



DRAFT PORTFOLIO HOLDER DECISION NOTICE

PROPOSED INDIVIDUAL DECISION BY THE PORTFOLIO HOLDER FOR FINANCE AND ADMINISTRATION

TOPIC –Discretionary Housing Payments

PROCEDURAL INFORMATION

The Access to Information Procedure Rules – Part 4, Section 22 of the Council's Constitution provides for a decision to be made by an individual member of Cabinet.

In accordance with the Procedure Rules, the Corporate Director (Governance), the Chief Executive and the Head of Finance are consulted together with Chairman and Vice Chairman of The Overview and Scrutiny Committee and any other relevant overview and scrutiny committee. In addition, all Members are notified.

If five or more Members from those informed so request, the Leader may require the matter to be referred to Cabinet for determination.

If you wish to make representation on this proposed Decision please contact the relevant Portfolio Holder and the following Committee Administrator by 5.00pm on Wednesday 27 March 2013.

Contact Officers:

Case Officer: Gill Cranswick, Head of Revenues, 01962 848 190,
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Committee Administrator: Nancy Graham, Senior Democratic Services Officer,
01962 848 235, ngraham@winchester.gov.uk

SUMMARY

The Council is able to provide additional financial assistance to Housing Benefit (HB) customers for help with housing costs. Discretionary Housing Payments (DHP) are not payments of benefit. They are free standing payments to be made at the Council's discretion where it is considered that additional help with housing costs is needed. Payments are subject to an annual cash limit which the Council cannot exceed.

The Council has had the ability to award DHP for several years, however, the Government has increased the funding available to the Council for 2013/14 in order

to support HB claimants affected by the Welfare Reform changes. The changes include –

- Local Housing Allowance reforms (a reduction in rent levels for private sector tenants and annual uprating changed from RPI to CPI)
- social sector size criteria limitations relating to family size and the number of bedrooms in a property (originally aimed specifically at two groups - disabled people who live in significantly adapted accommodation and foster carers)
- benefit cap (an overall limit on the amount of benefit income that a household can receive).

The Council's Discretionary Housing Payments Guidelines have been updated to reflect the changes and are attached at Appendix A.

The Guidelines may require further update as the Government announced recently that it is proposing to make minor changes to the size criteria rules. Further clarification will be issued by Department for Work and Pensions (DWP).

Under the Council's Constitution, Section 6 – The Scheme of Delegation to Officers, the Head of Revenues has delegated authority to make determinations on discretionary housing payments. As the size criteria changes will commence on 1 April the Council's Benefit Team will process as many DHP applications as possible prior to 1 April.

PROPOSED DECISION

That the Council's Discretionary Housing Payments Guidelines (attached at Appendix A) are approved and that the Head of Revenues be given delegated authority to amend the Guidelines to reflect legislative changes and revised guidance received from DWP.

REASON FOR THE PROPOSED DECISION AND OTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

The Guidelines have been updated to reflect the Welfare Reform changes and will require further update as the Government introduces legislative amendments and provides clarification on guidance previously issued.

RESOURCE IMPLICATIONS:

The Council will receive up to £105,155 in funding for Discretionary Housing Payments for 2013/14. The Council has discretion to make awards above this amount from its own resources. The level of DHP applications and awards will be monitored closely during the year to identify any budget pressure at an early stage.

CONSULTATION UNDERTAKEN ON THE PROPOSED DECISION

n/a

FURTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED FOLLOWING PUBLICATION OF THE DRAFT PORTFOLIO HOLDER DECISION NOTICE

n/a

DECLARATION OF INTERESTS BY THE DECISION MAKER OR A MEMBER OR OFFICER CONSULTED

n/a

DISPENSATION GRANTED BY THE STANDARDS COMMITTEE

n/a

Approved by: (signature)

Date of Decision

Councillor Stephen Godfrey– Portfolio Holder for Finance and Administration

Discretionary Housing Payments Guidance

Local Authorities (LAs) are able to provide additional financial assistance to Housing Benefit (HB) customers for help with housing costs.

Discretionary Housing Payments (DHPs) are not payments of benefit. They are free standing payments to be made at our discretion where we consider that additional help with housing costs is needed. Payments are subject to an annual cash limit, which we cannot exceed.

Each case should be considered on its own merits and decisions should be fair, reasonable and consistent. Any previous award or refusal should also be considered.

Key features of DHP's

We are able to make provision for **any** customer whose HB is restricted and is, in our view, in need of additional help with housing costs.

Considering a DHP

Before you make an award you must be satisfied that the customer:

- is entitled to HB, and
- requires further financial assistance with housing costs

What is meant by “housing costs”?

