



## HOUSING BENEFIT

# DISCRETIONARY HOUSING PAYMENTS POLICY

VERSION 2

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## **Introduction**

The Discretionary Housing Payment (DHP) scheme allows Local Authorities to provide discretionary financial assistance to customers claiming Housing Benefit when they consider that additional help with housing costs is needed. Housing costs are defined as rent.

Following the abolition of council tax benefit from April 2013, DHP can no longer be made towards council tax liability.

The main principles of the scheme are:

- The customer has no statutory right to a payment.
- The scheme is discretionary.
- All applications must be treated on their own merit.
- DHP is not a payment of HB and as such is not subject to the statutory appeal mechanisms. The Council does however have a review process (see further details below).
- The DHP scheme should in most cases be seen as a short-term emergency fund
- The Council has the right to amend, suspend or cancel a DHP when necessary or appropriate.
- The total amount payable in any financial year is cash limited and no further DHP will be granted once the funding is exhausted.

Sections 69 & 70 of the Child Support, Pensions and Social Security Act 2000 provide for a system of discretionary housing payments to be devised and for subsidy limits to be imposed on those payments. The regulations covering DHPs are The Discretionary Financial Assistance Regulations 2001.

## **Financial implications**

DHP funding is cash limited based on a central government grant. The Council receives an annual grant allocation and it seeks to match the expenditure to the grant. Following recent welfare reforms, the funding has been increased to reflect the increased demand for DHP. No further DHP awards will be granted once the funding is exhausted.

The level of a DHP award cannot exceed the shortfall between rent charged and Housing Benefit paid. There are also elements of a person's rent and shortfalls in benefit that cannot be met by a DHP and these are prescribed by regulations.

## **Purpose of this policy**

The purpose of this policy is to specify how Pendle Borough Council will operate the DHP scheme.

The scheme is discretionary and the Council will not prescribe any conditions that need to be satisfied outside of the legal framework. To prescribe such conditions would fetter the Council's discretion and could lead to legal challenge. Each case will be considered on its own merits.

This policy ensures that the Council will act fairly, reasonably, and consistently throughout the DHP decision-making process.

All customers will be treated with due courtesy and respect and in accordance with the Council's policies.

The Council aims to maximise benefit entitlement for all its customers and recognises that DHPs are not intended as long term solutions to housing and money management issues.

### **Purpose of the scheme**

The purpose of the scheme is to:

- Alleviate poverty
- Assist individuals with their housing costs
- Keep families together
- Prevent homelessness and sustain tenancies
- Encourage and sustain people in employment
- To assist customers in financial hardship as a result of changes in benefit entitlement through welfare reform changes, particularly in order to address unintended impacts or anomalies.
- Support the vulnerable or the elderly in the local community
- Help customers through a personal crisis/difficult event

### **Who can claim?**

The Council will consider making a payment of a Discretionary Housing Payment to claimants who meet the qualifying criteria subject to budget limitations.

Claims can be considered if the customer is entitled to:

- Housing Benefit and
- Has a rental liability and
- Requires further financial assistance with housing costs

Payments are expected to be made to meet current needs rather than past debts.

Although DHP is not Housing Benefit, any awards will be paid to whoever receives payments of Housing Benefit, eg. claimant, landlord or agent.

A customer who is receiving local council tax support only, with no rental liability (e.g. an owner occupier) is not eligible to apply for a DHP.

### **What types of financial support can DHP cover?**

We will give priority to cases which will contribute to preventing homelessness, safeguard vulnerable families and vulnerable people living in the community.

This is to allow customers time to find more affordable accommodation and prevent homelessness. In most cases it is intended to provide short term assistance (ie. 3 to 6 months) where the council is satisfied that the customer needs financial assistance. After a specified period, the customer will have to meet the cost of the shortfall in their rent themselves even if they have not found anywhere else to live.

