

## **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 and future years 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 was reviewed in 2014/15 and was renamed the Discretionary Housing Payments Policy and Procedure. This Policy & Procedure was updated further for 2015/16 and was authorised by Portfolio Holder Decision in April 2015. The updated Policy & Procedure 2015/16 is attached as Appendix A and the amendments made are tracked in red text. A summary of the minor changes made to this document are:

- References to Universal Credit have been updated to make it clearer that in order for a DHP to be considered the UC award must include a housing element towards rental liability
- Further clarification has been added to the section “Amount and duration of DHPS”
- Further examples have been added to “Eligibility guidelines”

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.

<b>Financial Year</b>	<b>Allocation</b>	<b>Spent/Committed</b>
2013/14	£112,997 (£105,155 allocation + £7,842 top up from DWP funding)	£104,927
2014/15	£109,256 (£101,456 allocation + £7800 top up from DWP funding)	£104,463
2015/16	£100,953 (£96,253 allocation + £4,700 top up from DWP funding)	£34,494 (as at 31/05/15)

<b>Financial Year</b>	<b>Number of applications</b>	<b>Number of successful applications</b>	<b>% of applications that were successful</b>
2013/14	314	188	60%
2014/15	279	191	68%
2015/16 (as at 31/05/15)	77	51	66%

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

Another Benefits Officer joined the DHP team in early 2014 and the process has not been changed since. It was reviewed in September 2014 by the Benefits Manager who decided that the process was still working well and should continue.

In April 2015 there was a high court decision, Hardy v Sandwell Metropolitan Borough Council, which quashed Sandwell Council’s decision to take into account income received from Disability Living Allowance (DLA) when assessing the level of entitlement to a Discretionary Housing Payment (DHP).

Please see Appendix B for a copy of the report that considers the case and identifies recommendations, which have now been implemented.

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

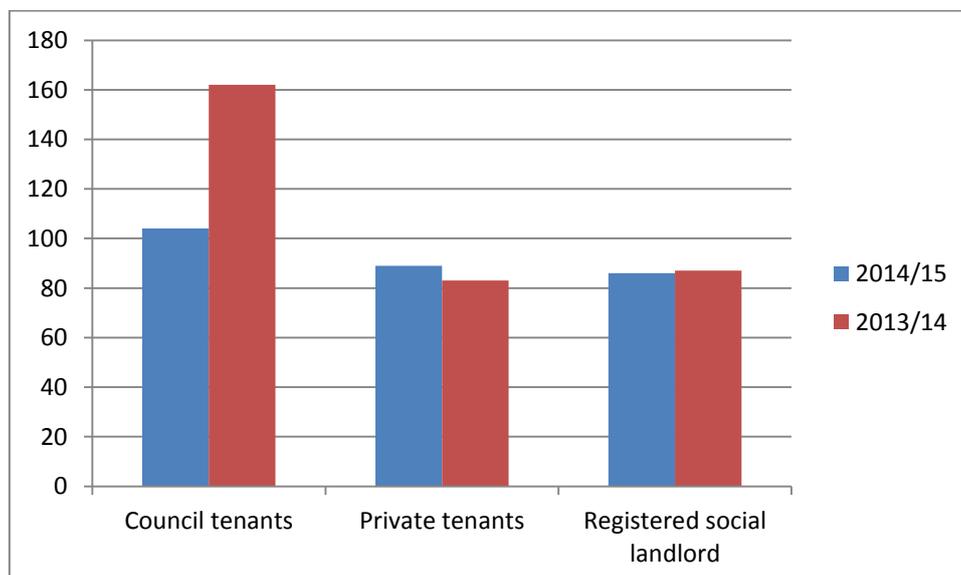
In 2014/15 £104,463 of the £109,256 budget was spent.

