - Expenses like travel costs that are the result of going to work;
 - Proximity of more affordable alternative accommodation elsewhere in the Council area or within reasonable commuter distance from the area;
 - Regular debt repayments;
 - Reasonable childcare costs that are above the amount that is ignored from the income used to decide benefit;
 - Extra expenses because of an illness or disability;
 - Ability of non-dependant (s) to make payment;
 - Capital available to meet any shortfall.

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DHP for people moving into work

- 5.3 The council will consider awarding a DHP to top-up housing benefit to ease the transition into work. A DHP can help with the adjustment needed when a person has to start making regular rent payments. However, a DHP can only be considered if there is some housing benefit entitlement based on earnings and other income like tax credits.
- 5.4 If there is some housing benefit entitlement and a DHP claim is made, the Council will consider awarding a DHP for a fixed period to help with the transition into work. The amount of the award depends on household income & expenses and a DHP will not cover any rent cost that housing benefit did not meet before the move into work. The period of the award will be the latest of either:
- Four weeks from the start of work if an extended payment is not applicable; or
 - the date tax credit payment begins.

DHP where eligible rent on which benefit is calculated is restricted under Housing Benefit rules

- 5.5 Rent may be restricted because:
- The property is under occupied;
 - Rent is higher than average rents in the area;
 - The property is larger than the maximum of beds allowed under LHA rules.
- 5.6 When a DHP claim is made because housing benefit is restricted consideration will be given to:
- The length and the reasons for residency;
 - The extent of any vulnerability the applicant or a member of their family has;
 - Needs of the household in respect to suitability of accommodation, e.g. adapted for disability, additional space required because of disability;
 - Needs of a foster child living with the household;
 - The amount of the shortfall;
 - Impacts of unforeseen change such as reduction to LHA rates;
 - The total household income;
 - Whether the rent charged is reasonable;
 - The availability and suitability of cheaper accommodation either in the area or on a reasonable commuter route to the area.

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Length of DHP Awards

- 5.7 DHP awards will generally be made for a short period, owing to restrictions in available funding and the potential demand. Until demand is known and assessed, the budget will be profiled to avoid a lack of funding available for use later in the financial year.
- 5.8 However, more time will be considered to find suitable alternative accommodation elsewhere, or to tie in with a future event such as the end of the school year or birth event, for example. The Council will also consider a DHP up to the end of an existing tenancy providing that the landlord agrees to renew at an affordable (lower) rent.

DHP for Other Housing Costs

Rent deposits

When a DHP application is made for a rent deposit consideration will be given to:

- The likelihood of the claimant becoming homeless if a deposit isn't paid;
 - Whether the move will improve the claimant's opportunities to find work;
 - The amount of DHP payable if the claimant does not move;
 - The health needs of any member of the household that could be helped through moving to more suitable accommodation;
 - The ability of the household to meet the cost of the deposit in whole or in part;
 - Whether the claimant is due to have a deposit returned on the property they are moving out of;
 - Whether the claimant has previously received a DHP to cover a deposit from the Council
- 5.9 Payment of a DHP for a rent deposit may be made for a property in or out of the district, as long as the claimant is entitled to Housing Benefit in the Council's area at the time of application.
- 5.10 In addition, there does not need to be a current shortfall between housing benefit and rent charged.
- 5.11 Only one DHP for rent deposit will be paid in a two year period. Payment will usually be made direct to the Landlord. If the deposit is not returned due to wilful damage of the property, a subsequent deposit will not be awarded.

DHP awards in other circumstances

- 5.12 Potentially, there are no restrictions as to the other circumstances where a DHP could potentially be awarded as long as benefit is less than the eligible rent.

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6.0 Circumstances where it may not be appropriate to consider DHP

- 6.1 In some instances the award of a DHP may not be appropriate. For example, where the action(s) of the claimant has directly led to a shortfall between rent liability and housing benefit where:
- A claimant moves to a property knowing the rent is higher than the LHA or is higher than their previous property. The exceptions would be fleeing domestic violence or severe health reasons.
 - Where it appears that the claimant is applying for DHP because they have multiple debts. In such a case DHP will only be awarded once the claimant has attended a meeting with a debt advice professional. Assistance will be given with making this appointment.
 - A payment could be made from a more appropriate source.
 - The claimant has sufficient capital to meet the shortfall for a period of up to six months to allow sufficient time to find suitable alternative accommodation.
 - There is no evidence of action taken by a claimant to prevent the need for DHP, e.g. asking for the level of housing benefit prior to moving into a new home, negotiating with the landlord, approaching help agencies, obtaining advice regarding managing finances, attempting to gain employment including entering training programmes, unless physical or mental incapacity prevents this.
- 6.2 Rent in advance is not deemed to be the most effective use of the limited funds available; this can lead to problems with reclaiming overpayments as funds are usually made available in one lump sum.