This means eligible rent. Housing costs can also be interpreted more widely to include:

- rent in advance
- deposits
- other lump sum costs associated with a housing need such as removal costs

DHP can also cover:

- reductions in HB where the benefit cap has been applied
- reductions in HB for under-occupation in the social rented sector
- reductions in HB as a result of Local Housing Allowance (LHA) restrictions
- rent officer restrictions
- non-dependant deductions

You can make DHPs for a rent deposit or rent in advance for a property that the customer is yet to move into if they are already entitled to HB for their present home. When awarding DHPs for a rent deposit or rent in advance, you may wish to satisfy yourself that the property is affordable for the tenant.

Using DHPs for this purpose may be particularly appropriate to help existing customers move to alternative accommodation where their award of HB has been restricted following one of the welfare reforms.

The regulations are wide enough to permit this on the basis of a customer's entitlement to HB at their current home. The regulations do not say that the housing costs to which the DHP relates have to be housing costs relating to the property for which HB has been awarded.

In a case where you are awarding a DHP for rent in advance or a deposit **the weekly limit does not apply** as you are awarding a lump sum to meet an immediate housing need.

When making a DHP to assist the customer with securing a new tenancy you might want to consider making the payment to the landlord rather than the customer.

As a lump sum payment for rent in advance is not made in respect of a period, you do not have to be satisfied that the customer is entitled to HB other than at the point you make the award.

If the rent in advance is for a property outside of the area you can still make a payment as the customer is currently in receipt of HB in your LA area.

Before awarding a DHP for rent in advance or a deposit you may wish to establish with the customer whether they:

- are due to have a deposit or rent in advance in respect of the existing tenancy returned to them
- have received assistance from the LA through a rent deposit guarantee scheme or similar

Once a DHP has been made to the customer for rent in advance or a deposit and used for that purpose legislation does not provide for it to be refunded.

The following are not included, and DHP's should not be made in respect of them:

- Ineligible service charges
- Increases in rent due to outstanding rent arrears
- Certain sanctions or reductions in DWP Benefits.
- Shortfalls caused by HB overpayment recovery.

Amount and duration of DHPs

Both the level and duration of the DHP is up to you, although the level of benefit plus the DHP must not exceed the weekly eligible rent on their home.

You may find it helpful to consider the following:

- Is any need likely to be short term
- Is the customer likely to require assistance in meeting their housing costs for as long as they remain in the property
- You could consider paying DHP until the earliest opportunity that cheaper accommodation can reasonably be sought
- You could consider paying DHP until a particular milestone, such as the end of training or first possible break clause in a tenancy.

DHPs are not intended to replace lost benefits as a result of the welfare reforms. To do so would undermine the purpose of the reforms. They are to be used to assist those most affected to adjust to a long term affordable approach.

Due to the Welfare Reform changes from April 2013, and the increase in customers requiring assistance, from 1st April 2013 the maximum award will be 6 months (this can be increased to a maximum of 12 months in exceptional circumstances).

Claims

There has to be a claim for DHP before you can consider making an award.

It is up to you to decide how much information you need, as well as how the information is supplied. There are no prescribed time limits for supplying the information so customers should be advised of deadlines when information is requested from them.. *Please see template letter 'DHP claim form'.*

Duties of the customer

When someone claims a DHP, they must give you:

- Information you require to make a decision or look at a decision again
- Any other information you may require in connection with their claim

Who can you pay?

DHPs may be paid to someone other than the claimant if you consider it reasonable to do so. That could be an agent, landlord or appointee. DHPs can also be credited to the rent account.

You can award a DHP for any period you wish (as long as it does not exceed the 6/12 month limit mentioned previously). There are also no requirements as to

the date a claim should be treated as made or the date that a payment should start/end although awards are expected to meet current needs rather than past debts.

There are no statutory backdating rules and you have discretion on whether to backdate or not. However, each application should be considered on its own merits and all decisions should be consistent.

Method of payment and notifications

You must be able to differentiate between HB and DHPs.

Where a DHP is paid with HB, notifications to the claimant must clearly show how much is HB and how much is DHP.

If someone claims a DHP, you are required to notify that person of the DHP decision, in writing, with reasons, as soon as is reasonably practicable. See *template letter 'DHP Decision'*.

It is also good practice to notify the Landlord of awards (where Data Protection allows this) of DHP as they should know how much HB is being awarded. See *template letter 'DHP-Awarded-Landlord.'*

The duty to report change of circumstances should also be clearly marked on notifications.

It is important to clearly advise that there are different appeal rights for DHPs than those for HB.

The following review procedure must be followed –

- Request for a review is received.
- Decision reviewed by a Benefits Team Leader.
- Claimant advised of outcome of review and given a further right to review
- Further review received
- Decision reviewed by Benefits Manager.