- 279 applications were received
- 191 of these applications were successful in receiving an award of DHP (68%)

The characteristics of the claims are as follows:

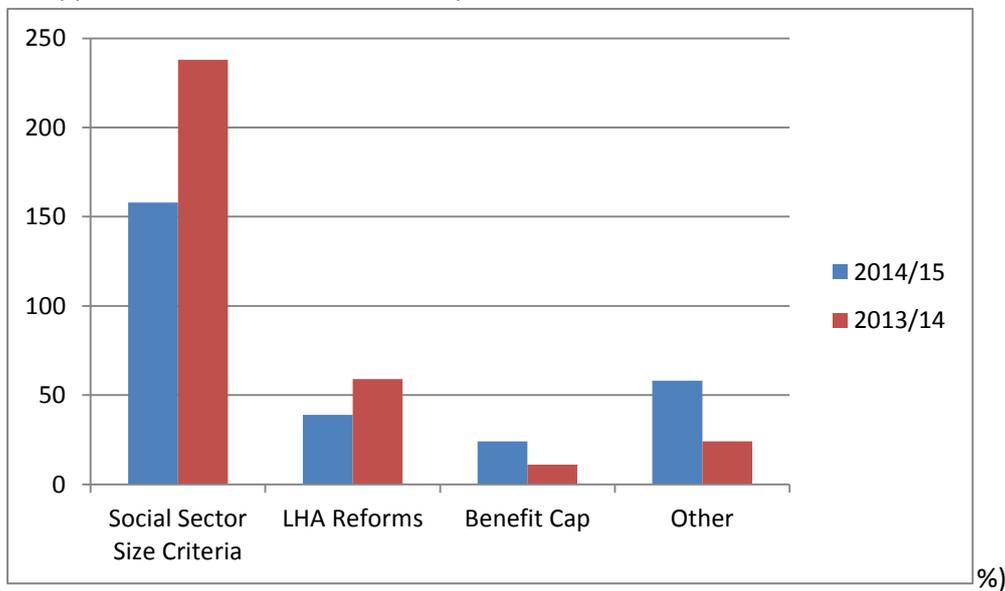
#### **Tenancy type**

- 104 applications from Council tenants (37%)
- 89 applications from Private tenants (32%)
- 86 applications from Registered Social Landlord (RSL) tenants (31%)



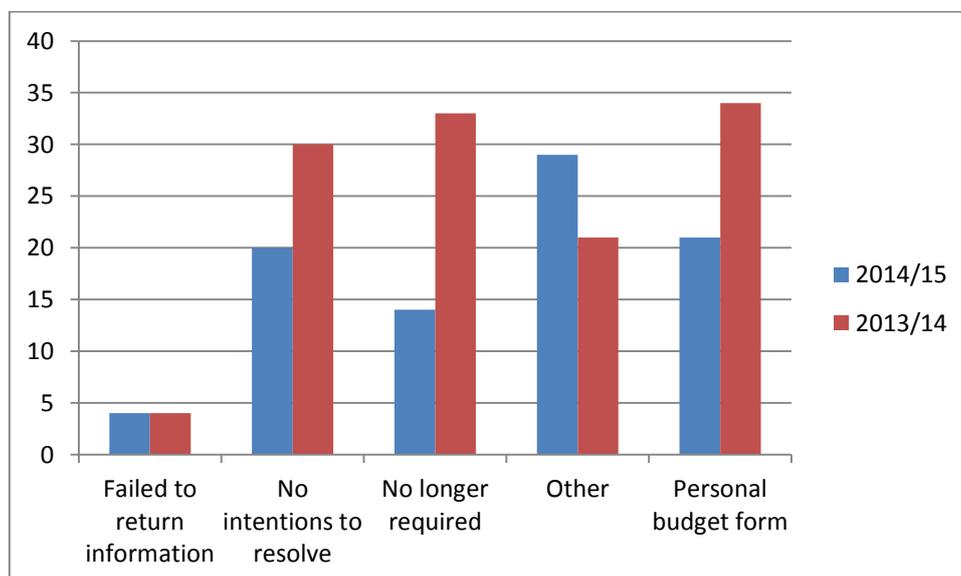
**Reason for application**

- 158 applications because of Social Sector Size Criteria restrictions (“Bedroom Tax”) (57%)
- 58 applications for other reasons (21%)
- 39 applications because of LHA Reforms (14%)
- 24 applications because of Benefit Cap (8)



**Reasons why claims were unsuccessful**

- 4 – Failed to return information requested (4%)
- 20 – No intention to rectify situation (e.g. look for work) (23%)
- 14 – DHP no longer needed/Not Applicable/Withdrawn (16%)
- 29 – Other (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) (33%)
- 21 – Personal budget form shows that income exceeds outgoings (24%)



## **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 1<sup>st</sup> 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 1<sup>st</sup> 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

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 18 customers affected by the Benefit Cap are from an ethnic minority group. All 18 customers have been contacted individually and have had the restriction and the availability of DHPs explained to them. 3 of these have applied for and been successful in being awarded a DHP.

