

**APPENDIX A**



**Harborough District Council**

**Discretionary Housing Payments Policy**

# March 2011

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## **COUNCIL RESPONSIBILITIES**

The Child Support, Pensions and Social Security Act 2000 introduced a scheme of Discretionary Housing Payments with effect from 2<sup>nd</sup> July 2001 to those who are receiving Housing Benefit and/or Council Tax Benefits (HB/CTB). Authorities will, subject to certain conditions, be able to make additional payments for any person whose HB/CTB is restricted and in the view of the Council, in need of additional housing assistance due to exceptional hardship.

The regulations covering Discretionary Housing Payments are the Discretionary Financial Assistance Regulations 2001. The regulations provide some basic requirements but give the local authority discretion in most areas (e.g. claims and payments process).

The payments are not benefit payments. They are therefore made in addition to HB/CTB payments and do not form part of it.

To ensure the annual cash limit is spent fairly the Council must take firm and positive action by:

- a) Ensuring that all HB/CTB payments are calculated accurately and promptly.
- b) The annual cash limit is monitored and spent (wisely)
- c) Applications are not made as a way to circumvent the HB/CTB system.
- d) Where overpayments of Discretionary Housing Payments occur that recovery action is sought appropriately

## **APPLICATION OF THE POLICY**

This policy applies to all cases where exceptional hardship is suspected and a claim for Discretionary Housing Payment is made.

A previous award of Discretionary Housing Payment or a refusal of an award should not influence the decision making.

There are no prescribed tests of either exceptional hardship or exceptional circumstances. The Council must be satisfied that the person concerned is in need of further financial assistance for housing costs. Customers will be encouraged to provide full details for why the additional payment is requested.

Each case should be considered on its own merits taking into account all the information supplied.

Factors which may be taken into consideration include:

- a) The customers' health and financial circumstances.
- b) Action taken by the customer to alleviate any hardship.
- c) Any unusual or exceptional circumstances relating to housing costs.

The policy has regard for the rights of the individuals and obligations of the Council under the provisions of the Human Rights Act 1998.

#### **DEFINITION OF HOUSING COSTS**

Housing costs means Council Tax liability and eligible rent.

#### **ELIGIBILITY FOR DISCRETIONARY HOUSING PAYMENT**

Discretionary Housing Payments can only be made where:

- a) The claimant is entitled to Housing and/or Council Tax Benefit.
- b) There is a shortfall between the amount of rent and or council tax due and the amount of benefit being paid.
- c) The Council is satisfied that the claimant requires further help with housing costs.

Payments will not be made in respect of the following:

- a) Certain elements if rent
  - Ineligible service charges

- Charges for water/sewerage
  - Increase in rent due to outstanding arrears
- b) Any shortfall in Council Tax where second adult rebate is in payment.
- b) Sanctions
- Any reduction in Income Support/Jobseekers Allowance payments due to a reduced benefit redirection being applied.
  - Any reduction in benefit as a result of a ONE sanctions.
  - Any reduction/loss of benefit as a result of an employment sanction.
  - Any reduction in benefit due to JSA sanction for 16/17 year olds.
- d) Any suspension of HB/CTB

## **IDENTIFICATION OF CASES/CLAIMS**

The Council will endeavour to act on any information received where it appears that the customer is having difficulty meeting their housing costs to consider potential entitlement to Discretionary Housing Payment. An application can be made orally or in writing and can be accepted from anyone who is acting on their behalf. Claims can only be accepted by the Local Authority.

Where there is potential entitlement, consideration should be given to other courses of action such as:

- a) Advising the customer of any potential entitlement to benefits which have not yet been applied for.
- b) Re-determination of a rent officer decision or an application of a rent assessment.

Once all other courses of action have been exhausted this should be referred to the benefits visiting officer.

## **PERIOD OF AWARD**

The award will commence from the Monday following the date of the application. The award will initially be made up to maximum of 13 weeks.

Anticipated changes of circumstances which affect the customers' income or benefit entitlement must be taken into consideration when determining the period of time over which the award is to be made. Where this is likely a review must be undertaken to determine if the amount of Discretionary Housing payment is still appropriate.

The length of time over which an award of Discretionary Housing payments may be paid needs to take into consideration the following:

- a) Is any need likely to be short term?

b) Is the claimant likely to require assistance in meeting their housing costs for as long as they remain in the property?

c) Discretionary Housing payment may be considered to be paid until the earliest opportunity that cheaper accommodation could reasonably be sought.

d) Discretionary Housing payment may be paid until a particular milestone, such as the end of a tenancy or first possible break clause in a tenancy, end of training or an individual becomes 25.

## **REVIEW OF THE AWARD**

There are instances when Discretionary Housing payments can be stopped:

a) If Discretionary Housing payments are being made and/or have been made because someone has misrepresented or failed to declare a material fact or

b) When they have been paid in result of an error.

A review maybe undertaken when the claim is initially rejected, subsequent award has ended or at recovery stage.