The claimant must be notified of the review decision

- In writing
- With reasons
- As soon as is reasonably practical.

The route of judicial review is available, and the local government ombudsman if there is an allegation of maladministration.

Stopping and recovering DHPs

There are instances other than a change of circumstances when DHPs can be stopped and recovered.

- If you decide that DHPs are being, and/or have been, made because someone has misrepresented or failed to disclose a material fact - be it fraudulently or otherwise.
- Where DHPs have been paid as a result of an error

Recovery from ongoing HB

You may **not** recover DHPs from ongoing HB. There is no provision for recovery of overpaid DHPs from other benefits. Recovery is by invoice only.

Eligibility guidelines

Please consider the following eligibility guidelines when you are determining an application for a DHP.

The tenancy

1. Is there a risk of eviction and the customer becoming homeless if housing costs are not met (what action has the landlord already taken)?
2. If the customer recently took on the tenancy and there is a shortfall in housing benefit because of a rent restriction did they check their LHA rate before accepting the tenancy?
3. Was the customer aware of the size criteria restrictions when they took on the property?
4. Is there scope for the landlord to reduce the rent (do they need assistance to approach their landlord)?
5. Does the customer have a fixed term tenancy and if so when does this end?
6. If there is a shortfall in the rent have they tried to find cheaper accommodation? Have they considered moving to a cheaper area (e.g. from Winchester to Southampton)?

Finances

7. Can the customer afford to pay the shortfall based on the figures provided on the budget form?
8. Does the customer have any capital or disregarded income they can use (but bear in mind that disregarded disability income may be committed to other liabilities such as mobility schemes)?
9. Does the customer have other debts to pay that make meeting housing costs more difficult? Have they sought advice on how to clear their debts?
10. Does the customer or anyone in his household have any unusual or unusually large expenses which make it harder to meet housing costs (i.e. regular visits to hospital)?
11. Can the customer change their spending pattern on non-essential items?
12. Could the customer reduce other outgoings?

13. Could the customer afford the rent when they moved in? Do they need short term assistance while they attempt to get back to work?
14. Can the customer increase their hours or do any overtime (remember that this will affect entitlement to HB and Council Tax Reduction)?
15. Are the income and expenditure figures they have provided on the budget form accurate and reasonable? Check against the trigger figures provided on the Money Advice website. Are they incurring higher travelling costs to and from work as they have moved to a cheaper area because of the LHA changes?

Medical circumstances

16. Does the household have health or support needs which require them to remain in a particular property?
17. Does the customer require an extra room because of a health problem that affects them or a member of their household?
18. Has the property been SUBSTANTIALLY adapted because of a member of the households disability?
19. Do they require a room for an overnight carer whose main home is elsewhere?

Other circumstances

20. Is the customer fleeing domestic violence so they do not have time to shop around for a reasonably priced property?
21. Is the customer expecting a child and has had her HB restricted to that of smaller accommodation until the child is born?
22. Would an award of DHP assist the customer in accessing/retaining employment, education or training?
23. What steps has the customer taken to alleviate the problem?
24. Has there been a change of circumstances which make it more difficult to meet housing costs (possibly just in the short term)?
25. Could friends or relatives help with temporary accommodation or rental payments?

26. Do they have a spare bedroom they could rent to generate extra income (you would need to advise them that they may need to get permission from their landlord to do this and that this income may affect other benefits they currently receive)?
27. Is the customer single and aged between 25 and 35? If they are you would need to check if the new criteria for ex-offenders and previous homeless applies. You would also need to check if they are exempt from the restrictions
28. If the customer is affected by the social sector size criteria do any of the following apply to their household:
- has the property been **significantly** adapted due to the disability of someone in the household (the property must have been adapted for the current tenants needs)
 - is the customer a foster carer (and does not have a foster child currently)
 - do any of the SSSC exemptions apply to the customer
29. If the customer is affected by the benefit cap do any of the following apply to their household:
- Are they in supported, exempt or temporary accommodation
 - Are they individuals or families fleeing domestic violence
 - Do they have kinship care responsibilities
 - Are they individuals or families who cannot move immediately for reasons of health, education or child protection
 - Do any of the benefit cap exemptions apply to the customer

Further information can be obtained from the DWP Guidance Manual/Good Practice Guide which can be found here:

<http://www.dwp.gov.uk/docs/discretionary-housing-payments-guide-draft.pdf>.

Referral to other Agencies

If you are unable to award a DHP on this occasion consider whether you need to refer the customer to another agency for more specialised assistance. E.g.

- Housing or their landlord
- Homeless Section
- Citizens Advice Bureau
- Money Advice helpline

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