



DRAFT PORTFOLIO HOLDER DECISION NOTICE

PROPOSED INDIVIDUAL DECISION BY THE PORTFOLIO HOLDER FOR FINANCE AND ORGANISATIONAL DEVELOPMENT

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 Chief Operating Officer, the Chief Executive and the Chief Finance Officer 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 Monday 3 February 2014.

Contact Officers:

Case Officer: Jane Petty, Deputy Head of Revenues, 01962 848 460,
jpetty@winchester.gov.uk

Committee Administrator: Nancy Graham, Senior Democratic Services Officer,
01962 848 235, ngraham@winchester.gov.uk

SUMMARY

Discretionary Housing Payments (DHPs) are administered by the Council and provide financial assistance (outside of the Housing Benefit (HB) and Universal Credit (UC) regulations) to help tenants meet their housing costs.

DHPs 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.

DHPs can play an important role in sustaining tenancies, preventing homelessness and, where needed, enabling tenants to move to more affordable accommodation.

The Council has had the ability to award DHP for several years. The Government increased the funding available to the Council for 2013/14 in order to support HB and UC 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
- 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 and amended to include Universal Credit.

Significant changes have been made to the following paragraphs:

- Key principles of the policy
- Amount and duration of DHPs

They have also been renamed the Discretionary Housing Payments Policy and Procedure – 2014/15. They are attached at Appendix A.

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.

PROPOSED DECISION

That the Council's Discretionary Housing Payments Policy and Procedure – 2014/15 (attached at Appendix A) are approved and that the Head of Revenues be given delegated authority to amend the Policy and Procedure to reflect any legislative changes and revised guidance received from DWP.

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

The Policy and Procedure has been updated and amended to include Universal Credit.

RESOURCE IMPLICATIONS:

The Council will receive funding for Discretionary Housing Payments for 2014/15 from the DWP. The amount for 2014/15 has not yet been published by the DWP. We are expecting it mid February. The Council has discretion to make awards above the amount received 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.

The DHP funding received from the DWP for 2013/14 was £105,155. We have currently spent/committed £101,000. We have increased the original funding of

£105,155 by £7,842, using some of the additional welfare reform funding we received from the DWP. We are also in the process of submitting a bid to the DWP for additional funding of £17,000.

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 Organisational Development

Discretionary Housing Payments Policy and Procedure – 2014/15

Discretionary Housing Payments (DHPs) are administered by the Council and provide financial assistance (outside of the Housing Benefit (HB) and Universal Credit (UC) regulations) to help tenants meet their housing costs.

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.

DHPs can play an important role in sustaining tenancies, preventing homelessness and, where needed, enabling tenants to move to more affordable accommodation.

The Department for Work and Pensions (DWP) makes grants available to local authorities for DHP purposes.

We are not allowed to spend more than 2½ times the sum provided by the DWP on DHPs.

Key principles of the policy

Welfare Reform is aimed at encouraging people to move into work, increase their hours and/or move to more affordable accommodation.

Our key principles are as follows:

- All customers will be treated fairly, reasonably and consistently
- All DHP applications will be assessed on their individual merits
- All of the options available to the customer (including, for example, reducing household expenditure, maximising income, securing employment and/or moving to alternative, less expensive accommodation) will be taken into account when we assess the merits of each application

Any previous award or refusal of DHP will also be considered.

Key features of DHP's

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

Considering a DHP

Before making an award we must be satisfied that the customer:

- is entitled to HB or UC, 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 or UC where the benefit cap has been applied
- reductions in HB or UC for under-occupation in the social rented sector
- reductions in HB or UC as a result of Local Housing Allowance (LHA) restrictions
- rent officer restrictions
- reductions in HB or UC resulting from non-dependant deductions and the use of income tapers

We can award DHPs for a rent deposit or payment of rent in advance for a property that the customer has yet to move into if they are already entitled to HB or UC for their present home. When awarding DHPs for a rent deposit or for rent in advance, we will need to be satisfied 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 or UC has been restricted due to one of the welfare reforms.

The regulations are wide enough to permit this on the basis of a customer's entitlement to HB or UC 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 or UC has been awarded.

