

# Discretionary Housing Payments Guidance Manual

Including Local Authority Good Practice Guide

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Department  
for Work &  
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# Introduction

## Purpose of this Guidance Manual

- 1.0 This guidance manual is for local authorities (LAs) in England, Scotland and Wales who are responsible for administering Discretionary Housing Payments (DHPs). It provides guidance and advice on good practices that should be taken into account when payment of a DHP is being considered. This manual updates the previous guidance issued in May 2016.
- 1.1 Since April 2013, the guidance has reflected amendments to the Discretionary Financial Assistance Regulations 2001 (the DFA regulations), which ensure the scheme covers the introduction of Universal Credit and also the abolition of Council Tax Benefit.
- 1.2 The guidance together with the good practice guide offers advice on how DHPs can be used to provide support to claimants affected by some of the key welfare reforms, including:
  - the benefit cap;
  - removal of the spare room subsidy in the social rented sector;
  - changes to Local Housing Allowance (LHA) rates, including the 4 year freeze.
- 1.3 To continue to assist claimants through the transitional period of these reforms, the Government have committed to provide £870 million in DHP funding to 2020/21.
- 1.4 The good practice guide is intended to help LAs in their decision making process, however, they have overall responsibility for how DHPs are administered and paid, taking into account the impact of the welfare reforms and any other relevant factors. Due to the discretionary nature of the scheme it is important that LAs are flexible in their decision making.
- 1.5 This guidance also provides details on existing assurance arrangements that LAs are required to follow, including reporting measures that will help provide information about the use of DHPs.

## What are Discretionary Housing Payments?

- 1.6 A DHP may be awarded when an LA considers that a claimant requires further financial assistance towards housing costs and is in receipt of either Housing Benefit (HB) or Universal Credit (UC) with housing costs towards rental liability. Please note that while the housing costs of the UC award notification may refer to support for mortgage interest payments, owner-occupiers are not eligible to receive DHPs.

- 1.7 For the purposes of this guidance, any reference to UC is where the claimant meets the above criteria, i.e. housing costs towards rental liability are included in the UC award.
- 1.8 The DHP scheme is set out in the DFA regulations (S.I.2001/1167) as amended by the Council Tax Benefit Abolition (Consequential Provisions) Regulations 2013 (S.I. 2013/458), which came into force on 1 April 2013; and the Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), which came into force on 29 April 2013. The DFA regulations as amended are referred to in this manual as ‘the regulations’.
- 1.9 Although the regulations give LAs very broad discretion, decisions must be made in accordance with ordinary principles of good decision making i.e. administrative law. In particular, LAs have a duty to act fairly, reasonably and consistently. Each case must be decided on its own merits, and your decision making should be consistent throughout the year.
- 1.10 LAs can use their own funds to top up their Government contribution by an additional 150% in England and Wales. Once an authority’s overall cash limit is met, no additional DHPs can be awarded in that tax year. If you award above this limit, you are breaking the law. The legislation which specifies the overall limit on expenditure is Article 7 of the Discretionary Housing Payment (Grants) Order 2001 (S.I. 2001/2340). There is no overall cash limit in Scotland.
- 1.11 Any unspent DHP funding from the Government contribution is returned to the Department at the end of the financial year.
- 1.12 Note that from April 2017, the Scottish Government will have responsibility for establishing its own DHP scheme for claimants in Scotland. The Guidance Manual will be updated in due course to reflect this change.

## **What do we mean by ‘housing costs’?**

- 1.13 ‘Housing costs’ are not defined in the regulations and this approach purposely allows broad discretion for interpretation. In general, ‘housing costs’ usually refers to rental liability, although the term can be interpreted more widely to include:
- rent in advance;
  - deposits; and
  - other lump sum costs associated with a housing need such as removal costs.
- 1.14 Council tax liability cannot be met by DHPs even where a claimant is receiving Local Council Tax Support.

## **What do we mean by ‘further financial assistance’?**

- 1.15 The phrase ‘further financial assistance’ is not defined in law. LAs may interpret the phrase however they wish, taking into consideration the claimant’s financial circumstances and any other relevant factors. In most cases, however, a claimant will need to demonstrate that they are unable to meet housing costs from their available income or that they have a shortfall in rent as a result of the welfare reforms.
- 1.16 A DHP may cover all or part of a shortfall in rent or assist with the cost of taking up a tenancy.
- 1.17 See [Administering DHPs](#) and [The level of a DHP](#) later in this guidance.

# Deciding whether to award a DHP

## What are the criteria for award?

2.0 Before making a payment you must be satisfied that the claimant is entitled to:

- Housing Benefit (HB) *or*
- Universal Credit (UC) that includes housing costs towards rental liability

**and** requires further financial assistance with housing costs.

2.1 A claimant who is receiving local Council Tax support **only** is not eligible for a DHP. This means a claimant who is receiving local Council Tax support but has not yet been awarded HB or UC is not eligible for a DHP.

## What types of shortfall can DHPs cover?

2.2 The various shortfalls of HB or UC that a DHP can cover include (but are not limited to):

- reductions in HB or UC where the benefit cap has been applied;
- reductions in HB or UC due to the maximum rent (social sector) size criteria;
- reductions in HB or UC as a result of LHA restrictions;
- rent officer restrictions such as local reference rent or shared accommodation rate;
- non-dependant deductions in HB, or housing cost contributions in UC;
- rent shortfalls to prevent a household becoming homeless whilst the housing authority explores alternative options;
- income taper reduction; and
- any other policy change that limits the amount of HB payable, for example the removal of the family premium.

## Rent deposits and rent in advance

2.3 A DHP can be awarded for a rent deposit or rent in advance for a property that the claimant is yet to move into if they are already entitled to HB or UC at their present home. Regard should be given to the Court of Appeal's decision in *R v. LB Lambeth, ex parte Gargett* which sets out that any HB already paid towards 'housing costs' must be deducted when calculating the amount of a DHP to avoid duplicate provision.

2.4 When awarding a DHP for a rent deposit or rent in advance, you may wish to be satisfied that:

- the property is affordable for the tenant; **and**
- the tenant has a valid reason to move; **and**
- the deposit or rent in advance is reasonable.

It should be remembered that it may not always be possible for the claimant to seek the most affordable accommodation, for example, when someone fleeing the home due to domestic abuse needs to seek a place of safety such as a refuge service.

2.5 You may also wish to establish with the claimant whether they:

- are due to have a deposit or rent in advance in respect of their existing tenancy returned to them (see 2.15); or
- have received assistance from another department within the LA towards a rent deposit, for example, a rent deposit guarantee scheme or similar.

It should be borne in mind, however, that tenants will typically not receive a returned deposit until they have vacated a property and begun a new tenancy. Therefore a refund may not be readily available at the time the DHP is requested.

2.6 DHPs are not specifically linked to any rent deposit or rent in advance scheme and their discretionary nature allows them to be used for this purpose. There may be other local schemes that offer similar support towards rent deposits or rent in advance, such as local emergency support provided by LAs or charities. Each LA decides how they operate their local scheme.

2.7 Using DHPs to help with a rent deposit or rent advance may be particularly appropriate to help claimants move to alternative accommodation where their award of HB has been restricted following one of the welfare reforms. It may also be appropriate to consider using DHPs for this purpose if, for example, your LA rent deposit scheme is limited or exhausted.

2.8 The regulations are wide enough to permit this on the basis of a claimant's entitlement to HB or UC at their current home. A DHP can therefore be



made towards housing costs for a property other than the one for which benefit has been awarded.

- 2.9 Regulation 4 places a limit on the DHP award (see [The level of a DHP](#) later in this section) so that it does not exceed the weekly or monthly eligible rent on the claimant's home. However, the limit only applies where the award is calculated as a weekly (HB) or monthly (UC) sum, for example, to meet an on-going rent shortfall.
- 2.10 In a case where you are awarding a DHP for rent in advance or a deposit, the weekly or monthly limit does not apply because a lump sum is being awarded to meet an immediate housing need.
- 2.11 When awarding a DHP for a deposit it may be prudent to include information in the award notification about landlords' legal obligations to protect any deposit paid in a Government approved tenancy deposit protection scheme. Compliance with this requirement may help reduce the need for future help with deposits. Further information can be found at:  
  
<https://www.gov.uk/tenancy-deposit-protection/overview>
- 2.12 When making a DHP to assist the claimant with securing a new tenancy you may wish to consider making the payment to the landlord rather than the claimant.
- 2.13 As a lump sum payment for a deposit or rent in advance is not made in respect of a period, you only need to be satisfied that the claimant is entitled to HB or UC at the point the award is made.
- 2.14 If the deposit or rent in advance is for a property outside of your area this does not prevent a payment being made if the claimant is currently in receipt of HB or UC within your area.
- 2.15 Once a DHP has been made to the claimant for a deposit or rent in advance, the regulations do not permit you to recover the DHP award at the end of tenancy. A DHP may only be recovered from a claimant in specific circumstances – see [Overpaid DHPs](#) later in this guidance.