### **Disability & Health**

As mentioned above the Welfare Reform changes from 1<sup>st</sup> 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

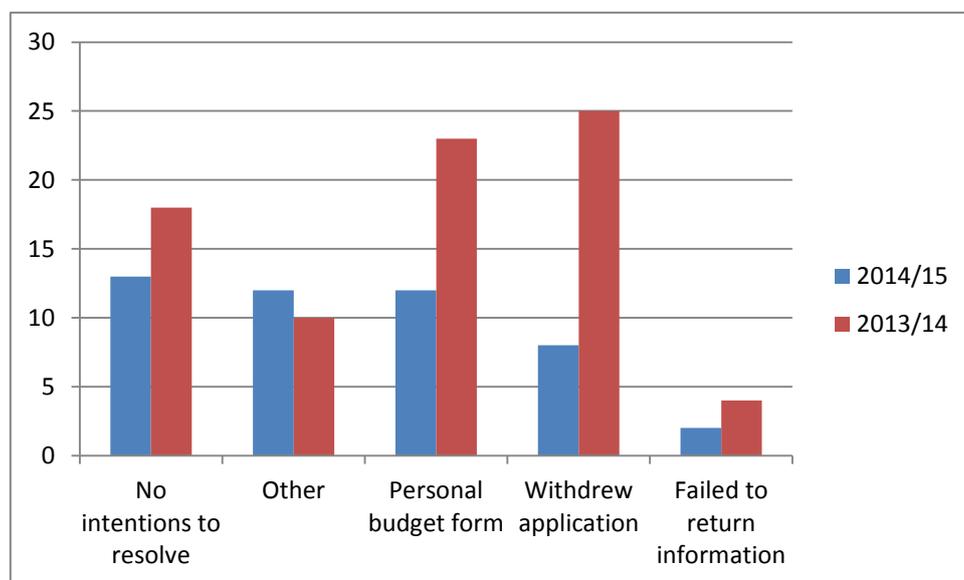
Additional DHP funds have been made available for customers whose property has been significantly adapted because of a member of the household’s disability.

Of the 279 applications received 153 of the households had a family member with a disability (55%).

- Of the 153 households with a disability 106 of the claims were successful (69%)
- Of the 126 households without a disability 85 of the claims were successful (67%)

The 47 households with a disability that were unsuccessful were unsuccessful for a number of reasons. These are:

- 13 had the ability but no intention to rectify the situation in the long term (e.g. move to smaller accommodation) (28%)
- 12 were unsuccessful for another reason (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) (25%)
- 12 had enough income to meet the reduction in HB (25%)
- 8 withdrew their application or no longer had a need for a DHP (18%)
- 2 failed to return information requested (4%)



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

#### **4. Monitoring appeals and complaints**

- In 2014/15 there were 8 disputes about decisions. This is 9% of unsuccessful awards.
- On review 5 of these became successful (63%)
- There has been 1 further/final dispute. This was successful
- No complaints about the process or outcome of decisions have been received.

#### **Successful Disputes = 5**

- 2 due to personal budget form being revised (e.g. some expenses not previously listed or listed incorrectly)
- 1 until the outcome of a DWP benefit was determined
- 1 to give the customer time to find smaller accommodation
- 1 as the customer had started to receive support to assist them with their tenancy issues

#### **Unsuccessful Disputes = 3**

- 1 due to the customer being in a similar situation to a previous claim - rent very high and employment not secure enough to afford such high rents
- 2 due to personal budget form indicating that customer could meet shortfall as income exceeds expenses

#### **Final disputes = 1**

- **1 – Successful**
  - Revised personal budget form advised of a reduction in income since original application

#### **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 2015/16.

**Discretionary Housing**  
**Payments Policy and**  
**Procedure – 2015/16**

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.

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## **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 (that includes a housing element towards rental liability), and
- requires further financial assistance with housing costs

## **What is meant by "housing costs"?**

In general terms 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 (such as local reference rent or shared room rate)
- 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, **the tenant has a valid reason to move and the deposit/rent in advance is reasonable.**

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.