## **AMOUNT OF THE AWARD**

The amount of the Discretionary Housing payment will be determined by the Benefit team Leader and must not exceed the weekly eligible rent or weekly council tax liability.

The payment may be the whole of the shortfall or part of the shortfall.

Each application will be considered for approval by the Revenues and Benefits Manager.

No payment can be awarded where the fund has been exhausted.

## **PAYMENTS**

Payments made in respect of rent allowance will be paid by BACS at the time of the Housing Benefit payment.

Payments should be made to the claimant or their appointee if one is known. However payments may be made to a landlord or their agent after consulting with the tenant.



Payments made in respect of Council Tax will be credited to the Council Tax account in advance of the period.

Payments of Discretionary Housing must be recorded separately from payments of housing/Council Tax benefit for management information purposes.

## **DECISION NOTICES**

Notifications will be issued at start of Discretionary Housing Payments award, a review of the award and any refusal of the award.

Notifications of entitlement to customers, where payments are made to landlords or the agent will include the following:

- a) The start date of the award.
- b) The weekly amount of the award.
- c) How the payment is to be made.
- d) The length of the award.

Where payment has been refused a decision notice should be issued stating the reasons why the award has not been granted.

## **DISPUTES**

Discretionary Housing payments cannot be looked at by The Tribunal Service. The route of judicial review is available. Where there is a case of maladministration referrals can be made to The Ombudsman.

Representations can only be made by the claimant or an appointee who is acting on their behalf. Reasons for the dispute should be made orally or in writing within 14 days of the original notification.

A review including the original Housing/Council Tax benefit decision will be undertaken by another Senior Officer and the final outcome will be issued in writing to the customer or the appointee within 14 days.

#### **RECOVERY OF DISCRETIONARY HOUSING PAYMENTS**

Generally the Council will not seek to recover overpayments unless the payment was made:

- a) As a result of a misrepresentation or the failure to disclose a material fact whether it be fraudulently or otherwise.
  
- b) The payment was made in error.

Recovery will be sought via a sundry debtor invoice.

#### **GUIDANCE FOR DISCRETIONARY HOUSING PAYMENTS**

## **What type of situation would attract a DHP payment**

Examples would include the following:

### **Rent restriction because the property is too expensive**

The rent may be restricted depending on the Local Housing Allowance rate that is allowed for the property.

Points to consider:

- Are there any cheaper properties available in the area?
- Does the customer need to live in a particular area of the location that may be more expensive
- Did the customer have to choose the property quickly (this may be because of circumstances surrounding the last property)
- Did the customer have a more restricted choice of property available to them (this may be due to debts or personal circumstances such as a need for adapted accommodation)

### **Rental restriction because the household is occupying more rooms than is deemed necessary to live in**

The Local Housing Allowance rate will restrict the amount of benefit payable if the property is under-occupied.

Points to consider:

- Are there alternative smaller properties available to the customer?
- Is the customer expecting a baby
- Does the customer have access or joint custody of children not deemed as residing at the property.
- Does the customer (or family member) have medical reasons for needing additional rooms?

### **Exceptional costs to the client**

These could be additional costs for special dietary foods, medical expenses, debt repayments, maintenance payments, funeral costs etc. Additional costs like these are not taken into account when calculating the customer's income and therefore the customer may actually have less than the minimum income for living expenses after these payments.

Points to consider:

- Is the customer missing out on any other welfare benefits
- Are the costs necessary (supporting evidence may be required)
- Has the customer received adequate advice and assistance on debt restructuring/arrangement to pay
- How long is the additional cost likely to last for.

### **Are there any additional factors to consider?**

Payments should be considered on their individual merits. The following should be considered:

### **Advice and Assistance**

Was the client able to access adequate advice and assistance before choosing the property?

Did the customer have access to or receive information on Local Housing Allowance rates, rental accommodation lists, landlord and estate agent lists. Was housing advice or assistance available for securing accommodation available at this time.

Does the customer have additional funds, either from disregarded savings or through family and friends for the shortfall?

When housing/council tax benefit is assessed it looks at the applicable amount. This is the **minimum** amount of income that the customer needs to live on. Without recourse to additional funds the customer may be in danger of falling below the poverty line by using part of the income to pay for the shortfall.

### **Prevention of Homelessness**

Homelessness can have a negative impact on the household concerned. Temporary accommodation used to house the homeless can be expensive. Therefore, early intervention to prevent homelessness should be a key issue when looking at each case.

DHP's could help in the following:

- A DHP would prevent the household from being evicted and becoming homeless.
- If a claimant had been given a tenancy after being homeless, DHP could help them settle into their new home and area in the first few months.

- An award of DHP would be central to the person being able to access or maintain employment, education or training and they would then be less likely to become homeless.
- Paying DHP to households that have previously been homeless would help to increase long term stability of their accommodation.
- Working with homeless section and organisations help to prevent loss of tenancy

Where there is a potential or actual threat of eviction, consideration of a payment of DHP should be made against the possible future financial costs involved in homelessness. Also consideration should be given to the emotional, physical and social costs to the household.