## DHPs and two homes

- 2.16 The regulations allow a DHP to be awarded in respect of two homes when someone is treated as temporarily absent from their main home, for example, because they have had to leave their main home because they are a victim of domestic abuse. Please refer to the Housing Benefit Regulations 2006 (S.I. 2006/213) (HB regulations) or Universal Credit Regulations 2013 (S.I. 2013/376) (UC regulations) for the time restrictions on these provisions.
- 2.17 In such cases of temporary absence - if the claimant is treated as liable for rent on both properties, and in both cases there is a shortfall, it is possible to award a DHP in respect of both properties subject to the weekly or monthly limit on each property (see [The level of a DHP](#) later in this section).
- 2.18 If the claimant is only treated as liable for HB or UC on one home, but is having to pay rent on two, a weekly DHP could be made to cover costs of the second home; the HB or UC eligible rent for the main home is the maximum award. For example, a claimant may be temporarily absent from their main home to stay near a child receiving treatment in hospital. They are incurring costs on their temporary dwelling but their housing costs are covered for their main home. A DHP could be considered to help cover costs on the claimant's temporary dwelling.
- 2.19 In cases of domestic abuse the victim may have fled from, or to, another area to seek safety. It may be useful for respective LAs to collaborate in order to establish which authority should receive the DHP application (i.e. the authority where the main home is located or that of the refuge service or temporary dwelling where the victim is currently living).

## What DHPs cannot cover

- 2.20 There are certain elements of a claimant's rent that the HB and UC regulations exclude so they cannot be included as 'housing costs' for the purposes of a DHP.
- 2.21 Excluded elements are:
- ineligible service charges
  - increases in rent due to outstanding rent arrears
  - certain sanctions and reductions in benefit.

See [Appendix A](#) for more details

## The level of a DHP award

- 2.22 If the purpose of the DHP is to meet an on-going rental liability, it is entirely up to you how much you decide to meet. However, the regulations require that the level of DHP does not exceed;
- the weekly HB eligible rent in the case of an HB claimant, or
  - the amount calculated in accordance with Schedule 4 of the UC regulations (i.e. the value stated for housing costs on a UC award notice) in the case of a UC claimant.
- 2.23 Regard should be given to the Court of Appeal's decision in *R v. LB Lambeth, ex parte Gargett* which sets out that any HB already paid towards 'housing costs' must be deducted when calculating the amount of a DHP to avoid duplicate provision.
- 2.24 Regulation 12(1) of the HB regulations (and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214)) define which payments qualify as rent and therefore in respect of which HB may be paid.
- 2.25 In the case of a UC claimant, the maximum DHP award is also affected by reductions in the UC housing costs for items such as a maximum LHA rate or housing cost contributions as these form part of the housing costs calculation in Schedule 4 of the UC regulations.
- 2.26 Where a claimant is in receipt of UC, the maximum DHP award that can be made is established by looking at their UC award notification. Their UC award notice will identify housing costs, and this is the same as the maximum DHP that can be made when calculating a DHP as a monthly award.
- 2.27 You can decide on the level of a DHP under UC providing it does not exceed the housing costs, taking into consideration the claimant's overall financial and personal circumstances. For example, a potential claimant's rent is £500 per month, they are in receipt of housing costs in UC and the claimant is affected by a 14% reduction for a spare room so the UC housing cost is £430 per month. The maximum DHP award is £430 per month as it is limited to the housing cost of UC (calculated under Schedule 4). In theory, you could award a DHP award of up to £430 per month, however in practice an LA would not make an award where the UC housing costs and the DHP together are of higher value than the rent liability. Additionally, regulation 2 of the regulations states that DHPs are specifically for people who require further assistance with housing costs and it would be difficult to argue that an award of anything greater than the rent shortfall was necessary. Therefore, you could award £70 per month if it was considered appropriate taking into account the particular circumstances of the case.

## **Payment cycles**

- 2.28 Payments to meet a weekly or monthly rental liability may be made at the same frequency as the HB or UC payment. It is up to you to decide. However you should consider the aims of UC when deciding a payment frequency for a UC claimant, with monthly payments designed to replicate the world of work and develop financial capability for claimants.

# Applying for a DHP

## The application process

- 3.0 The regulations require that there must be an application for a DHP before your LA can consider making a payment, which may or may not be in writing.
- 3.1 You can decide how the application process will operate. If you decide not to use a written form, other methods can be considered such as electronic, telephone or face to face customer interviews.
- 3.2 Although you can decide what constitutes an application, in each case, there must be something which triggers that application. This could be something as simple as a telephone call asking the claimant if they wish to apply for a DHP or a claimant declaring that they are having financial difficulties and are unable to meet their rent liability. Throughout the process LAs have a duty to act consistently. In addition, you might automatically invite claimants who have suffered a shortfall in their rent as a result of the welfare reform changes to make an application for a DHP while at the same time advising the claimant of mitigating actions.

## Who can apply for DHPs

- 3.3 In most cases, the person who applies for a DHP will be the HB or UC claimant.
- 3.4 However, if it is reasonable in the circumstances, an application can be accepted from someone acting on behalf of the HB or UC claimant. This could be an appointee or advocate, for example, if the person is vulnerable and requires support; or the claimant may request that someone acts on their behalf.

## Who you can pay

- 3.5 A DHP may be paid to someone other than the claimant if your LA considers it reasonable to do so. That could be an agent, an appointee or a landlord.
- 3.6 In the case of a person who is entitled to rent rebate, DHPs can be credited to the rent account.

## Information a claimant must give

- 3.7 When someone applies for a DHP they must provide:
- information that you require in order to make a decision or look at a decision again; for example, details of income, capital and expenditure.
  - any other information you consider reasonably necessary in connection with their application.
- 3.8 In establishing if the claimant requires further financial assistance you can decide how to treat any expenditure, offsetting it against income intended to assist with such expenditure as appropriate.
- 3.9 When deciding how to treat income from disability-related benefits such as Disability Living Allowance (DLA) or the Personal Independence Payment (PIP), you must have regard to the decision of the High Court in *R v. Sandwell MBC, ex parte Hardy*. This decision places an obligation on LAs to consider each DHP application on a case by case basis having regard to the purpose of those disability related benefits and whether the money from those benefits has been committed to other liabilities associated with disability.
- 3.10 You can also take account of unavoidable costs that the claimant may have, such as fares for travel to work. This may include, for example, people who have had to move as a result of welfare reforms.
- 3.11 You will need to decide locally how you treat income and expenses when calculating the amount of the DHP. However, in all cases you should consider what is reasonable and not create a process that is too onerous for the claimant.
- 3.12 If a claimant is receiving HB, the information already held by your LA regarding a person's income and rental liability can also be used to assess DHP applications.
- 3.13 If a claimant is in receipt of UC, any information held for local Council Tax support may also be used to process a DHP application. If you do not hold this information, data sharing powers introduced on 2 July 2012 (the Social Security (Information- sharing in relation to Welfare Services etc.) Regulations 2012 (S.I. 2012/1483) provide a gateway for LAs to obtain relevant information from the Department.

## Telling the claimant of the decision

- 3.14 You must inform the claimant of the DHP decision either in writing or electronically (if the claimant has agreed to this). This information should include appropriate explanations and/or any reasons for non-payment. This must be done as soon as is reasonably practicable. Your LA must be

consistent and avoid unnecessary delay, taking into account that an application for DHPs is often to deal with an immediate need.

- 3.15 When issuing a decision, you should provide information about the process that you have in place for reviewing the decision. As DHPs are discretionary arrangements, there are no rights of appeal to a Social Security Tribunal, although the route of judicial review is available. See [Dispute procedures](#) later in this guidance.
- 3.16 You should also clearly distinguish the dispute/appeal rights that apply to HB, UC and/or local Council Tax support. It is important that claimants are not inadvertently led to believe that such appeal rights also apply to DHPs.
- 3.17 There is no legal requirement to notify landlords of a DHP decision, although you may wish to do so where the claimant has consented. However, you should be careful not to breach any obligations of confidentiality owed to the claimant, including:
  - under Article 8 of the European Convention on Human Rights (ECHR) (right to respect for private and family life); and
  - data protection law.
- 3.18 If you are already paying HB to the landlord and later award a DHP, it may be appropriate to advise the landlord that the DHP is also being paid directly to them. This may equally apply where a person is receiving UC and some of that award of that is being paid to the landlord in respect of housing costs.

## **Backdating a DHP**

- 3.19 When deciding whether or not to backdate a DHP, each application should be considered on its own merits. There are no restrictions on the length of the backdating period beyond a prohibition on awarding DHP for any date prior to 2 July 2001, when the scheme began, but you do have a duty to act consistently.
- 3.20 Regulations require that a DHP can only be considered for a period where the linked HB or relevant award of UC is payable. This is of particular relevance to requests for a period of backdated DHP.
- 3.21 DHPs are usually made in respect of an immediate need rather than a past period, however, you may consider it appropriate to make a backdated DHP award in some cases. For example, where a claimant is subject to a rent shortfall due to welfare reforms and has accrued rent arrears during the transition period between a reduction in benefit and moving into employment. In this case it may be prudent for you to award a backdated DHP to meet those arrears so as not to undermine the claimant's move into employment. In other cases, a DHP could be used to

facilitate a move of home (such as through a mutual exchange) where a landlord will not allow a move for someone who is in arrears.



# Administering DHPs

## Who can accept applications?

- 4.0. Only a LA can accept applications for DHPs but this can include any department within the authority, including departments dealing with claims for local Council Tax support.
- 4.1 As DHPs are not payments of HB or UC, provisions which allow Jobcentre Plus or Pension Centres to accept claims in certain circumstances do not apply.

