

Winchester City Council – Equality Impact Report

Discretionary Housing Payments Policy & Procedure and applications review

An Equality Impact Assessment for the Discretionary Housing Payments (DHP) Guidance 2013/14 was undertaken and completed in April 2013.

As part of this process it was agreed that when the guidance was reviewed for 2014/15 the process for determining DHP awards would also be reviewed to ensure that decisions made are consistent and fair.

The work undertaken as part of this review consists of:

1. Reviewing the DHP Guidance
2. Reviewing the process for awarding/refusing DHPs
3. Monitoring applications made and analysing the characteristics of these claims
4. Monitoring appeals and complaints

1. Reviewing the DHP Guidance

The DHP Guidance has been reviewed and has been renamed the Discretionary Housing Payments Policy and Procedure 2014/15. The new Policy & Procedure was authorised by Portfolio Holder Decision in February 2014. The new Policy & Procedure is attached as Appendix A.

As part of this review the following has been added/amended to this document:

- Key principles of the policy have been given greater emphasis. These are:
 - 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
- References to Universal Credit have been added as required as the Government have advised that DHPs can be used to support shortfalls in both Housing Benefit and Universal Credit
- The fact that conditions (such as participating in an employment programme to assist with securing employment or registering and bidding on Hampshire Home Choice for a more suitable property) can be attached to an award has been given a greater emphasis

It is still not possible for this document to be “tightened” or made more “structured”. This is a discretionary scheme designed to provide financial assistance to customers with their housing costs. DHPs are used to provide short term assistance to 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.

2. Reviewing the process for awarding/refusing DHPs

The Welfare Reform changes introduced from April 2013 meant that we had a much increased DHP budget to work with and a large increase in applications for a DHP.

Our DHP budget increased from £47,614 in 2012/13 to £105,155 in 2013/14. Our budget for 2014/15 is £101,456.

From April 2013 to January 2014 we received 314 applications for a DHP – 188 of these resulting in a successful award.

As a comparison from April 2012 to March 2013 we received 83 applications for a DHP – 72 of these resulting in a successful award.

Because of this increase in budget and number of applications the decision was made to have a dedicated team of Officers dealing with all DHP applications. It was felt that this would achieve the fairness and consistency with decisions that we were seeking.

In February 2013 a team consisting of a Benefits Team Leader and 2 Benefits Officers was created. Initially they worked with the Benefit Manager reviewing all cases as a team and discussing areas of discretion they wanted to be clearer on. This included areas such as:

- Whether to include all of the income and expenses of disabled customers
- How to identify what expenses were excessive or understated
- How to approach the sensitive subject of excessive expenses with customers
- How to approach the sensitive issues with customers such as moving into work or finding alternative accommodation

After a couple of months unanimous decisions were being made and the Benefits Officers undertook the responsibility for making decisions, with these then being checked by either the other Benefits Officer or the Benefits Team Leader.

In October 2013 a meeting was held where senior managers and members met to discuss the DHP Guidance and to review the cases received. Members were represented by Cllr Godfrey – Portfolio Holder for Finance & Organisational Development and Cllr Coates – Portfolio Holder for Housing. At this meeting the following was discussed:

- Number of applications received and the percentage that were successful
- Amount of DHP spent against budget
- The characteristics of the claims
- The number of complaints and appeals

It was agreed at this meeting that the method adopted had and was working well and the statistics provided further in this document support this.

It has therefore been agreed that this method will continue into 2014/15, with another Benefits Officer joining the team to ensure resilience during times of sickness and leave.

3. Monitoring applications made and analysing the characteristics of these claims

As at 31st January 2014 £98,069 of the £105,155 budget had been spent/committed. £7,842 of additional funding from the Government has been allocated to the budget to ensure that there are sufficient funds for remainder of the year. A bid for additional funding of £17,000 has also been made to the Department for Works & Pensions (DWP) as projections are indicating that projected expenditure for the year will be £130,000.