DHP's will not normally be awarded where customers have downsized to a property that is still too big for them or taken on a tenancy that they still cannot afford (e.g. they move from a 3 bedroom property to a 2 bedroom property but they only need a 1 bedroom property).

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?
- **Should a long term or indefinite award be considered?** Is the customer likely to require assistance in meeting their housing costs for as long as they remain in the property, e.g.:
  - a disabled customer who lives in significantly adapted accommodation
  - a customer with a medical condition that makes it difficult to share a bedroom
  - a disabled child who requires a separate room due to a disability but does not meet the HB criteria of being in receipt of middle or high rate of DLA
- 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 1<sup>st</sup> April to 31<sup>st</sup> 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 up to 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)?
7. Is the customer living in temporary accommodation?

### **Finances**

8. Can the customer afford to pay the shortfall based on the figures provided on the budget form?
9. 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)?
10. 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?
11. 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)?
12. Can the customer change their spending pattern on non-essential items?
13. Could the customer reduce other outgoings?
14. Could the customer afford the rent when they moved in? Do they need short term assistance while they attempt to get back to work?

15. Can the customer increase their hours or do any overtime (remember that this will affect entitlement to HB, UC and Council Tax Reduction)?
16. 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>
17. 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**

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

### **Other circumstances**

22. Is the customer fleeing domestic violence so they do not have time to shop around for a reasonably priced property?
23. Is the customer expecting a child and has had her HB or UC restricted to that of smaller accommodation until the child is born?
24. What would be the impact on the household of moving home and/or changing schools?
25. Would an award of DHP assist the customer in accessing/retaining employment, education or training?
26. What steps has the customer taken to alleviate the problem?
27. Has there been a change of circumstances which make it more difficult to meet housing costs (possibly just in the short term)?
28. Could friends or relatives help with temporary accommodation or rental payments?
29. 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)?

30. Is the customer single and aged between 25 and 35? If they are check if the criteria for ex-offenders and previous homeless applies. Also check if they are exempt from the restrictions
31. 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. **does the customer have a disabled child who requires a separate room due to a disability but does not meet the HB criteria of being in receipt of middle or high rate of DLA**
  - d. do any of the SSSC exemptions apply to the customer
32. 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. **Are they having difficulty finding more appropriate accommodation**
  - f. **Do they have dual liability for housing costs**
  - g. 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>**

**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.

Name: DHP Policy & Procedure 2015-16

Saved In; Revs/Bens/DHP

Author: Jane Petty

Revised by Jane Petty

Date: December 2014

## Appendix B

### High Court decision – Hardy v Sandwell Metropolitan Borough Council – Discretionary Housing Payments and Disabled Customers

#### **Background and Summary of decision**

In Hardy v Sandwell MBC, the High Court quashed Sandwell Council's decision to take into account income received from Disability Living Allowance (DLA) when assessing the level of entitlement to a Discretionary Housing Payment (DHP).

The ruling means that routinely considering disability benefit when calculating DHP's is unlawful, but the detail of the case suggests that this only applies to a blanket policy of taking into account DLA but probably not where this is done as part of the consideration of the individual circumstances of individual cases.

The customer and his wife live in a 3 bedroom council house which has been adapted to help them deal with their disabilities. The works (which included the installation of a stair lift, adaptations to bathroom and shower and alterations to driveway and kerb) were paid for by the customer from his income. They are entirely reliant on state benefits for their income.

Until April 2013 they were in receipt of full Housing Benefit (HB). In April 2013 the "size criteria" was introduced and their HB was reduced by 25% as they were deemed to be under-occupying the property as for HB purposes they only needed 1 bedroom. They have bid for numerous smaller council properties suitable to their needs but have been unsuccessful to date.

The Council granted a lower DHP award because it calculated their DLA as part of their income.

The judgement said "The Council's policy of always taking into account DLA as income when assessing awards of DHP, as reflected in the Sandwell policy, fails to have due regard to the DHP Guidance, constitutes a failure to exercise the Council's discretion and fetters any future exercise of that discretion."

However, the High Court ruling did not agree that there should be a blanket ban on taking into account DLA in calculating awards.

Numerous professional bodies have commented on this in the last couple of days and they all agree that the individual circumstances of each case have to be considered and a routine approach to take DLA into account as income will need to be avoided.