## Who can administer DHPs?

- 4.2 Your LA has the choice of who, or which department, will administer, determine and award DHPs.

## When can a DHP application be made?

- 4.3 There are no rules relating to when a person can apply for a DHP, but a payment can only be considered where there is a linked entitlement to HB or UC. You should ensure claimants are made aware of any time frame for applying and providing information in respect of a DHP application.
- 4.4 Where changes to benefit legislation are anticipated you may decide it is helpful to allow applications for DHPs in advance.
- 4.5 This may help you to manage the application process and avoid any potential surge in demand, as well as alleviate uncertainty for some claimants. You may then decide to inform the claimant of an award that could start at a future date, subject to any subsequent change in circumstances.

## Method of payment

- 4.6 DHPs may be delivered via HB payment systems and may also be paid alongside HB payments. However there must be a clear audit trail that allows your LA to differentiate, in any given case, between HB and DHPs.
- 4.7 If a DHP is paid with HB, notifications to the claimant must clearly show how much is the HB and how much is the DHP.
- 4.8 When DHP is awarded to a UC claimant, you may consider paying it at the same time as the monthly UC payment.

## **Contracting out**

- 4.9 A contractor can carry out all functions relating to the administration of DHPs. This includes making decisions on whether or not to award a DHP. However only your LA can accept DHP applications.

# Maintenance of DHPs

## Length of payments

- 5.0 The length of time over which a payment is made is at the discretion of the LA. The period of the award and, importantly, any specific end date, should be made clear to the claimant. You may also want to provide information on how to re-apply for a DHP if necessary.
- 5.1 There is no limit to the length of time over which a DHP may be made. A time-limited award may be appropriate when an impending change of circumstances will result in an increase in benefit. It may also be appropriate to make a short term award to give a claimant time to organise their financial or housing circumstances, particularly if they are trying to find alternative accommodation or gain employment. It should be remembered that if claimants have specific difficulties moving house without support you may wish to consider referring them to their Housing Options team.
- 5.2 Alternatively, you may wish to make a long term or indefinite award until the claimant's circumstances change. You should remember that it may be more appropriate to make a long term award in cases where a claimant's circumstances are unlikely to change, and making a short term award will cause them undue distress. An award could also be agreed in respect of a future period regardless of whether your LA's IT system can support a future award.
- 5.3 The start and end dates of an award are decided by LAs on a case by case basis. For example, where a DHP is awarded to a disabled claimant who lives in significantly adapted accommodation in the social rented sector and is subject to the removal of the spare room subsidy, you should consider making the DHP award on a longer-term basis, including an indefinite award, which is subject to a relevant change in their circumstances.
- 5.4 If the DHP is to meet a one off housing cost such as a deposit or rent in advance there is no requirement to specify the period of the award.

## **Change of circumstances**

- 5.5 A claimant receiving a DHP must notify you of any change of circumstances which may be relevant to their DHP application or award.
- 5.6 You must ensure that the claimant is aware of the changes they should report. There is no statutory timescale for notification; however claimants should be advised to notify changes as soon as reasonably practicable. It is for you to decide the means by which such changes are notified.
- 5.7 Many changes of circumstance that claimants have a duty to report for HB may also be relevant to their DHP application. As such, LAs may use such information to review the level of the DHP.

## **When you can stop paying a DHP**

- 5.8 There are instances other than a change of circumstances when a DHP can be stopped. These are when:
- you decide that a DHP is being, and/or has been, made because a claimant has misrepresented or failed, fraudulently or otherwise, to disclose a material fact; and/or
  - a claimant has been paid as a result of an error.

## **Overpaid DHPs**

- 5.9 You can only recover a DHP if you decide that payment has been made as a result of:
- a misrepresentation or failure to disclose a material fact by the claimant (either fraudulently or otherwise), or
  - an error made when the application was determined.

In these circumstances the DHP can be recovered because it is classed as being overpaid.

- 5.10 A DHP cannot be recovered from on-going HB or UC. This is unlike HB overpayments where there is a regulatory provision to allow recovery from on-going HB.
- 5.11 There are also no provisions for the recovery of overpaid DHPs from other prescribed benefits.
- 5.12 Therefore the only method of recovery, where a DHP is classed as overpaid, is to request repayment of the debt from the claimant or the landlord if the DHP is paid directly to them. This may be in the form of an invoice or any other method you choose, for example using debt collection

agencies or via the courts. You may also consider offsetting overpaid DHPs if further DHPs are granted at a later date.

# Dispute procedures

## Introduction

- 6.0 The LA can review a DHP decision in the event of a dispute or where the claimant asks for a re-consideration.
- 6.1 A decision on a DHP does not carry a right of appeal to a Social Security Tribunal. The route of judicial review is available; and a complaint may be made to the Local Government Ombudsman if there is an allegation of maladministration.
- 6.2 There is flexibility in how you apply any dispute or re-consideration process. The decision may be looked at again in the light of representations made by the claimant (in whatever form you decide) or whenever you consider it appropriate.
- 6.3 You may also review a DHP decision in the event of a dispute either at the time of the initial rejection or following a cancellation or recovery. LAs may consider that a review may be appropriate in other circumstances but should be consistent in any approach.

## Reviewing the decision

- 6.4 You may decide who in the authority reviews a decision. There is no requirement that the review arrangements take any particular format as long as the authority is consistent and the original decision maker is not involved.
- 6.5 To minimise the risk of legal challenge you are advised to ensure that the review is carried out by a more senior colleague than the person who made the original decision.

## Notifying the claimant

- 6.6 The claimant should be notified of any review outcome in writing, including reasons, as soon as is reasonably practical.

# Assurance and Reporting Measures

- 7.0 The Department currently requests two sets of information in relation to DHPs: (i) the mandatory DHP claim form, and (ii) the voluntary DHP monitoring form. Both are outlined below and care should be taken to ensure the distinction is understood.

## **DHP funding 2016/17**

- 7.1 Prior to 2011, the Government funding towards DHPs was £20 million per year. Following the introduction of the welfare reforms, this funding was increased to help LAs assist claimants affected by the welfare reforms including, where necessary, to make long term awards for those with on-going needs. In 2016/17 the total DHP central Government contribution is £150 million. LAs can use their own funds to top up their Government contribution by an additional 150% in England and Wales and, in Scotland, by any amount.
- 7.2 DHP funding is allocated to LAs in respect of four funding streams based on the three welfare reforms (LHA, removal of the spare room subsidy and the benefit cap), as well as “core” funding based on overall HB expenditure. Funding from each stream is allocated to LAs based on their caseloads and average financial reduction, or in the case of core funding, HB expenditure.
- 7.3 LAs will continue to receive a single allocation that is not ring-fenced into categories. However, LAs are asked to provide the Department with some additional information on a voluntary basis to monitor DHP spending.

## **DHP claim form**

- 7.4 The Discretionary Housing Payments (Grants) Order 2001 (S.I. 2001/2340) places a legal obligation on LAs to submit forms providing details of DHP expenditure. Three forms must be submitted each year, an initial estimate form by 1 April of the preceding year, a mid-year estimate form by 1 September and a final DHP claim form by 30 April of the following year. Your LA is required to complete and return the forms to DWP Housing Delivery Division.
- 7.5 The DHP claim and estimate forms contain a LA certificate which must be signed by the Responsible Finance Officer within your LA who is designated as such under section 151 of the Local Government Act 1972 or section 95 of the Local Government (Scotland) Act 1973 as appropriate). Due to the increase in DHP funding and following discussions with the National Audit Office (NAO), the Department has

- strengthened its assurance arrangements by including additional requirements in the LA certificate.
- 7.6 In addition to providing details of DHP expenditure, the Responsible Finance Officer must certify that all entries on the forms are accurate and expenditure has been incurred in accordance with this guidance and the regulations governing DHPs.
- 7.7 The DHP claim and estimate forms are the mechanism by which funding is provided to LAs.
- 7.8 The deadline of 30 April for the DHP claim form is a critical deadline across Government; it allows for faster closure of accounts as required by HM Treasury.

## **DHP monitoring form**

- 7.9 Since April 2013, when voluntary monitoring forms were introduced, the Department has looked at how DHPs are being used to support claimants affected by the welfare reforms. In addition to the DHP claim and estimate forms, LAs are asked to continue to provide supplementary data on a voluntary basis in October and in May.
- 7.10 A monitoring form to record this data will be provided, however the Department recognises that not all data is kept in the same manner. Therefore, if completing the monitoring form would result in an unnecessary burden on resources, we are content to receive this in other formats. Irrespective of the method used to provide this data it must be consistent with the total expenditure figure in the DHP claim form.
- 7.11 Following a successful application for DHPs, your LA is asked to record whether the claimant has been affected by one of the following:
- benefit cap
  - removal of spare room subsidy in social rented sector
  - local housing allowance restrictions
  - combination of reforms
  - none of the above
- 7.12 The Department also seeks the DHP amount actually paid to a claimant. For example, if a DHP of £10.00 per week for 10 weeks has been awarded, and the award runs for that whole period, you should record £100.00. If it is a one-off payment, simply record the amount paid. If there is a change of circumstances, and an award ceases your LA should record the amount of the DHP award actually paid out to the claimant. ([See Appendix B for more details.](#))



7.13 You are also asked to record the intended outcome by value of payments made. The outcomes are broadly grouped into the areas that cover the policy intention of DHPs:

- To help secure and move to alternative accommodation (for example rent deposit)
- To help with short-term rental costs until the claimant is able to secure and move to alternative accommodation
- To help with short-term rental costs while the claimant seeks employment
- To help with short-term rental costs while the claimant seeks to increase their hours of employment enough to become exempt from the benefit cap
- To help with on-going rental costs for a disabled person/s in adapted accommodation
- To help with on-going rental costs for a foster carer
- To help with short-term rental costs for any other reason

7.14 The Department does not require details of individual applications. Only the total amounts spent under each category are requested.