The types of cases which may be eligible for a DHP payment are:

- Reductions in HB where the benefit cap has been applied (see further details below)
- Reductions in HB for under occupation in the social rented sector (see further details below)
- Reductions in HB as a result of local housing allowance restrictions
- Reductions in HB due to Non-dependant deductions i.e. the deduction from the eligible rent for an assumed contribution for a grown up son, daughter, friend or relative who lives in the customer's home
- Reductions in HB due to the applications of income tapers – the rate at which benefit is reduced to take account of earnings
- Customers receiving medical care. We will consider the customer's circumstances and extra cost she/he has to pay because of illness
- Joint custody/access/restricted access for visiting children
- People who have had to flee domestic violence or have moved because of the threat of violence in another area
- Young people leaving local authority care
- Ex-homeless people being supported to settle in the community
- Households with children who require an overnight carer

This is not an exhaustive list as each case that meets the overall scheme objectives will be considered on its merits.

The main criteria which should be used to assess each case:

- Is there danger of eviction and homelessness?
- What is likely to happen to the family if the DHP is not awarded?
- Are there any children in the family at a critical point in their education?
- Any social or health problems currently being faced by the customer and/or their family e.g. do they prevent customer moving house? Do they affect the type of housing available to the customer? Do they cause the customer extra financial costs?
- Is there a pregnancy within the family? If so consider giving them time to move by awarding DHP up to 3 months either side of the birth or longer if the case warrants it. Consider what has brought about the shortfall, is it due to rent being restricted because the property is larger than the household needs, will this be resolved when the baby is born?
- Age should be considered in relation to other factors in the case e.g. a pensioner is likely to suffer greater hardship and find it more difficult to move than a younger person
- Does an individual or child within the family have particular problems e.g. special needs which are likely to cause the family to have higher costs e.g. travelling to hospital appointments or special dietary requirements

Followed by:

- Any income and expenditure of the household excluding any joint tenant
- Disregarded income. It is reasonable to expect the customer to use disregarded income towards the shortfall, but not all forms of disregarded income e.g. Disability Living Allowance (Mobility) paid directly to the Motobility Scheme.
- Any savings or capital that might be held by the household

We will not make any allowance for the following:

- Any loss resulting from the customers failure or delay in claiming any income to which they are entitled
- Any debt arising from an overpayment of housing benefit
- Any debt, which, in the opinion of the council arises from the financial imprudence of the customer.

### **The Benefit Cap**

Additional funding is being provided by the Government to give short term temporary relief to families who are unable to move immediately or to help them move to more affordable accommodation.

The groups most likely to be affected by the benefit cap are:

- Those with family care responsibilities
- Individuals or families who cannot move immediately for reasons of health, education or child protection
- Households moving to more affordable accommodation

### **Size criteria in the social rented sector**

From April 2013 working age customers living in the social rented sector may face a reduction in their eligible rent if they are under occupying their property. Additional funding is being provided by the Government for those affected but unlikely to meet the shortfall and for whom moving to a smaller property may be inappropriate.

It is aimed specifically at two groups:

- Disabled people living in significantly adapted accommodation – including any adaptations made for disabled children
- Foster carers – whose housing benefit is reduced due to a bedroom being used by or kept free for foster children

### **Support for customers affected by Local Housing Allowance (LHA) restrictions**

Since 2011, the calculation of LHA rates has been revised and these changes are likely to result in an increased demand for DHP, particularly as any protection measures come to an end.

In addition, from April 2013, LHA rates will be up rated annually in line with the Consumer Price Index (CPI) instead of being set every month in line with market rents (Retail Price Index – RPI).

In preparation for this measure, LHA rates will be set at the April 2012 rates until the first up rating takes place in April 2013.

The impact of this measure depends on whether landlords decide to restrict their rent increases in line with LHA rates, but it could result in customers having a greater shortfall between their LHA and their rent.

Additional funding has been provided by the Government to the DHP budget for 2013/14 to provide additional support to some customers impacted by welfare reform.

### **What DHP cannot cover**

There are certain elements that cannot be included in assessing the financial circumstances of customers applying for DHP:

- Shortfalls caused by HB overpayment recovery.
- Increases in rent due to outstanding rent arrears
- Reduction in any benefit as a result of Income Support or Jobseeker's Allowance sanctions or sanctions following certain benefit related offences.
- HB that is suspended.