7.0 Publicity

- 7.1 Benefit claimants will be made aware of DHP when they are notified of their entitlement to benefit and where their rent has been restricted due to the LHA or Rent Officer decision.
- 7.2 DHP will also be publicised, e.g. through posters, via the Housing Department and through the Council's website, the Customer Contact Centre, CAB, CVS and other voluntary agencies, together with the County Council's Welfare Advice and Adult Care teams.
- 7.3 These organisations will be made aware of this Guidance to raise awareness of DHP so the funds can be directed to those most in need locally. Additional publicity, such as press releases, will be carried out where appropriate to encourage take up of the increased funding.

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8.0 When and How to Apply

- 8.1 Application for a DHP must be made to Customer Services at the Council.
- 8.2 The claimant or appointee (but not a landlord) may make an initial request verbally but all applications **must** be in writing using the prescribed form.
- 8.3 Details of verbal requests will be clearly noted on the Council's IT system for administering benefits as the application date may affect the date from which payment is made.
- 8.4 DHP forms should be issued when financial hardship is identified.
- 8.5 The form must be returned within 1 month of the issue date.
- 8.6 Any further information needed to support the DHP application will be requested from the claimant in writing. The applicant will be asked to provide the information within 2 weeks. If the information is not provided within 1 month, a decision will be made based on the evidence held.
- 8.7 The applicant has a duty to inform the Council of any change of circumstance that may affect their entitlement to a DHP.

9.0 Making a Decision and Budgetary Control

- 9.1 A decision will be made using the criteria set out in Sections 4 to 6, above and the decision recorded and advised to the claimant in writing, setting out the reason for the decision made.
- 9.2 If necessary, the applicant may need to be interviewed to fully understand the needs of the claimant and their household.
- 9.3 A decision will be made within 10 working days of receipt of all relevant information using the criteria set out earlier.
- 9.4 As awards of DHPs are at the local authority's discretion, an evaluation sheet will be used to help make the decision. All decisions must be recorded in the Academy (ICT) benefit assessment system.
- 9.5 After a decision has been made using the criteria set out above, the decision should be recorded and advised to the claimant in writing.
- 9.6 The Benefits Manger will control expenditure and report monthly totals to the Client Services Manager.
- 9.7 On no account is the Council's grant allocation to be exceeded without prior approval of the Client Services Manager who will obtain budgetary approval from the Section 151 Officer, if considered appropriate to do so.

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- 9.8 Where funds available have been exhausted, no further awards will be paid and where applicable, claimants will be advised that this is the reason their application has been refused. These cases may be reviewed should additional funds become available.
- 9.9 For 2013/14 and 2014/15, the Government expects local authorities to utilise the increase in its contribution in roughly the same proportion as the 4 component parts for which the allocation has been based, as follows:
- Baseline, based on expenditure made in previous years – 12% of Grant allocated
 - Local Housing Allowance – 24%
 - Social size – accommodation exceeding size criteria – 18%
 - Benefit Cap – 46%

10.0 Periods and Amount of Award

10.1 The DHP award start date will normally begin from:

- The Monday following the date the application is received, **or**
- The date benefit entitlement began if the application is received within 1 month of the date the applicant was notified that their benefit had been decided, **or**
- The effective date of change to benefit following a change of circumstances, if the application is received within 1 month of the applicant being notified of the decision relating to the change of circumstances.

10.2 Where an applicant can show good grounds for the award to start from an earlier date a request for backdated DHP may be made but this must be in writing and must give reasons to show 'good cause' for not making a DHP application within the above time limits.

10.3 In this regard 'good cause' will have the same meaning as under the benefit regulation rules, which must be shown for the whole of the backdated period.

10.4 There is no limit on the period DHP backdating can be awarded for but the applicant must have received minimum Housing Benefit for all of the period backdating is awarded for. This should be paid as a lump sum separately from an on-going award.