# Discretionary Housing Payments Good Practice Guide

## Section 1: Support for claimants affected by the benefit cap

### Background to the benefit cap

- 1.0 Since April 2013 the total amount of benefit paid to working-age claimants has been subject to a cap. The benefit cap is applied either through HB or UC, as appropriate. For the purposes of applying the benefit cap we define a household as a claimant, their partner and any children they are responsible for and who live with them.
- 1.1 The benefit cap is applied by LAs through HB payments. When a household's total benefit entitlement exceeds the cap level, the LA reduces the level of HB by the excess amount.
- A minimum amount of £0.50 is kept in payment when the reduction of the excess would otherwise remove all payments of HB.
- 1.2 Where UC is in payment the benefit cap is applied through UC.
- 1.3 From April 2013, the total entitlement to benefit payments was capped at £500 per week for couples and lone parent households. The level of entitlement for single adults without children was capped at £350 per week.
- 1.4 For those getting UC the cap is applied for the assessment period, which is monthly. From April 2013 the monthly equivalent limits were £2,167 for couple and lone parent households and £1,517 for single claimants without children.

### Changes in 2016/17

- 1.5 From 7 November 2016 the amount at which benefits are capped changed. Total entitlement to benefit payments is capped at:
- £23,000 in Greater London and £20,000 in the rest of Great Britain for couples and lone parents.
  - £15,410 in Greater London and £13,400 in the rest of Great Britain for single childless households.

For those on HB, this equates to £442.31 per week in Greater London and £384.62 per week elsewhere in Great Britain for couple and lone parent

households. The levels for single adults without children are £296.35 per week in Greater London and £257.69 per week elsewhere in Great Britain.

For those getting UC, the cap is applied for the assessment period, which is monthly. From 7 November 2016 the monthly equivalent limits are £1916.67 in Greater London and £1,666.67 elsewhere in Great Britain for couples and lone parent households and £1,284.17 in Greater London and £1,116.67 elsewhere in Great Britain for single households without children.

LAs have been provided with bandwidths of the estimated number of HB households in scope for the benefit cap in 2016/17 and an indicative rollout date.

The LA benefit cap estimates have been published online at:

<https://www.gov.uk/government/publications/benefit-cap-planning-estimates-of-number-of-households-in-scope-for-lower-benefit-cap-levels>.

## Exemptions

- 1.6 There are some exemptions from the cap for certain benefit recipients. The benefit cap is about incentivising work and promoting fairness for working households, whilst continuing to support the most vulnerable. Households with a member who is entitled to Working Tax Credit (WTC) are exempt.
  - Lone parents can qualify for Working Tax Credit by working 16 hours or more per week,
  - Couples with children have to work 24 hours or more a week (including one working at least 16)
  - Those without children have to be 25 years old or above and work 30 hours or more a week.
- 1.7 The in work exemption in UC applies to claimants earning a set amount or more a month. Currently the in work exemption applies when a claimant or their partner earn £430 per month or more.
- 1.8 Households are also exempt from the cap when someone is in receipt of:
  - Industrial Injuries Benefit (and equivalent payments made as part of a War Disablement Pension or the Armed Forces Compensation Scheme);
  - Disability Living Allowance (DLA) or its replacement Personal Independence Payment (PIP);
  - Attendance Allowance;
  - Armed Forces Independence Payment;
  - Where a person is not receiving DLA, Attendance Allowance or a War Disablement Pension because they are in hospital or a care home, the exemption will continue to apply;

- Employment and Support Allowance with a support component. For those on UC this will be limited capability for work and work-related activity;
  - Carer's Allowance (CA) or those who have an underlying entitlement or receive the UC equivalent;
  - Guardian's Allowance (GA);
  - War widows and war widowers are also exempt.
- 1.9 There is a grace period of 39 weeks, or 9 months in UC, for those claimants who have been in work for the previous 12 months and find that their circumstances have changed because their job has ended. This allows people time to find alternative employment or consider other options to avoid the impacts of the cap.
- 1.10 HB paid to households in specified accommodation is disregarded from the benefit cap calculation. The disregard applies to benefit cap cases under both HB and UC. While this does not mean that these households are exempt from the benefit cap, by not including HB in the calculation the majority of these cases will no longer be affected by the cap.

## **Support for those subject to the benefit cap**

- 1.11 The Government has provided additional funding for DHPs to support claimants affected by the benefit cap who, as a result of a number of complex challenges, cannot immediately move into work or more affordable accommodation.
- 1.12 The funding for DHPs is specifically aimed at a number of groups who are likely to be particularly affected by the benefit cap. These include (but are not limited to):
- Those in temporary accommodation;
  - Individuals or families fleeing domestic abuse;
  - Those with kinship care responsibilities;
  - Individuals or families who cannot move immediately for reasons of health, education or child protection;
  - Households moving to, or having difficulty finding more appropriate accommodation;
  - Those with dual liability for housing costs;
  - Women within 11 weeks of the expected week of childbirth;
  - Households with a child aged 9 months or under.
- 1.13 There will be a number of ways that claimants affected by the benefit cap may react to having their HB reduced. The intention is that the majority will move into work and so become exempt from the cap. Some may choose to move whilst others may consider other means by which they might be able to meet any short fall such as trying to negotiate a reduction in their rent or meeting the shortfall from other income or capital.

- 1.14 Those that are affected by the cap will continue to have access to and receive support from Jobcentre Plus and, where appropriate, the Work Programme to help them find work. People in receipt of Working Tax Credit, or in UC who earn above the current earnings threshold, will be exempt from the cap.
- 1.15 DHPs can make an important contribution to managing the transition for claimants whilst they make the necessary changes to adapt to the application of the benefit cap. It is important to note that there will not be enough funding to meet every shortfall as a result of the benefit cap so your LA will need to target this funding at those who need it most. The allocation of this funding reflects the varying impact of this measure on different LA areas.
- 1.16 There may be circumstances when DHP is awarded and a subsequent successful application for an exempting benefit that is awarded retrospectively means the HB is paid again. The Department recommends that when deciding whether it is reasonable to make a DHP your LA considers the risk of eviction if arrears arise that may subsequently be covered by HB. For example, the risk may be very low for LA tenants and low for others with a good payment record but less so for claimants renting in the private sector.
- 1.17 The following examples show how your LA can use DHPs to assist those affected by the benefit cap.

**Example**

Mr and Mrs Smith rent a 3 bedroom property at £340.00 per week. They have two children, reside in Greater London and receive the following benefits:

Jobseeker's Allowance: £114.85, Child Tax Credit: £116.83, Child Benefit: £34.40, HB: £340.00. **Total welfare benefits: £606.08.**

The benefit cap for Mr and Mrs Smith is £442.31 per week; therefore, their award of HB is reduced to £175.48 per week (reduction of £164.52). Mr Smith has been unemployed for some time and has found it difficult to find employment in his usual vocation; he is currently attending his local Work Programme provider for support to find work.

In addition, Mr and Mrs Smith's oldest child is 15 years old and in the process of completing her GCSEs at school. Mr and Mrs Smith have found a cheaper property that would take them below the benefit cap in another area but it would mean their oldest child would have to move schools. They believe this would have a negative impact on their child's education.

You may decide to award a weekly DHP of up to £164.52 until Mr or Mrs Smith move into work or their eldest child completes her GCSEs.

**Example**

Ms Martin has two children and is receiving HB for temporary accommodation where she has been living for three months waiting for a permanent move.

In addition to her Jobseeker's Allowance, Child Benefit and Child Tax Credits, Ms Martin is receiving higher than average HB as a result of the cost of rent for temporary accommodation. This means the benefit cap will apply to her.

Ms Martin is struggling to move into work as she does not have any qualifications or work experience. She is participating on the Work Programme to develop her skills and try to find work.

You may decide to award a DHP until permanent accommodation can be found for Ms Martin or she is able to move into work so she no longer has the benefit cap applied.

**Example**

Mr Benn is claiming UC for himself, his partner and four children. Mr Benn is currently appealing the decision that he doesn't have limited capability for work and work-related activity. As no one in the household meets the criteria for an exemption the benefit cap will be applied.

Mr Benn does not want to adapt his circumstances to avoid the benefit cap until he is notified of the decision from his appeal. You may decide, subject to your assessment, to award a DHP until Mr Benn's appeal is heard and decided.

**Example**

Ms Jones has four children, aged 14, 12, 10 and the youngest aged 3 months and is receiving Income Support, Child Benefit, Child Tax Credits and a higher than average HB for where she lives. This means the benefit cap will apply to her.

Ms Jones was previously on Jobseeker's Allowance and seeking work when, following a short term relationship, she became pregnant. She is seeking advice on managing her budget and perhaps finding cheaper accommodation.

