

RENFREWSHIRE COUNCIL

FINANCE & RESOURCES

DISCRETIONARY HOUSING PAYMENT POLICY

1. Background

The current legislation for Discretionary Housing Payments (DHPs) is The Discretionary Financial Assistance Regulations 2001. DHPs are administered by the Local Authority (the council) and are funded by allocated amounts received from the Department for Work and Pensions (DWP), Scottish Government and an additional, optional contribution from the council. The maximum level of awards the council could previously have made in any one year was 2.5 times the DWP allocation. The UK Government devolved the power of setting this DHP “cap” to Scottish Ministers and came into effect in December 2014 removing a statutory upper limit.

The total annual funding is used to alleviate hardship by providing further financial assistance to those housing benefit customers who satisfy the qualifying criteria (which will be outlined for decision makers in operational guidance) and require additional help with their housing costs.

1.1 Main features of a DHP scheme

- DHP's are discretionary, a customer does not have a statutory right to a payment and there are no statutory rights of appeal
- DHP must be applied for. The council decides what format an application must be made in.
- The council decides who should receive a payment having regard to the qualifying criteria
- The council decides the appropriate payment amount based on the customer's financial situation and taking into consideration its own budgetary constraints. The DHP value can be any amount within the limits set out in law and guidance, including the relevant Regulations, up to the full value of the eligible rent
- DHP is not a payment of housing benefit (HB) or universal credit (UC) but the customer must be in receipt of HB or the housing costs element of UC in order to qualify for a payment
- DHP can be used to provide a rent deposit or rent in advance for those with new tenancies where the move will alleviate the effect of welfare reform or financial hardship
- DHP payments should not be regarded as a long term solution to the HB/UC entitlement restrictions dictated by current and/or future legislation
- Payments cannot be used to offset an overpayment of HB
- Payments cannot be used to cover ineligible service charges
- Payments cannot be used to minimise the effect of sanctions imposed in relation to any welfare benefits

- Payments cannot be used to assist with Council Tax liability
- If the council does not spend the full DWP allocation, it must be returned to the DWP. The DWP will allocate future funding using a formula based on previous expenditure
- If the council spends the full DWP allocation and the amount allocated from the Scottish Government and the council's own funds, no more DHPs may be paid during that financial year.

1.2 Revisions to the policy

The DWP have intimated the situations where the funds provided to support those affected by welfare reform changes should be concentrated, but have allowed the council the overall discretion to decide. They have advised that the council will be required to record the expenditure using a new monitoring regime to be introduced by the DWP.

The Scottish Government will allocate to each Local Authority funds which they deem will fully support DHP awards for those affected by the social sector size criteria (SSSC). As a result decisions on awards for customers affected by SSSC will not be affected by budgetary constraints.

1.3 Welfare Reform

Following the Welfare Reform Act 2010, the UK Government is changing the benefits system.

The provisions will result in the following key changes:

- The introduction of UC and the eventual migration of housing benefit claims to UC. It is planned that UC will be introduced into Renfrewshire from June 2015
- The introduction of a size criteria for working age tenants in the social rented sector from April 2013
- The implementation of a benefits cap from July 2013 limiting the total benefit that working age people can receive
- The replacement of council tax benefit with a Scottish council tax reduction scheme from April 2013
- The transfer of community care grants and crisis loans from the DWP to the Scottish Government from June 2013
- The replacement of Disability Living Allowance (DLA) with Personal Independence Payments (PIPs) starting from June 2013.

The funding referred to in section 1.2 above has been provided to councils to assist customers who are adversely affected by these changes and any other effects of welfare reform.

Additional operational guidance relating to welfare reform and how it affects the DHP scheme will be provided to decision makers.

2. DHP policy purpose and objectives

2.1 Purpose

The purpose of the DHP policy is to specify how the council's Benefits Service will operate the DHP scheme and to detail the factors that will be considered when deciding if a DHP can and should be awarded.

The policy does not set rigid, pre-defined criteria for awarding DHPs as this would prevent the council from exercising discretion properly in individual cases.

Each case will be treated strictly on its merits and all customers will receive equal and fair treatment.

The procedural guidance for decision makers demonstrates the flexibility which can be utilised in individual circumstances.

The Benefits Service is committed to working with Housing Services, Housing Associations, private landlords, Advice Works and other advice agencies in order to ensure that claimants receive the maximum amount of benefits and financial assistance available.

The policy takes account of the "Good Practice Guide" issued by the DWP which offers advice on how DHPs can be used to support customers in certain circumstances.