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

When awarding a DHP to assist a customer with securing a new tenancy, making the payment to the landlord, rather than the customer, should be considered.

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

If the rent in advance is for a property outside of our area we can still make a payment as the customer is currently in receipt of HB or UC in our area.

Before awarding a DHP for rent in advance or a deposit we will need 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 or UC overpayment recovery.

Amount and duration of DHPs

DHPs are not generally intended to be used as a long term solution to the customer's financial difficulties. Instead, they should be used to provide short term assistance to ease transitions and allow households to find a way of resolving their difficulties.

The expectation is that DHPs will be awarded in unusual or extreme circumstances where additional help with the current rent will have a significant effect in alleviating hardship, reducing the risk of homelessness or alleviating difficulties that may be experienced in the transition from long term benefit dependence into work.

Conditions may be attached to a DHP award, for example, requiring the customer to participate in a training or employment programme to assist them with securing employment or registering and bidding on Hampshire Home Choice for a more suitable property.

Failure to comply with any conditions attached to the award may affect the outcome of any future DHP application the customer makes.

The following matters should also be considered:

- 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
- Should DHP be considered until the earliest opportunity that cheaper accommodation can reasonably be sought
- Should DHP be considered until a particular milestone, such as the end of training or first possible break clause in a tenancy is reached.

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.

DHPs will be considered and awarded on a financial year basis only (i.e. from 1st April to 31st March). Awards should be made for no longer than 6 months at a time. This will ensure that the award is reviewed regularly and that the action required by the customer is monitored. However, in exceptional circumstances this can be increased for upto 12 months (e.g. long term disabled customer who is unable to move into work or a smaller property).

Claims

There has to be a claim for DHP before an award can be considered.

There are no prescribed time limits for supplying information so customers should be advised of deadlines, what information is requested and how information should be supplied when it is requested from them.

Duties of the customer

When a customer claims a DHP, they must provide:

- Information required/requested to make a decision or look at a decision again
- Any other information required in connection with their claim

Who can be paid a DHP?

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

A DHP can be awarded for any period (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 there is 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

It must be possible 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, that person must be notified 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.
- Customer 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 a decision is made 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

DHPs may **not** be recovered from ongoing HB. There is no provision for recovery of overpaid DHPs from other benefits. Recovery is by invoice only. However, we will recover a DHP overpayment from a HB underpayment when they are for the same period and the DHP is no longer applicable.

Eligibility guidelines

The following eligibility guidelines should be considered when 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 HB or UC 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 the 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, UC 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.
<https://www.moneyadviceservice.org.uk/en/categories/managing-your-money>
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 or UC restricted to that of smaller accommodation until the child is born?
22. What would be the impact on the household of moving home and/or changing schools?
23. Would an award of DHP assist the customer in accessing/retaining employment, education or training?
24. What steps has the customer taken to alleviate the problem?
25. Has there been a change of circumstances which make it more difficult to meet housing costs (possibly just in the short term)?

26. Could friends or relatives help with temporary accommodation or rental payments?
27. 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)?
28. Is the customer single and aged between 25 and 35? If they are check if the new criteria for ex-offenders and previous homeless applies. Also check if they are exempt from the restrictions
29. If the customer is affected by the social sector size criteria do any of the following apply to their household:
- a. 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)
 - b. is the customer a foster carer (and does not have a foster child currently)
 - c. do any of the SSSC exemptions apply to the customer
30. If the customer is affected by the benefit cap do any of the following apply to their household:
- a. Are they in supported, exempt or temporary accommodation
 - b. Are they individuals or families fleeing domestic violence
 - c. Do they have kinship care responsibilities
 - d. Are they individuals or families who cannot move immediately for reasons of health, education or child protection
 - e. 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:

<https://www.gov.uk/government/publications/discretionary-housing-payments-guidance-manual-for-local-authorities-2013>

Referral to other Agencies

If a DHP cannot be awarded on this occasion we need to consider whether the customer should be referred to another agency for more specialised assistance e.g.

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

This policy will be reviewed annually and in light of any legislative changes, trends or other factors that impact on its effectiveness.

We will also, during the course of the year, review the level of DHP expenditure and consider whether we should allocate any additional budget, if available, towards the overall DHP budget.