You may decide to award a DHP due to the young child, until cheaper accommodation is found or until she finds work (when the cap will no longer apply).

## Section 2:

### Support for claimants affected by the removal of the spare room subsidy

#### **Background to the removal of the spare room subsidy in the social rented sector**

- 2.0 Since April 2013 working-age claimants living in the social rented sector have faced a reduction to their eligible rent if they are under-occupying their property. The level of under-occupation is determined by the LHA size criteria with the exception of the Shared Accommodation, which does not apply in the social rented sector.
- 2.1 The rates of reduction to the eligible rent for those affected by this policy are:
- 14% where there is under-occupation by 1 bedroom; and
  - 25% where there is under-occupation by 2 or more bedrooms.
- 2.2 The Department continues to expect that most claimants affected by this measure will find ways of making up the shortfall themselves, in order to remain in their existing home.
- 2.3 The Department would encourage all LAs to continue their work of engaging with affected claimants to identify effective ways of mitigating the effects of any reduction in entitlement.

#### **Support for disabled people living in significantly adapted accommodation**

- 2.4 The Government has committed £25 million to the DHP fund to continue to support disabled people living in significantly adapted accommodation, including any adaptations made for disabled children. This is included as part of the £60 million intended to support people affected by the removal of the spare room subsidy in 2016/17.
- 2.5 For claimants living in specially adapted accommodation, it will sometimes be more cost-effective for them to remain in their current accommodation rather than moving them into smaller accommodation which needs to be adapted. The Department therefore recommends that LAs identify people who fall into this group and invite an application for a DHP.
- 2.6 In addition, LAs should consider DHP awards for claimants living in properties that have been significantly adapted for other household members such as for a disabled child or non-dependant.

- 2.7 There is no definition of significantly adapted accommodation. It is up to your LA to decide what constitutes significantly adapted accommodation, based on local knowledge and individual circumstances.
- 2.8 The allocation of the additional funding for disabled people broadly reflects the impact of this measure and the additional funding needed to support this group. However, due to the discretionary nature of the scheme, your LA should not specifically exclude any group affected by the removal of the spare room subsidy or any other welfare reform. It is important that LAs are flexible, but consistent, in their decision making.

**Example**

Mr and Mrs Thom rent a four bedroom house from a registered housing provider. They have two children, a girl of 7 and a boy of 5. They receive HB to cover the full rent of £90 per week.

Under the size limit rules they are considered to be under-occupying the house by two bedrooms as the children are both under ten years old and would be expected to share a room. As the Thoms are under-occupying by two bedrooms a 25% reduction of £22.50 would be applied to the eligible rent meaning they would now receive HB of £67.50 per week.

Mrs Thom is a wheelchair user and significant adaptations have been made to the property to make it more accessible. If the family moved to a smaller home, that property would then need to be adapted at considerable expense. Therefore, you should consider awarding a DHP of £22.50 per week to enable the family to meet their rent liability in full and consequently remain in their current adapted house.



## **Support for disabled children or non-dependants who need an additional bedroom for an overnight carer**

- 2.9 Claimants or their partners who require frequent care from a non-resident overnight carer or team of carers are allowed an additional bedroom for that carer under the maximum rent (social sector) size criteria. However there is currently no provision for other members of the household who require an additional bedroom for a non-resident overnight carer.
- 2.10 Regard should be given to the Supreme Court's judgment in *R (on the application of Rutherford and another) v Secretary of State for Work and Pensions* in circumstances where a disabled child or non-dependent requires an additional bedroom for a non-resident overnight carer. The Court held that the claimants had suffered unjustified discrimination by not allowing an extra bedroom for their grandchild's non-resident overnight carer. The Department is currently considering legislative changes to comply with the terms of the judgment. In the meantime, the Department recommends that LAs consider awarding DHPs to claimants who require an additional bedroom for a non-resident overnight carer for a disabled child or non-dependent. Further information can be found at: [HB Bulletin U3/2016](#).

## **Support for approved or prospective adoptive parents**

- 2.11 You can award DHPs to help support the overall adoption process; In particular where claimants who have been approved as adopters are required to have a bedroom for an adopted child. Until the child forms part of the claimant's household, the removal of the spare room subsidy may apply and a DHP can be used to provide support in the interim period before the adopted child joins the family.
- 2.12 Similarly, people going through the approval process to become adoptive parents will need to show that they have a spare room for a child. If a DHP is paid on this basis it will be the responsibility of the claimant to inform their LA of any change of circumstances if, for example, they were not subsequently approved.
- 2.13 In some cases your LA will specify that an adopted child should have their own room, and not share with another child, which is in contrast to the size criteria rule. This is an example of where a DHP may be used on an on-going basis to provide support where an additional bedroom is not allowed for HB or UC purposes.

**Example**

Ms Roberts rents a 3 bedroom flat from her LA. She already has one daughter of her own, aged 7. She is matched with her new adoptive child, a 5 year old girl, and the child moves into the third bedroom. Under the size criteria rules, the family is considered to be under-occupying the home by one bedroom as the children are both under ten years old and expected to share a room.

However social workers have made it clear that this particular adopted child must be able to have a room of their own because of the nature of their early life experiences. You should therefore consider awarding DHP in order to maintain and support the adoption process.

## Support for approved or prospective foster carers

- 2.14 Foster Carers are allowed **one** extra bedroom under the size criteria rules providing they have fostered a child or became an approved foster carer within the last 52 weeks. This also applies to formal Kinship Carers in Scotland.
- 2.15 Some claimants may be caring for siblings, or for two or more unrelated foster children, and require additional bedrooms. National minimum standards for Fostering Services state that a foster child over the age of 3 should generally have their own room. However, the size criteria rules only allow foster carers (or formal Kinship Carers in Scotland) to have one extra bedroom; therefore a DHP may be awarded to help cover any reduction in HB due the additional rooms that are required.
- 2.16 People going through the approval process to become foster carers will need to show that they have a spare room to be approved. If a DHP is paid on this basis it is the responsibility of the claimant to inform their LA of any change of circumstances if, for example, they were not subsequently approved.

## Support for disabled children who cannot share a bedroom

- 2.17 The Government has amended legislation to allow an extra bedroom for a

- severely disabled child who is eligible for the middle or highest rates of DLA care who would normally be expected to share a room under the size criteria rules, but is not reasonably able to do so due to severe disability.
- 2.18 The relevant provisions are the Housing Benefit and Universal Credit (Size Criteria) (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/2828) and the Rent Officers (Housing Benefit Functions) Amendment (No.2) Order 2013 (S.I. 2013/2827), which came into force from 4 December 2013.
- 2.19 To be considered under this legislation the child in question must be entitled to the DLA care component at the highest or middle rates. If the child meets the DLA criteria then your LA will need to assess whether or not the child's impairment makes it unreasonable for them to share a bedroom, taking the full facts of the case into consideration.
- 2.20 In cases where a child is not entitled to DLA care at either the middle or highest rate but the claimant advises that their child is unable to share, your LA should consider whether awarding a DHP is appropriate. You may wish to consider cases where a claim has been made for DLA but has not yet been assessed or where the child's impairment makes sharing a room difficult, for example when it impacts on the long-term sleep patterns of another child.

## **Support for disabled adults who cannot share a bedroom**

- 2.21 Couples who are unable to share a bedroom as a result of disability are currently not permitted an extra bedroom under the maximum rent (social sector) size criteria.
- 2.22 Regard should be given to the Supreme Court's decision in *R (Carmichael and Rourke) (formerly known as MA and others) v Secretary of State for Work and Pensions* in circumstances where a claimant is unable to share a bedroom with their partner due to disability. The Court declared that Mrs Carmichael, who suffers from serious disabilities, had suffered unjustified discrimination by not being permitted an additional bedroom under the maximum rent (social sector) size criteria. The Department is currently considering legislative changes to comply with the terms of the judgment. In the meantime, the Department recommends that LAs consider awarding DHPs to claimants who are unable to share a bedroom due to disability and require an additional room as a result. Further information can be found at: [HB Bulletin U3/2016](#).

## Section 3:

# Support for claimants affected by Local Housing Allowance reforms

## Background to the changes to LHA rates

- 3.0 Since April 2011 there have been a number of changes to the way LHA rates are calculated, including restrictions on the amount that can be paid to claimants. It is likely these changes contributed to an increase in demand for DHPs, particularly as transitional protection finished at the end of December 2012. The changes were:
- The removal of the five bedroom rate.
  - Removal of the £15 a week excess.
  - Setting LHA rates at the 30<sup>th</sup> percentile of local rents in each Broad Rental Market Area, rather than the median.
  - The introduction of weekly caps for each property size.
  - The extension of the age threshold for the Shared Accommodation Rate for single people from age 25 up to 34.
- 3.1 In April 2013 the procedures for anniversary renewal of LHA rates and monthly setting of rates ended and, instead, increases to LHA rates became integrated with the annual CPI inflation-based uprating process. This meant that for 2013/14, LHA rates were set at the lower of either the previous rate increased by CPI or the 30<sup>th</sup> percentile of local rents.
- 3.2 In April 2014 and April 2015, as part of a wider limitation on benefits uprating, increases to LHA rates were limited to 1%, so rates were set at the lower of the 30<sup>th</sup> percentile of comparable market rents or the previous April's rate plus 1%.
- 3.3 Alongside the measure to limit increases to LHA rate to 1%, the Government made available 30% of the savings from this policy to create Targeted Affordability Funding (TAF). The funding was used in 2014/15 and 2015/16 to increase some LHA rates by 4% (subject to the national LHA caps) in areas where LHA rates had fallen farthest behind the 30<sup>th</sup> percentile.
- 3.4 From April 2016, in line with the freeze to uprating for some other benefits announced in the Summer Budget 2015, LHA rates will be frozen for 4 years. This means that rates will either remain at the April 2015 levels or will be set at the 30<sup>th</sup> percentile of market rents if this is lower.
- 3.5 There will be further TAF available to help prevent more areas in the private rented sector becoming unaffordable for HB tenants. The TAF will be drawn from estimated savings from the LHA 'freeze' and will be

available from 2017/18 onwards. There is no funding available in 2016/17 as there are no savings from the measure due to zero inflation levels in the applicable month (September 2015). However, the majority of the LHA rates which previously increased by TAF in 2015/16 will remain at those levels in 2016/17. The LHA rates for each Broad Rental Market Area are published on the respective Rent Officer websites for England, Scotland and Wales.