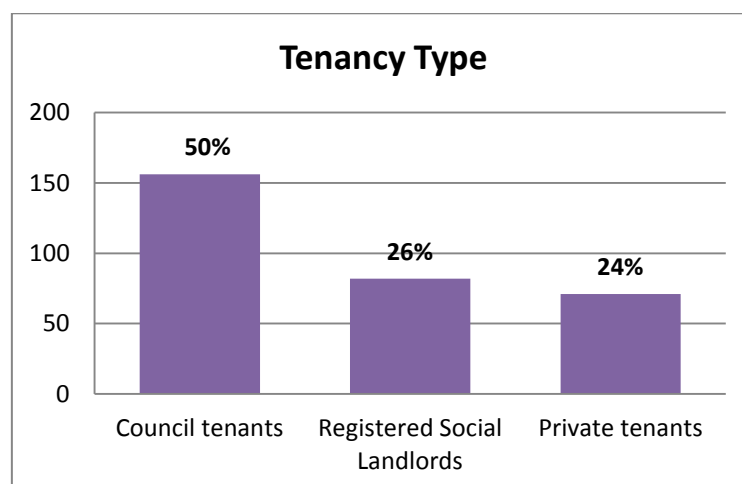
As at 31st January 2014:

- 314 applications had been received for the 2013/14 financial year
- 188 of these applications had been successful in receiving an award of DHP (60%)

The characteristics of the claims are as follows:

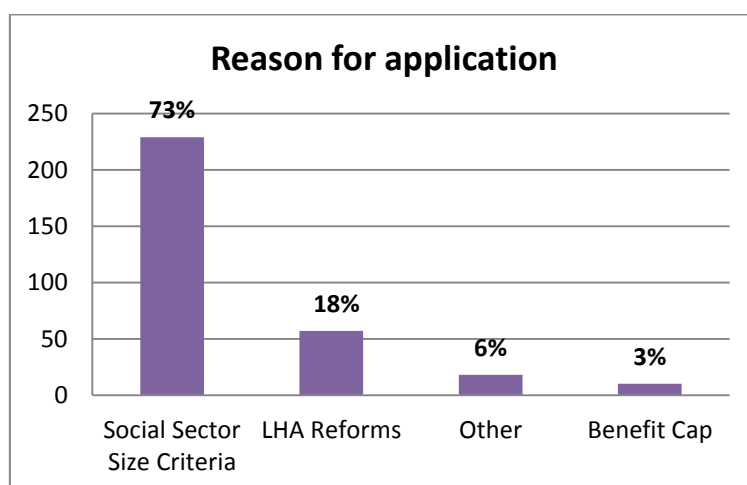
Tenancy type

- 156 applications from Council tenants (50%)
- 82 applications from Registered Social Landlord (RSL) tenants (26%)
- 71 applications from Private tenants (24%)



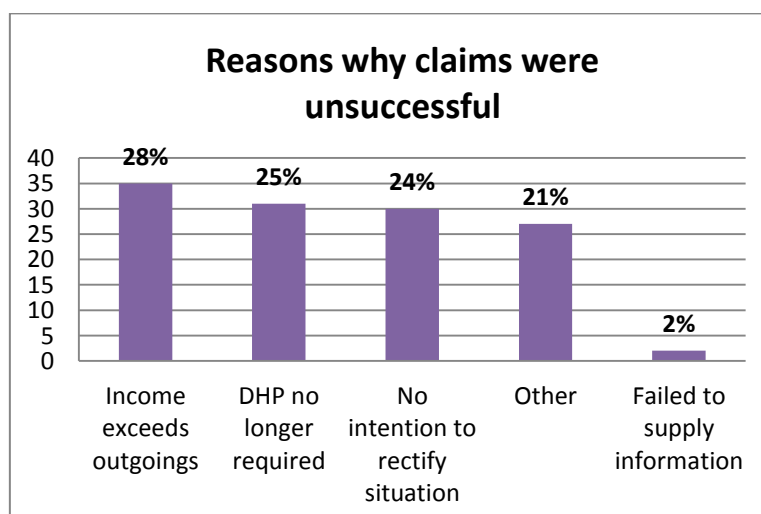
Reason for application

- 229 applications because of Social Sector Size Criteria restrictions (“Bedroom Tax”) (73%)
 - of these 133 were successful
- 57 applications because of LHA Reforms (18%)
 - of these 35 were successful
- 18 applications for other reasons (6%)
 - of these 10 were successful
- 10 applications because of Benefit Cap (3%)
 - of these 10 were successful



Reasons why claims were unsuccessful

- 35 – Personal budget form shows that income exceeds outgoings (28%)
- 31 – DHP no longer needed/Not Applicable/Withdrawn ((25%)
- 30 – No intention to rectify situation (e.g. register for more appropriate sized home or look for work) (24%)
- 27 – Other (21%) (These include cases where the customer took on the tenancy knowing there would be a shortfall or they have expenses which are deemed to be excessive)
- 3 – Failed to return information requested (2%)



Protected characteristics

Age

Housing Benefit (HB) is restricted for single claimants aged under 35 who rent from a private landlord. Their HB is restricted to the rate allowed for shared accommodation. Assistance via DHPs is provided to help these customers in a number of ways:

- Meet shortfall until tenancy comes to an end and more suitable accommodation can be secured (help is also available for rent deposits and removal costs)
- meet shortfall until reach age 35 if that is in the near future
- meet shortfall for a longer period of time if customer has a mental or physical disability which means they are unable to occupy shared accommodation

The following Welfare Reform changes were introduced from 1st April 2013.