10.5 An on-going payment will generally be for a short period given the potential demand and cannot carry on beyond the end of the claim. The end date of the DHP period will depend on the individual circumstances of each application. The issues to be considered are as follows:

- the expected duration of the claimant's circumstances
- tenancy end date
- expected date of change of circumstances.
- amount of funding available

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- 10.6 A discretionary payment does not have to cover the whole of the shortfall.
- 10.7 The maximum DHP is the amount of shortfall between the eligible rent and the entitlement to housing benefit, or amount of other housing costs if a lump sum is awarded, e.g. for a rent deposit. It is not for:
- ineligible service charges – as defined by Schedule 1 of the Housing Benefit Regulations e.g. water, sewerage, environmental charges;
 - an increase in rent to cover arrears;
 - to cover sanctions and reductions in benefits, such as Income Support and other DWP Benefits.
- 10.8 The amount awarded does not have to be the full shortfall in rent. Consideration should be given as to how much is needed to ease the applicant's financial situation and how much is reasonable.

11.0 Overpayments and Appeals

Payment

- 11.1 Although not benefit, the DHP will be paid alongside any Housing Benefit entitlement. If benefit is paid to the landlord then DHP will be paid in the same way.

Cancellation and change of circumstances

- 11.2 A DHP award can be cancelled or amended if:
- the applicant has a change of circumstance that affects DHP, or
 - DHP has been awarded based on information that was wrong or that the Council was not aware of (this can be fraudulent or not), or
 - an error was made when the award was evaluated and payment calculated, or
 - the entitlement to benefit changes. The benefit may have been increased so that the total combined payment of DHP and benefit is more than the rent, e.g. an increase in the rent officer's decision, in this case the DHP will need to be reduced.
- 11.3 The cancellation or amendment may be from the start of entitlement or from a later date depending on the reasons for cancellation.
- 11.4 DHP can be suspended if a question has arisen over the entitlement to the award.

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Overpayments

- 11.5 Overpayments of DHP are potentially recoverable. Consideration will therefore be given to whether the overpayment is due to claimant or local authority error and whether the claimant could have been aware they were being overpaid.
- 11.6 If the overpayment is recoverable a decision will be made on whom to recover the overpayment from. This can be the applicant, the person the DHP was paid to or a third party who knowingly gave false information which led to the overpayment.
- 11.7 DHP overpayments cannot be recovered from ongoing Housing Benefit entitlement, but may be recovered from ongoing DHP entitlement.
- 11.8 DHP may be transferred to the Council tenant's rent account if a credit is available on the account. However, this must be agreed with the relevant Housing officer prior to transfer;
- 11.9 Normal Housing Benefit overpayment recovery procedures will apply, if recovery is through a sundry debtors invoice.
- 11.10 If the overpayment is not recoverable then it will be submitted for write off using the same procedure as for benefit write off. The write off form will be amended to show it is a DHP write off, not a benefit overpayment.
- 11.11 The debt may also be written off if the debtor is unable to repay due to financial hardship. This decision will be made with reference to the Housing Benefit write off Guidance.

Debtors

- 11.12 Repayments should be credited to DHP overpayments as a priority over benefit overpayments. This allows DHP recovered in the same financial year it was overpaid to be put back in to the Council's funding 'pot' and be awarded again as a DHP award.
- 11.13 DHP overpayments will be identified as such in the debtors system. Separate invoices will be used for DHP overpayments.

Notification

- 11.14 The applicant must be notified in writing of the decision and reason for the decision as soon as is reasonably practicable.
- 11.15 Landlords will also receive a notification if a DHP is awarded and is to be paid direct.
- 11.16 If no award is made a refusal letter must be sent

Disputes

- 11.17 If the claimant disagrees with the Council's decision they must request a review in writing giving the reasons. The applicant must make their request within one month of the original decision. Late requests can be considered if the applicant has good reason for the delay.

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- 11.18 DHP disputes do not go to the Tribunal Service in the same way as Housing Benefit appeals. The Housing Benefits Manager will initially review the decision when a review is required, and make a recommendation to the Client Services Manager who will make the final decision
- 11.19 Disputes will be dealt with by 10 working days of receipt of the dispute. The applicant must be notified in writing of the decision and the reasons for the decision must be given.