- 3.6 The on-going impact of all of these measures depends on the choice of accommodation made by the claimant and other budgetary pressures they may be faced with. As there are variations in local rental markets across the country, some claimants may have a greater shortfall between their LHA and their rent than others.

## **Support for those subject to LHA restrictions**

- 3.7 Following the changes to LHA from April 2011 a period of transitional protection was introduced to give existing claimants time to look for alternative accommodation or adjust to their revised award of HB.
- 3.8 Although transitional protection ended for the vast majority of claimants at the end of December 2012, some claimants may still need assistance with any shortfalls between their LHA and the amount of rent they have to pay. Additionally, the extension of the age threshold for the Shared Accommodation Rate (introduced from January 2012) may result in a greater demand for DHPs.
- 3.9 Limiting increases to LHA rates, such as the LHA 'freeze' from April 2016, could mean that some claimants have a greater shortfall between their LHA and their rent. This could increase the demand for DHPs in some areas, depending on the levels of local rent increases.
- 3.10 £30 million of the £150 million available in DHP funding in 2016/17 is intended to support claimants affected by changes to LHA. However, your LA is free to spend your DHP allocation as they see fit.
- 3.11 There are many ways in which your LA can help claimants deal with any shortfalls between their LHA and rent without reliance on DHPs. This includes assisting claimants with rent negotiations with their landlords, working with Housing Options teams and liaising with partners such as welfare rights teams for benefit maximisation, debt counselling or money advice. Helping claimants manage their money reduces the likelihood of re-applications for DHPs.
- 3.12 The following examples show how DHPs may be used to assist those affected by the LHA changes.

**Example**

Harry has to move from his bed-sit in central London as his landlord is increasing the rent and the shortfall between his UC housing costs will become unsustainable. His only income is from a part-time job with his net pay amounting to £520 per month.

With the assistance of his LA he finds a bed-sit in another borough within the LHA rate with a rent of £500 per month and he receives a direct payment of UC which includes rental housing costs totalling £380 per month. He now has bus fares of £80 per month instead of being able to walk to work. This leaves him struggling to pay his rent and meet his day-to-day living expenses.

He discusses his problems with the Citizens' Advice Bureau and they suggest he applies for a DHP. One of the LA's objectives is to use DHPs to help people maintain their employment.

The LA carries out an income assessment and establishes that Harry has the following monthly expenses.

Rent £500  
Travel £80  
Food £220  
Heating £80  
Debts £40  
General Expenses £80  
Total £1,000

This is £100 per month more than his combined income from UC and earnings of £900 per month. The LA decides to award him £50 per month DHP as it considers that while he has shown a need for further financial assistance with housing costs, he could reasonably be expected to economise on some of his general expenses and food costs. The LA makes a 6 month DHP award and also refers him to an advice agency to discuss his debt arrangements.

**Example**

Susan is a care leaver aged 21 and works part time, earning £120.00 per week. Her rent is £200.00 per week and she receives HB of £172.76 per week.

Upon reaching her 22<sup>nd</sup> birthday, she no longer qualifies for the 1 bedroom LHA rate and is instead entitled only to the Shared Accommodation Rate, which in her case is £120 per week. This results in her HB award reducing to £92.76.

The reduction in benefit means Susan is struggling to pay her rent, however she does not wish to leave her job where she hopes to gain full time employment in the near future.

She applies for a DHP and the LA awards £70 per week for 10 weeks. The LA decides that although DHP cannot meet the full shortfall or be paid long term, it will make up most of the difference in the short term to allow Susan time to either find full time employment or move into more affordable accommodation.

## Section 4: Managing the DHP scheme

### Overview

- 4.0 These examples of good practice aim to support you in the DHP decision making process. First and foremost this is a discretionary scheme. Therefore you should consider each case on its own merits rather than on a set of rigid pre-defined criteria.
- 4.1 A policy that is too rigid will effectively prevent you from exercising your discretion properly in individual cases. This could make some decisions vulnerable to challenge by judicial review.
- 4.2 However, this does not mean that you cannot develop a policy at all; it simply means that any DHP policy must be flexible and allow for deviation for unusual cases, however rare.
- 4.3 The examples are simply ideas as to what you may wish to think about when considering a DHP award. You should bear in mind that in some cases there may be a good reason for varying the decision making process or outcome.

### Objectives for DHP awards

- 4.4 Some authorities have certain objectives in mind when considering whether to make an award of DHP; these are at the discretion of LAs and are not mandatory requirements. The objectives include, but are not limited to:
- alleviating poverty;
  - encouraging and sustaining people in, and into, employment;
  - tenancy maintenance and homelessness prevention;
  - safeguarding residents in their own homes;
  - helping those who are trying to help themselves;
  - keeping families together;
  - supporting domestic abuse victims who are trying to move to a place of safety;
  - supporting the vulnerable, including young children and the elderly in the local community;
  - helping claimants through personal and difficult events;
  - supporting young people in the transition to adult life;
  - promoting good educational outcomes for children and young people;
  - supporting the work of foster carers;
  - supporting disabled people to remain in adapted properties;
  - supporting care leavers.



## Publicising DHPs

- 4.5 It is important to publicise the existence of DHPs as they are a key element of the Government's strategy for managing reductions to HB or UC arising from welfare reform. We recommend that LAs point to the availability of DHPs when contacting claimants who are due to be potentially affected by a particular welfare reform.
- 4.6 For a cash-limited scheme such as this it is important that organisations which support individuals, as well as individuals themselves, are aware of the help available. The Government has increased the DHP budget to assist with the transition of welfare reforms and it is important that the increased funding is made available to those who most need it. It is good practice to publicise DHPs for vulnerable groups, such as people affected by domestic abuse or those leaving care services.
- 4.7 In order to raise awareness of DHPs, you may wish to consider various methods of communication such as
- including information on all HB decision notices where there is a shortfall;
  - leaflets and posters;
  - giving advice on DHPs when people contact your LA to discuss a claim;
  - proactively assisting vulnerable claimants to make applications by, for example, visiting them in their own homes;
  - informing external and internal bodies that give advice (money advice, welfare rights, homelessness, housing etc.) of the existence of DHPs;
  - establishing and maintaining links to ensure awareness of the scheme among staff working in housing options, homelessness and adult and children's services;
  - including DHP advice as part of general welfare advice services;
  - making landlords aware of the scheme (private landlords, housing associations and Registered Providers);
  - establishing links with social housing tenants and residents' organisations to ask them to help raise awareness of the scheme;
  - raising awareness by having information of the scheme available at tenants and residents' forums;
  - information on your LA website or arranging to include information on partner housing association websites;
  - information on Choice Based Lettings scheme websites;
  - information within literature or communications relevant to housing allocations policies or placements;
  - raise awareness through interviews with local radio, including stations targeting different ethnic groups;
  - targeted communications aimed at those likely to be affected - by telephone, text message or social media such as Twitter.

## Administration of DHPs

- 4.8 The administration of DHPs remains the responsibility of your LA. It is entirely up to you how you administer DHPs but you may wish to consider the following suggestions:
- Would using the same payment cycles as the claimant's HB or UC make the system easier to operate?
  - A second member of staff could check the decision to ensure consistency.
  - Some LAs find a partnership approach between HB departments and other housing departments such as Housing Options, Housing Strategy and private rented sector access schemes highly effective in making best use of DHPs.
  - To ensure awards are reviewed and monitored, a system for example a spread-sheet, could be utilised.
  - It may be appropriate to visit claimants in their own home as it helps to confirm their circumstances and establish what further help or advice they require.
  - When a change of circumstances means that an award of HB or UC is reviewed the DHP award should be reviewed at the same time. This is because the change of circumstances could mean that the conditions for the DHP no longer met, or a different amount may be appropriate.
  - You could identify, at the time of the first award, that a second award might be appropriate. As such you could issue a review form prior to the end of the first award to ask for relevant information.
  - Paying DHPs from the date on the application form would be more transparent for both LAs and claimants, although backdating and paying in advance is allowable.
  - Claimants normally have to arrange their finances quickly so you could ensure that decisions on DHP applications are made within four weeks.
  - To ensure a DHP award remains necessary and fit for purpose, you could incorporate a review mechanism for longer term awards.