- Social Sector Size Criteria (SSSC) (also referred to as “Bedroom Tax”)
- Benefit Cap

These changes only affect customers who are working age. DHPs also provide assistance to customers who are affected by these changes but will become pension age in the near future.

Race

As mentioned above the Welfare Reform changes from 1st April 2013 introduced a Benefit cap. This cap places restrictions on the total amount of benefit a household can receive. The caps are:

- £500pw for couples and lone parents
- £350pw for single claimants

As at 31st January 2014 we have 32 customers whose HB has been restricted by the Benefit Cap.

When the Equality Impact Assessment (EQIA) was undertaken in 2013 there were concerns that the Benefit Cap could affect some minority groups as the majority of cases affected are large families and this can sometimes be indicative of some minority ethnic groups.

From the information we have none of the 32 customers affected are from an ethnic minority group. All 32 customers have been contacted individually and have had the restriction and the availability of DHPs explained to them. 10 of these have applied for and been successful in being awarded a DHP.

Disability & Health

As mentioned above the Welfare Reform changes from 1st April 2013 introduced the SSSC. HB is reduced for customers in the social sector who are deemed to have a “spare” bedroom. Their eligible rent will be reduced by:

- 14% if they have one “spare” bedroom
- 25% if they have two or more “spare” bedrooms

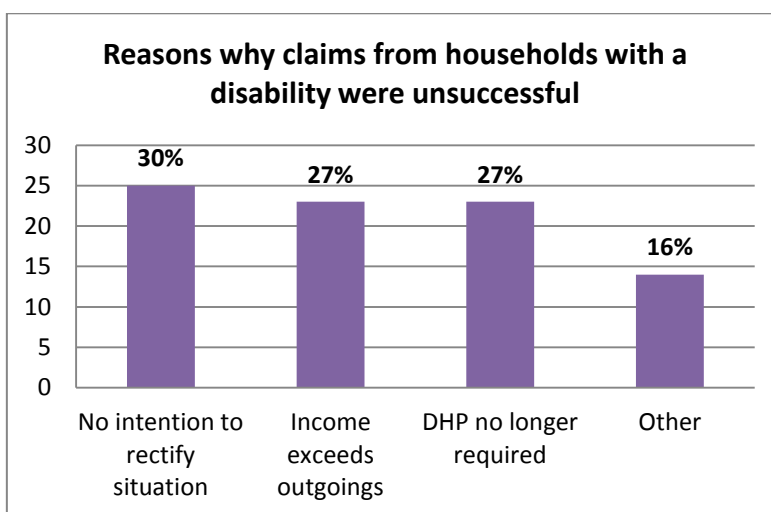
Additional DHP funds have been made available for customers whose property has been significantly adapted because of a member of the household's disability.

Of the 314 applications received 189 of the households had a family member with a disability (60%).

- Of the 189 households with a disability 104 of the claims were successful (55%)
- Of the 125 households without a disability 84 of the claims were successful (67%)

The 85 households with a disability that were unsuccessful were unsuccessful for a number of reasons. These are:

- 25 had the ability but no intention to rectify the situation in the long term (e.g. move to smaller accommodation) (30%)
- 23 had enough income to meet the reduction in HB (27%)
- 23 withdrew their application or no longer had a need for a DHP (27%)
- 14 were unsuccessful for another reason (16%) (These include cases where the customer took on the tenancy knowing there would be a shortfall or they have expenses which are deemed to be excessive)



Applications for DHP from customers where a member of the household has a disability have been the most challenging to deal with. The challenges have come from:

- Determining whether the health or support needs of the disabled person require them to remain in the property
- Determining whether the health or support needs of the disabled person means they need use of the "spare" bedroom
- Determining whether the property has been **substantially** adapted for the disabled persons needs
- Determining whether a room is required for an overnight carer whose main home is elsewhere

- Determining whether the income and expenditure figures provided for the household are accurate and reasonable to ensure that all medical expenses are included

The following section deals with the monitoring of appeals and complaints. However, during the year it became apparent that a large proportion (87%) of disputes received were from customers where a member of the household had a disability.