2.2 Objectives

The objectives of the DHP policy are:

- To assist with the alleviation of poverty
- To help customers to sustain their tenancies
- To assist customers threatened with homelessness
- To help customers who are trying to help/support themselves
- To assist in keeping families together
- To support domestic violence victims who are trying to move to a place of safety
- To support the vulnerable and the elderly
- To support young people in the transition to adult life

3. Policy commitments

- All decisions will be made in a manner that is consistent with the ordinary principles of good decision making, applicable law and guidance.
- The council will endeavour to act fairly, reasonably and consistently.
- In as far as is reasonably practicable, the council will endeavour to allocate funding received from the DWP to the areas for which the DWP intended it to be used.
- The Scottish Government's contribution will be directed in a similar way to the DWP approach; aiming to give support to some customers in Renfrewshire who have been affected by the welfare reform changes and ensure those affected by the introduction of the social sector size criteria have their reduction in HB mitigated by DHP awards on application.
- Discretion will be used reasonably and lawfully and will not extend to giving more weight to certain groups and/or claimant because they are seen as more deserving than others.

4. Publicising the policy

Access to DHP scheme awards and advice will be incorporated into the council's general welfare advice services.

All staff within the Benefits Service and Customer Services will be provided with the details of the scheme and the procedural guidance used by the council to operate the scheme fairly and consistently.

The council will pro-actively promote DHPs by working in partnership with social and private landlords to promote the availability and take-up of DHPs.

The council will make claim forms, leaflets and literature on DHPs available via the council website, Advice works, other council services, registered Social Landlords and other suitable locations across Renfrewshire.

5. Operation of the Scheme

Although the operation of the scheme has many points of discretion, there are a number of legal obligations that must be fulfilled and these will be outlined to decision makers in operational guidance.

As stated in 1.2 above a proportion of the DHP budget will be directed to supporting some customers affected by welfare reform. A further proportion of the budget, traditionally known as core funding, will be used to assist claimants who require further assistance with housing costs due to circumstances that are not directly related to the above areas.

Where funding has been provided to mitigate the introduction of the social sector size criteria, awards will be made to cover under occupancy reductions for the full year where housing benefit entitlement exists.

For customers who have a shortfall not due to the introduction of the social sector size criteria, the initial period of award in all cases will normally be 13 weeks or 26 weeks. This will maximise access, to the available DHP funds, to as many customers as possible. Subject to budget availability the decision maker may consider extending the award for a further period in certain circumstances (decision makers will be provided with operational guidance to support them in making these decisions).

The council will aim to deal with DHP requests within a timescale set in line with the housing benefit new claims processing target. DHP applications made where there is a risk of eviction will be escalated for priority processing.

6. DHP Procedures

6.1 DHP decision making

Decision makers who are responsible for awarding DHPs will adhere to the DHP Decision Maker's Guide, set out in Appendix 1.

The procedural guidance details the following:

- the end to end process for making a DHP application
- the factors which may be considered when deciding if a DHP should be paid
- suggested evidence and information which may be required to make a decision
- indications of those who should be considered most in need of assistance
- suggested amounts of DHP that should be paid and the period of the DHP award
- the method of payment
- the method for recording the decision for budgetary analysis and DWP information requirements
- advice to be provided to the claimant to help them alleviate the problems associated with their current financial situation.

6.2 Overpayments

The council will make every effort to minimise DHP overpayments. However, where an overpayment occurs, the decision maker will decide whether it is appropriate to recover the DHP by taking into consideration whether the claimant contributed to the overpayment or could reasonably have been expected to realise that an overpayment was occurring.

If it is decided that the overpayment should be recovered, the claimant will be issued with an invoice and an explanation as to how the overpayment arose and the period it relates to.

Fraudulent overpayments will be recovered.

6.3 Dispute Process

Although a claimant has no statutory route for appealing a decision made on a DHP claim, the Benefits Service will operate the following procedure for dealing with any disputed decisions:

- The customer or anyone nominated on their behalf can dispute the decision in writing, within one calendar month of the date of the decision notification.
- A decision maker, other than the one who made the original decision, will review the information held. If they feel that the original decision is correct, the claimant will be advised in writing that the original decision stands.
- If the second decision maker does not agree with the original decision, they will consult their Team Leader before substituting their own decision. The claimant will be advised of the new decision in writing.
- Decisions will be revised only where the original decision maker has failed to follow the correct process, or has not made the decision based on sound evidence.
- A sample audit of awards and declines will be undertaken to ensure adherence to Policy Commitments (Section 3).

7.0 Policy, Operational Guidance and Budgetary Review

The Team Leader overseeing the team of decision makers will:

- be responsible for the day to day management of the DHP budget
- monitor the decisions and review on a periodic basis (at least monthly) to ensure that the procedural guidance is being adhered to
- analyse the expenditure in each area to ensure that it is within budget and correctly profiled for the rest of the year

Findings will be reported monthly to the Operational Services Manager who has overall responsibility for the budget.

If, during the course of monitoring the budget, or at any point the Team Leader has concerns regarding the sustainability of the current processes or criteria, recommendations will be made as to where amendments are required in order to ensure continued support is provided to the most vulnerable claimants.

The procedural guidance will be amended to reflect any changes made as a result of the recommendations.