## Notifying decisions on DHPs

- 4.9 Claimants will need clear information about the decision on their DHP application. You can include information about the DHP decision on the HB notification form but you should make it clear that a DHP is not HB and does not attract appeal rights. You should also specify the amount of the DHP. With UC, you will have to notify applicants separately to UC communications.
- 4.10 Where you have made a decision on the award claimants will need the following information:

- The reasons for an award decision (be it positive or negative), the start and end dates of the award and the reason for those dates,
- Their dispute rights (if you have a disputes procedure) and
- Information on who to contact if they need further help or advice.

## **Disputes procedures**

4.11 It is good practice to have a disputes procedure. This could also help to reduce the probability of a legal challenge. Examples of good practice are:

- involve an officer other than the one who made the original decision;
- depending on resources, have a panel of senior officers review the application;
- the decision letter should clearly state the reasons for a negative decision;
- claimants know who they can complain to in the first instance;
- claimants are given some idea how long the process will take;
- if they disagree with the first decision, claimants should know where they may go next.

## Section 5: Further examples of good practice

- 5.0 The following are further examples of good practice that may be helpful when considering a DHP award. What questions you decide to ask and any decision based on the responses remains the discretion of your LA. Each case should be treated individually.

### Prevention of homelessness

- 5.1 Homelessness can have a negative impact for the household concerned in terms of health, education and employment prospects. Also, temporary accommodation used to house homeless people can be expensive. Therefore, early intervention to prevent homelessness should be a key issue for LAs. You may wish to consider how DHPs could help where:

- a DHP would prevent the household from being evicted and becoming homeless;
- an award of DHP would be central to the person being able to access or maintain employment, education or training and so they are less likely to become homeless;
- paying DHPs to households, who have previously been homeless, would help to increase the long-term sustainability of their accommodation;
- paying DHP to care leavers, where additional support is needed, as they move into their home to increase the long-term sustainability of their accommodation.

### The tenancy

- 5.2 You could consider the following issues concerning the tenancy:
- Is there scope for the landlord to reduce the rent?
  - Can the housing options or homelessness prevention team help the claimant to negotiate a lower rent if the claimant feels unable to attempt to do so themselves?
  - Does the claimant have a fixed term tenancy and if so when does this end?
  - Can the tenant leave the tenancy without incurring a financial penalty?
  - Could the tenant afford the tenancy before they took it on?
  - Could a DHP enable the accommodation to become affordable in the interim, allowing the tenant time to find alternative accommodation or improve their work or earning prospects?

## **The household's financial circumstances**

5.3 Although there are no rules on the financial issues to be taken into account when considering the award of DHPs, you may wish to consider the following:

- Does the claimant have other debts to pay?
- Have they sought advice on how to clear their debts?
- Can the claimant re-negotiate non-priority debts, such as credit card agreements?
- Is the claimant entitled to other welfare benefits that they are not claiming?
- Do they have any capital or disregarded income that they could use to make up the shortfall (bearing in mind its intended purpose)?
- Is there anyone else willing to make up the shortfall?
- Is it reasonable to expect any non-dependants to make an additional contribution to meet the shortfall?
- Can the claimant change their spending pattern on non-essential items?
- Is the claimant taking long-term action to help their problems in meeting their housing costs?
- Could the claimant afford the rent when they moved in?
- Can the claimant increase his or her hours or do any overtime?
- Is the claimant in work but with high travel costs, because of distance from work or split shifts for example?

## **The household's medical circumstances, health or support needs**

5.4 You may wish to consider whether the following apply.

- Does the household have health or support needs which require them to remain in a particular property (including the needs of children)?
- Does the household have a health problem which means that the choice of housing is restricted either temporarily or permanently?
- Does the claimant require an extra room because of a physical, or mental, health problem that affects them or a member of their household?
- Does the household have to live where they do because of the need for access to medical or support services; for example a particular hospital?
- Does the household have extra health-related expenses, such as the need for therapeutic classes or non-prescription medicine?

## Other circumstances

- 5.5 There may be other circumstances applying to the claimant or a member of their household which you may wish to take into account:
- Is the claimant fleeing domestic abuse? This may mean they need safe accommodation on an emergency basis so the concept of having time to shop around for a reasonably priced property is not appropriate.
  - Is the claimant in a sanctuary scheme?
  - Does the household have to live in a particular area because the community gives them support or helps them contribute to the district?
  - Is the claimant expecting a child and had her HB restricted to that of smaller accommodation until the child is born?
  - Is the claimant a single person living in an area where there is a shortage of shared accommodation?
  - Is the claimant a care leaver who has a reduction in their LHA rate after becoming 22 years old?
  - Is there a particular reason that the claimant chose to live in this accommodation?
  - Is the claimant or a member of their family an offender or ex offender and currently under the supervision of a Community Rehabilitation Company or National Probation Service as part of a court order or sentence?
  - Is the property the cheapest available in the area for the household's needs?
  - Does living in the area mean a better chance of employment?
  - Would it be helpful to pay a DHP when a training scheme is almost, but not yet complete?
  - Would it be helpful to pay DHP where the household contains children at a critical point in their education?
  - Is someone in the household undertaking care duties for relatives in the neighbourhood?
  - Does the claimant have a child who is temporarily living away from home, but is expected to return home shortly?
  - You could consider paying the DHP to those returning to the workplace as an encouragement for others to do the same.

## Likely duration of award

- 5.6 Your LA can consider making longer term awards where appropriate, for example where a claimant has on-going needs, such as a disabled person living in specially adapted accommodation. However, the length of time over which an award of DHPs can be paid is your decision, but it may be helpful to consider the following:
- Is any need likely to be short-term?
  - Is the claimant likely to require assistance in meeting their housing costs for as long as they remain in the property?

- You could consider paying a DHP until the earliest opportunity that cheaper accommodation could reasonably be sought.
- A DHP could be paid until a particular milestone, such as the end of training or first possible break clause in a tenancy.
- Is it in the best interest of the claimant, and financially prudent, to award a DHP to allow the claimant to continue to live in their current home?

## **Backdating of DHPs**

5.7 When backdating an award you may wish to consider:

- the claimant's age, health and personal circumstances;
- make-up of the household;
- the local housing market;
- whether the claimant has taken up a mitigating option.

## Section 6: Profiling your budget and managing transition

### Profiling your DHP budget

- 6.0 As the DHP scheme has been in place for some years you are likely to have built up expertise and local knowledge enabling the DHP budget to be profiled to meet demand over the course of the year.
- 6.1 Following welfare reform changes you may be able to use information currently held to predict when demand is going to increase and the likely scale of the shortfalls. In particular, when the new lower benefit cap levels from 7 November are implemented in your area.
- 6.2 It may be helpful to gather and analyse information held on your LAs benefit systems to help profile the DHP budget.
- 6.3 You may need to work with partner housing associations or registered providers as well as the department responsible for the LA's own stock, to profile the impact of the welfare reforms.
- 6.4 You may want to profile your caseload to identify certain groups among those potentially affected by the changes, and establish the level of demand among those groups in relation to their scheme's objectives (see paragraph 6.15 below for a list of groups you may wish to target for DHPs).
- 6.5 Although the Department has already carried out various Equality Impact Assessments in relation to HB reform, available on GOV.UK, you may want to carry out a more detailed assessment for your area.
- 6.6 In considering the likely demand for DHPs, you may also want to explore what other funding is available for providing assistance in your local area where there may be some overlap with DHPs in what it can be used for, such as help with removal costs.
- 6.7 You may wish to use information already held to predict where the demand for DHPs may be. For example account could be taken of the following:
- Is there information on the range of rents charged in the area?
  - Can volumes of claims be established that include people who are disabled or frail or families with school age children who may be less able to move?
  - Are you likely to use funding to pay for lump sum assistance for rent in advance and deposits?



- 6.8 You may also be able to reduce some demand by offering claimants alternative support and advice in advance of considering whether a DHP is appropriate. In many cases it may be possible for tenants to stay at their existing accommodation at a reduced rent. For example, it may be appropriate to pay HB directly to the landlord if they are prepared to reduce their rent to the level of the LHA rate.
- 6.9 By taking action in advance of the financial year to analyse their caseload, your LA will have useful information that will help with the profiling and prioritisation of budgets.
- 6.10 The DHP budget will need to be carefully monitored and managed, for example keep records on:
- amounts requested against amounts awarded;
  - type of accommodation;
  - reason for award;
  - duration of award;
  - claimant characteristics.

## **Managing the transition**

- 6.11 It may be useful for your LA to include the following as part of their overall strategy on issues including the following:
- providing information on the welfare reform changes and ensuring that claimants have adequate time to consider their options;
  - making information on DHPs more available;
  - providing housing advice and help with negotiating reductions in rents with landlords;
  - providing housing options advice for those affected by changes to HB in the social rented sector;
  - how best the homelessness prevention, housing options teams or partner housing associations can work with the HB administration team to identify cases where a DHP may be appropriate, for example, can they:
    - help to collect evidence to inform DHP decisions;
    - negotiate with the landlord to reduce the contractual rent;
    - advise on length of awards if they are helping to find an alternative tenancy;
    - advise on length of awards if longer-term or indefinite periods may be appropriate;
  - whether assistance with rent in advance and deposits is likely to be needed or is there a local deposit guarantee scheme for people who might move;
  - whether Adult and Children's services or other external organisations can be involved in applications from disabled people to advise on their accommodation needs. You may find it helpful, if you don't do so already, to work closely and strengthen links with such services in your

LA to help inform decisions on DHPs (it is important to keep in mind whether claimant consent is needed to share information between services);

- whether additional resources for processing claims are needed;
- whether existing processes should be reconsidered and streamlined;
- whether to allow for DHP decisions to be made in advance of HB or UC changes coming into force.