These cases were analysed and it became apparent that the majority (80%) were unsuccessful initially because of incorrect or insufficient information regarding income and expenditure being provided. More than half of these cases were successful when disputed and correct/detailed expenditure information was provided.

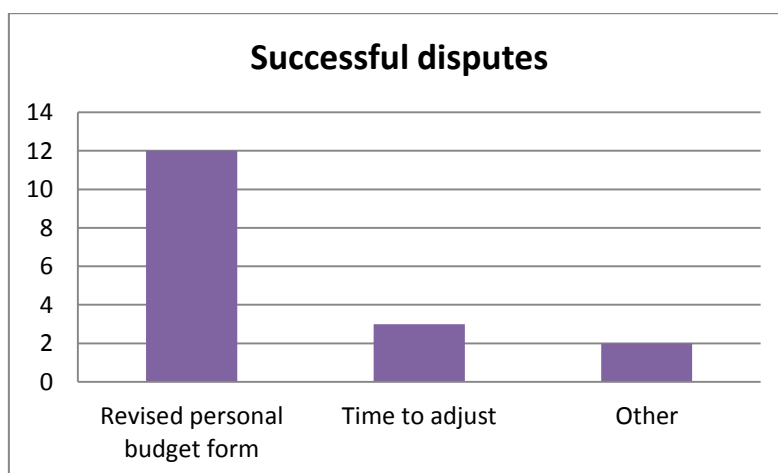
As a result of these findings the Officers who deal with the DHP applications will query any concerns they have regarding the income and expenditure information provided with the customer before they make a decision.

4. Monitoring appeals and complaints

- There have been 31 disputes about decisions. This is 24% of unsuccessful awards.
- On review 17 of these became successful (55%)
- There have been 4 further/final disputes. 2 of these were successful (50%)
- No complaints about the process or outcome of decisions have been received.

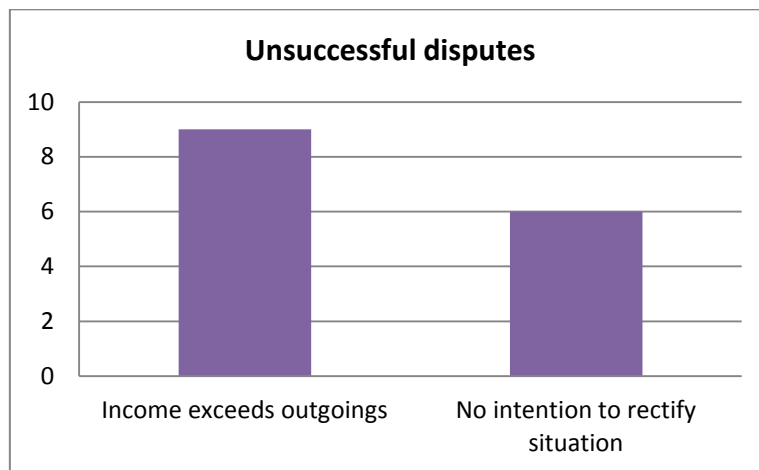
Successful Disputes = 17

- 12 due to personal budget form being revised (e.g. some expenses not previously listed or listed incorrectly)
- 3 to give the customer time to find employment or to adjust to new employment
- 2 for other reasons (period before overnight carer started and notice period given on garage to free some income)



Unsuccessful Disputes = 14

- 9 due to personal budget form indicating that customer could meet shortfall as income exceeds expenses
- 5 where customer was able to but had no intention to move to a more suitable property



Final disputes = 4

- **2 – Successful**
 - In employment but will become pensioner next year. Customer had already downsized from a 3 to a 2 bedroom home
 - Customer's income recently reduced
- **2 – Unsuccessful**
 - Personal budget form indicated that customer could meet shortfall as income still exceeded expenses
 - Customer was able to but had no intention to move to a more suitable property

Conclusion

This report addresses the issues that were identified in the Equality Impact Assessment for the Discretionary Housing Payments Guidance 2013/14 which was undertaken and completed in April 2013. This review has not raised any areas of concern and has proven that the guidance and method adopted have worked fairly and consistently. No changes will therefore be made for 2014/15.

Appendix A

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.

Date Drafted: Mar 2013 Name: DHP Policy & Procedure 2014-15 Saved In; Revs/Bens/DHP Author: Jane Petty Revised by Jane Petty Jan 2014