### **Administration of DHP claims**

The Benefits Manager assisted by the Control Team in Treasury Services will administer the DHP scheme on behalf of the Council and will:

- Provide a specified claim form for the purpose of claiming a DHP. For the claim to proceed, the claimant must return the form to the Council within one month of its issue.
- All applications for a DHP must be made by the benefit claimant and in the case of a married or unmarried couple must be made jointly.
- The Council may request any reasonable evidence in support of an application for a DHP. The claimant should provide the evidence within one month. If the claimant does not provide the required evidence, the Council will still consider the application. However, the Council may disregard any unsubstantiated statements or draw its own conclusions from other evidence available.
- The Council may in any circumstances verify any information or evidence provided by the claimant by contacting third parties, other organisations and the claimant.
- Pay awards of DHPs via the Housing Benefit payment system and within the relevant payment cycles.
- Notify a person claiming a DHP payment of the outcome of his/her application in writing stating the reason/s for the decision and providing details of appeal rights.
- Inform a person claiming a DHP of their duty to notify the Council of relevant changes of circumstances.
- Review a DHP award at the same time as entitlement to Housing Benefit is reviewed.
- Periodically review the DHP claim process for effectiveness and efficiency.

### **Period of Award**

Judgement should be used, and one of the following may be set as an end date:

- The end of the financial year.
- To tie in with an expected change in circumstance, i.e. baby due date.
- A date considered reasonable given the circumstances of the case.
- The end date of the benefit entitlement.

When considering a DHP claim it should be taken into account that the DHP scheme should in most cases be seen as a short-term emergency fund, ie. for 3 to 6 months.

Customers must be made aware that they must seek advice with regard to their housing needs and ways to manage financially in the long term. DHP will not be paid indefinitely.

### **Backdating**

The Council will consider any reasonable request for backdating an award of DHP. All such requests should give the reasons why the application was not made at an earlier time. In addition, a DHP can only be considered for a period where HB is payable.

### **Overpayments**

The council must seek recovery of all overpaid DHP. Discretion can be used, however, not to seek recovery of the DHP overpayment in the following cases:

- The overpayment was caused by an official error and the customer could not be reasonably expected to know that it was an overpayment
- If it is considered that the customer will suffer serious hardship if the Council seeks recovery.

However, recovery of the overpaid DHP cannot be made from ongoing HB. Therefore, the only method of recovery is to request repayment of the debt from the customer. This may be in the form of raising a sundry debt invoice.

### **Reviews**

DHP is not a payment of HB and as such not subject to the statutory appeal mechanisms. The Council does however have a review process.

Customers can request a review of DHP decisions. They must do this in writing within one month of the date they are notified of the decision. Late requests will be considered at the discretion of the Administering Officer where she/he considers that there were good reasons for the delay.

If a review is requested this will be looked at by a second officer who will reconsider the award of any DHP that has been disputed and notify the claimant of the outcome. There are no further rights of appeal against a decision.

In the event that the claimant feels the review has not been undertaken fairly, the claimant can request that a panel of senior officers (the Client Team) shall review the decision to ensure that it has been made fairly and complies with this policy.

The customer has no further right of review against the decision of the Client Team. However applicants can still seek a Judicial Review of the council's decision.

### **Monitoring Arrangements**

In addition to the annual DHP claim form the council will be required to provide a broad breakdown of expenditure. The monitoring returns will be submitted to the DWP twice a year.

Following a successful application for DHP the main reasons for the award should be recorded as detailed below:

- To support customer affected by the benefit cap
- To support customer affected by social sector size criteria
- To support customer affected by LHA reforms
- A combination of the reforms
- Any other reason

Secondly the broad or main outcome expected from that award:

- To help with short term rental costs until the customer is able to secure and move to alternative accommodation
- To help with short term rental costs while the customer seeks employment
- To help with on-going rental costs for foster carer
- To help with on-going rental costs for disabled person in adapted accommodation
- To help with short term rental costs for any other reason

The total amount paid to the customer should also be recorded. For example, if the award is £10 per week for 20 weeks, the total award should be recorded as £200. The council should also keep records of the unsuccessful applications.