6.12 It may be helpful to consider working with neighbouring LAs if claimants will be more likely to find accommodation in another area.

For example:

- agreeing that the exporting LA will meet the cost of rent in advance and deposit for a property, or help with removal costs (if there is a need to do so through DHPs);
- having mechanisms in place to ensure that the new LA is aware that such an award has been made;
- discussing availability of accommodation and other services such as school places;
- involving homelessness prevention teams, other housing advice teams or partner housing associations in these discussions;
- agreeing that the importing LA might make DHPs to help with fares to work if these are increased as a consequence of the move.

6.13 If people from neighbouring areas are likely to be moving into your LA area - have discussions taken place with other departments on possible increases in demand, for example, on school places or social services support?

## **Considering the DHP strategy to take account of increased demand**

6.14 Given the numbers of people affected by the welfare reform changes, awarding DHPs to meet all shortfalls is not a viable option. Therefore you will need to consider how best to target the funding within priority groups, whilst remembering that each case must be considered on its own individual merits.

6.15 You may wish to assist certain groups to stay in their home, for example:

- Families with children at a critical point in their education;
- Young people leaving LA care until they reach the age of 35;
- Families with kinship care arrangements. Children who go into the care of family and friends are often extremely vulnerable and will usually benefit from the stability of remaining in a familiar area and continuing to attend their local school;
- Families with a child temporarily in care but who is expected to return home. What constitutes temporary will be at the discretion of your LA;

- Families with a social services intervention, for example highly dependent adults, children at risk or involvement in a family intervention project;
- Families with a disabled child not in receipt of upper or middle rate DLA but whose condition makes sharing a room difficult;
- Families who are providing long term care to a disabled child or non-dependant;
- Families with a disabled child or non-dependant who require an additional bedroom for a non-resident overnight carer or team of carers;
- People with shared care arrangements who are limited to the shared accommodation rate;
- People who have had to flee domestic abuse or have moved because of the threat of violence in another area;
- People affected by domestic abuse who remain in a property which has been adapted under a sanctuary scheme;
- Where someone in the household is expecting a baby (including those currently in shared accommodation or subject to an under-occupation reduction);
- Where a household contains a child aged 9 months and under;
- Where a child in the household is due to reach a significant birthday which means an additional bedroom will be allowed under the size criteria;
- Claimants or their partners who are due to reach state pension credit age which means they will no longer be subject to an under-occupation reduction;
- People who have experience homelessness being supported to settle in the community;
- People with health or medical problems, either physical or mental, who need access to local medical services or support that might not be available elsewhere;
- Disabled people who need, or have had, significant adaptations made to their property, or where they are living in a property particularly suited to their needs. This includes properties which have been adapted for other members of the household, such as disabled children or non-dependants;
- Where the claimant or someone in their household has an impairment, which requires them to have a larger property than would usually be the case for the size of their household due to, for example, a medical condition that might mean they are unable to share a bedroom;
- Disabled people who receive informal care and support in their current neighbourhood from family and friends, which would not be available in a new area. In this respect, you may also consider families who have a child with an impairment who rely heavily on local support networks;
- The elderly or frail who have lived in the area for a long time and would find it difficult to establish support networks in a new area;
- People who need to live near their jobs because they work unsocial hours or split shifts; or where moving home may mean living in an area

where public transport would be inadequate to enable them to sustain their current job.

# Appendix A: What DHPs cannot cover

- 1.0 Legislation precludes the following elements of rent, and shortfalls in HB or UC, from being met by a DHP.
- 1.1 **Ineligible charges:** service charges which are ineligible for HB cannot be covered by a DHP. These are as specified in Schedule 1 to the Housing Benefit Regulations and Schedule 1 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations. Nor can a DHP cover charges for water, sewerage, and environmental services – as defined and calculated under the HB provisions. The service charge rules for UC can be found in the UC Regulations 2013, Schedule 1.
- 1.2 **Increases in rent due to outstanding rent arrears:** under Regulation 11(3) of the Housing Benefit Regulations and Regulation 11(2) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations, where a claimant's rent is increased on account of outstanding arrears owed by the claimant in respect of their current or former property, the shortfall cannot be covered by a DHP.
- 1.3 **Sanctions and reductions in benefit:** DHPs cannot meet these because to do so would undermine the effectiveness of the sanctions or reduction in benefit. These are any:
  - reduction in Income Support (IS) or income-based Jobseeker's Allowance (JSA(IB)) due to a Reduced Benefit Direction (RBD) for failure to comply with the Child Support Agency in arranging maintenance. The RBD is a reduction in benefit of 40% of the personal allowance and only applies to IS or JSA(IB);
  - reduction in benefit as a result of non-attendance at a work-focused interview. This applies both where the person's HB is reduced and when any other benefit that the person is receiving (such as IS) is subject to a sanction;
  - reduction or loss of benefit due to a JSA employment sanction. JSA is not payable for the period of sanction if they have contributed towards their unemployment status, for example, by leaving employment voluntarily or failing to attend a prescribed training scheme. In such cases it may be possible for a reduced rate of JSA to be paid under the JSA hardship provisions;
  - reduction in benefit due to a JSA sanction for 16/17 year olds – for certain young people who receive JSA under a Severe Hardship Direction. JSA is not payable for the period of the sanction if they have contributed towards their unemployed status, for example, by leaving employment voluntarily or failing to attend a prescribed training scheme;

- restriction in benefit due to a breach of a community service order, or
  - reduction in UC due to a sanction as specified under regulations 100 to 114 of the UC Regulations 2013
- 1.4 **Benefit suspensions:** HB or UC can be suspended either because there is a general doubt about entitlement or because a claimant has failed to supply information pertinent to their claim. In such cases, a DHP cannot be paid. One of the intentions of the suspension provisions is to act as a lever to ensure that the claimant takes the necessary steps to provide the authority with the required information/evidence - paying a DHP could reduce the effectiveness of this lever.
- 1.5 **Rent, when the person is getting Council Tax support but not HB or help with housing costs in UC:** in other words, when a person is only getting local Council Tax support, you cannot award a DHP towards a rental liability.
- 1.6 **Shortfalls caused by HB or UC overpayment recovery:** when recovery of an HB or UC overpayment is taking place, such shortfalls should not be considered for a DHP.

# Appendix B: DHP Monitoring

- 1.0 Since April 2014 the Department has asked LAs to report the amounts of DHPs actually made during each half of the financial year to support people affected by the welfare reform changes.
- 1.1 These monitoring returns are voluntary and intended to provide intelligence on how local schemes are operating. They are separate from the formal DHP claim form used for subsidy purposes, which is mandatory and therefore still required.
- 1.2 Reporting periods span 1 April - 30 September for the half yearly return, and 1 April – 31 March for the end of year return. Your LA will be asked, each October, to return the reports for the first half of the year; the report for the full year will be asked for in April of each year.
- 1.3 The key to recording the DHP expenditure must reflect when the payment, rather than the decision, is actually made to the individual. Expenditure should be recorded in the year in which it actually occurs.
- 1.4 Where an award is paid over more than one reporting period, it needs to reflect the expenditure period(s), as opposed to assigning all expenditure to the point in the year when the first DHP payment of an on-going award is made.
- 1.5 At the end of year reporting stage LAs are asked to only provide monitoring information in respect of awards paid in that financial year. The summary of the total expenditure supplied should be consistent with the total figure submitted on the mandatory DHP claim form. Therefore LAs are asked to reconcile the total expenditure reported on the monitoring return with their final DHP claim form. Where the amounts differ, LAs are asked to provide an explanation.

## Examples

### Example 1: One-Off Payment

A DHP is awarded on 02/09/2016 as rental deposit for £300. You should record £300 in their report for April-September 2016/17 as this is the amount paid.

### Example 2: A full, unbroken award

A claimant is paid DHP of £300 on 02/08/2016 for a period of 6 weeks at a rate of £50 per week to help with short-term rental costs while the claimant seeks employment.

The payment covers the whole period of 6 weeks. You should record £300 in their report for April-September 2016/17.

### Example 3: Change in Circumstance

DHP is paid on 01/09/2016 at £10 per week covering the period from 01/09/2016 to 26/10/2016, a period of 8 weeks. The claimant subsequently moves to suitably sized accommodation causing DHP to cease on 28/09/2016, after 4 weeks. The amount to be reported for the April – September period is the amount paid out to the claimant, £40 (£10pw X 4 weeks), not £80 amount committed at the start of the award.

### Example 4: Six month reporting stage

At the 6 monthly reporting stage the Department asks that you only return how much of an award has been paid out as of **30/09/2016**. For example, where a DHP was paid on 01/09/2016 at £10 per week covering the period from 01/09/2016 to 26/10/2016, a period of 8 weeks, you should record the amount paid out from 01/09/2016 to 30/09/2016 (i.e. 4 weeks and 2 days at £10 =£42)