#### **Points to note/consider**

1. The case raised the issue of taking into account both the mobility component of DLA (DLA M) and the care component of DLA (DLA C) into account.
  - **DLA M**  
Sandwell MBC did not take DLA M into account as it had determined that it should be disregarded in accordance with The Discretionary Financial Assistance Regulations 2001, Part 2, paragraph 1. In the analysis of this regulation it states that specific provision is made for the mobility component of Disability Living Allowance to be disregarded in the calculation of other benefits.

When assessing DHP entitlement we do not include DLA M if we know that the customer has a car rather than the cash payment. However, we do include the DLA M income in the financial assessment if they get a cash payment. We would also include any mobility expenditure the customer incurs but based on the ruling we need to consider whether both the DLA M income and mobility expenditure need to be removed from the calculation.

- **DLA C**

Sandwell MBC had a blanket policy of taking into account DLA C. The Court ruling did not agree that there should be a blanket ban on taking into account DLA C when calculating awards but that it could be included where this is done as part of the consideration of the individual circumstances of individual cases.

Our DHP Policy and Procedure does not detail in any way what income and expenses are to be taken into account in the calculation. The Policy and Procedure is based on the Department for Work and Pensions (DWP) DHP Guidance Manual and states that “all DHP applications will be assessed on their individual merits.”

The DWP DHP Guidance Manual advises LA’s that they can decide how to treat any income or expenditure, taking into consideration the purpose of the income where appropriate. *“For example, you may decide to disregard income from disability related benefits as they are intended to be used to help pay for the extra costs of disability. As part of the application process you should take care to ascertain whether such money is committed to other liabilities for which it was intended, such as Motability schemes or provision of care, seeking evidence regarding expenditure from the claimant. If you do decide to take such income into account then you should consider providing an explanation to the claimant as to why you have done so.”*

Our DHP Policy and Procedure goes on to specify that the following matters should also be considered:

- A disabled customer who lives in significantly adapted accommodation
- That in exceptional circumstances awards can be increased for up to 12 months (e.g. long term disabled customer who is unable to move into work or a smaller property)
- Whether the customer or anyone in the household has any unusual or unusually large expenses which make it harder to meet housing costs (e.g. regular visits to hospital)
- Whether the income and expenditure figures provided are accurate and reasonable
- Whether the household has health or support needs which require them to remain in the property

When assessing DHP entitlement we do take into account DLA C income but also allow the extra expenses related to the disability as expenditure. We do not carry out a strict income/expenses calculation as was done in the Sandwell case. We use the budget form as a way of informing the claim and obtaining a full financial picture of the customer’s situation.

In all cases (regardless of whether DLA is in payment), we use our discretion on the financial assessment. For example:

- If a budget form shows that a customer has surplus income, but hasn’t listed very many expenses (clothing is one that is quite often missed),

we would make a judgement on that case as to whether we can ignore the surplus income.

- If somebody shows a small surplus income, and it is a summer period, we may consider that the fuel costs will be higher over the year, so ignore the surplus income.
- We also take into consideration that everybody has variations in their expenses on a day to day basis, so a budget form is never going to give us an exact figure of surplus (or negative) income.

In some cases a customer may have DLA C in payment, have a small surplus income but have high expenses on non-essential expenses like cigarettes and alcohol and in these type of cases we may refuse the application.

2. An Equality Impact Assessment (EQIA) for the DHP Policy and Procedure was undertaken and completed in April 2013 when the Welfare Reform changes were implemented. This was reviewed in March 2014 to ensure the process was consistent and fair and no issues were identified. A further review is currently in-progress.

### **Recommendations**

1. That both the DLA M income and any mobility expenditure be removed from the calculation from 1<sup>st</sup> April 2015.
2. Review DLA C cases on a 6 monthly basis to ensure that up-to-date expenditure for care items is reflected in the award
3. That award letters for customers in receipt of DLA C clearly advise customers that their DLA C income and related expenditure has been taken into account in the calculation
4. That award letters for customers in receipt of DLA C advise customers to notify us if they incur any unexpected expenditure during the period of the DHP award
5. Update the DHP claim form so that it specifically asks for regular and one off expenditure relating to a disability
6. Continue to update the DHP Policy and Procedure on an annual basis in line with the DWP DHP Guidance manual.
7. Continue to undertake a review of the EQIA for the DHP Policy and Procedure on an annual basis