In addition consideration should be given to the impact that the eviction would have on subsequent availability of rental accommodation from the same landlord.

### **Maintaining access to private rented sector**

Would a DHP award encourage the landlord to continue to accept tenants in receipt of Housing Benefit?

The award depends on the customers' circumstances and not the property itself. However research has shown that where DHP are maximised this attracts and retains close working relationships with the private sector and encourages a wider range of properties available for tenants in receipt of housing benefit.

**[Further guidance can be found on the DWP website at: www.dwp.gov.uk](http://www.dwp.gov.uk)**

## **QUESTIONS TO ASK AT INTERVIEW WITH CUSTOMER**

The following questions may help when considering a DHP award:

### **THE TENANCY**

- 1) Is there scope for the landlord to reduce the rent?
  
- 2) Has the claimant actually asked the landlord to reduce the rent and what was the response?
  
- 3) Is it possible for the tenant to leave the tenancy before the due date without incurring legal costs etc?
  
- 4) Is there a possibility that the Local Authority could help the claimant negotiate a lower rent or negotiate on their behalf?
  
- 5) Is the claimant willing to and able to let out a room?
  
- 6) Did the claimant find out before taking on the tenancy what level of HB/CTB they could expect to receive?

### **THE HOUSHOLD'S FINANCIAL CIRCUMSTANCES**

- 1) Does the claimant have other debts to pay?

- 2) Have they sought advice on how to clear their debts?
- 3) Can the claimant re negotiate non priority debts?
- 4) Is the claimant entitled to any other welfare benefits?
- 5) Do they have capital or disregarded income that they could use to make up the shortfall?
- 6) Can the claimants spending pattern change on non essential items?
- 7) Could the claimant afford the rent when they moved in?
- 8) Is the claimant working but has high travel costs?

#### **THE HOUSEHOLDS MEDICAL CIRCUMSTANCES**

- 1) Does the household have health or support needs which require them to remain in a particular property?
- 2) Does the household have a health problem which means that the choice of housing is restricted temporarily or permanently?
- 3) Does the claimant need an extra room because of health problems that affects them or a member of the household?
- 4) Does the household have to live where they do because of the need for access to medical or support services? E.g. hospitals
- 5) Does the household have extra health-related expenses, such as therapeutic classes or non prescription medicine?

#### **OTHER CIRCUMSTANCES**

- 1) Is the claimant fleeing violence and have not had time to shop around for a reasonably priced property?
  
- 2) Is the claimant expecting a child and had her HB restricted until the child is born?
  
- 3) Is the claimant a single person under 25 who is expecting a child and when child is born would no longer be subject to shared room rate?
  
- 4) Is there a particular reason why the claimant chose to live in this accommodation?
  
- 5) Is the property the cheapest available in the area for the household's needs?
  
- 6) Does living in the area mean a better chance of employment?

**HOUSEHOLD INCOME**

<b>Income</b>	<b>Weekly</b>	<b>Fortnightly</b>	<b>4 Weekly</b>	<b>Monthly</b>
Housing Benefit				
Council Tax Benefit				
Your Wages/Salary				
Your Partners Wages/Salary				
Income Support				
Job Seekers Allowance				
Bereavement Allowance/Benefit				
Annuity income				
Charitable payments				
Pension credit				
Working Tax Credit				
Child Tax Credit				
Child Benefit				
State Retirement Pension				
Private/Works pension for you				
Private/Works pension for partner				
Incapacity Benefit				
Disability Living Allowance				
Attendance Allowance				
Maintenance for you/your children				
Maternity Allowance				



Sick Pay				
Rent from Lodger/Tenant				
Rental Income from other properties				
Student Grant/Loan				
Income from other adults				
War Disablement Pension				
War Widows Pension				
Bank accounts	Account Number	Balance £		
Investments	Name of investment	Amount £		
Any other income not listed above				
<b>TOTAL</b>				

### **HOUSEHOLD EXPENSES**

<b>Expenses</b>	<b>Weekly</b>	<b>Fortnightly</b>	<b>4 Weekly</b>	<b>Monthly</b>
Rent				
Rent Arrears				
Council Tax				
Council Tax Arrears				
Water Rates				
Electricity				
Gas				
Coal/Oil				
Contents insurance				
Life Insurance				
Private Pension				
Household (food, Toiletries etc)				

School meals				
Child Care Costs				
Clothing				
Maintenance payments				
Travel				
Vehicle Fuel				
Vehicle insurance				
Vehicle road tax				
Telephone				
Mobile				
Satellite				
TV Licence				
Catalogue				
Credit Card				
Store Card				
Court Fines				
Loans – Name Of Lender	Amount of Loan £	Completion Date	Repayment Amount £	Weekly/Monthly Fortnightly/4wkly
Other expenditure – Please detail				
<b>TOTAL</b>				