

# Discretionary Housing Payments – 2013

The Discretionary Housing Payment scheme provides a small amount of funding to deal with anomalies and hardship in situations where normal Housing Benefit does not cover all the rent.

This policy contains general principles which officers, who are responsible for processing applications for Discretionary Housing Payments follow. It should be stressed that this is a guide only and is not prescriptive or exhaustive. Each case should be considered on its own merits. Underpinning the policy is a general criteria that successful applicants must be doing all they can to alleviate their own situation.

To qualify for some consideration for assistance under this scheme the customer must already qualify for some Housing Benefit.

From April 2013 the government is providing extra funding to ease the introduction of the household benefit cap but also to meet continuing and unavoidable needs resulting from the application of size criteria in the social rented sector rather than catering for these in the Housing Benefit scheme itself.

Many people have difficulty paying their rent. Among these are

- those whose benefit is restricted because their rent is considered too high
- those whose benefit is restricted because their home is considered too large under the government's size criteria
- those whose benefit is reduced by deductions for non-dependants who may not contribute adequately to cover those deductions
- those whose benefit is reduced by the taper for excess income
- those who for all sorts of reasons have other calls on their income (additional expenses or outstanding debts) which they prioritise ahead of rent
- those who are returning to work after a long period of unemployment who have difficulty in managing finances during the transition from benefit to a stable in-work income
- those who are in affordable housing but at risk of becoming homeless due to difficulty in meeting their full rent liability because of severe financial difficulties resulting from the effects

of the current economic climate or their attempts to take up paid employment

Awards of Discretionary Housing Payments should focus on enabling people to secure or retain and pay for appropriate and sustainable accommodation through temporary difficulties or in circumstances not addressed by the benefit system. This is in order to reduce the risk of homelessness and support the stability of families and communities.

Discretionary Housing Payments should not seek to undermine the purpose and nature of the Housing Benefit scheme, nor support irresponsible behaviour, nor should they assist in situations so common that a consistent approach to such payments would involve expenditure above the maximum permissible.

The Council therefore expects payments to be made in unusual or extreme circumstances where additional help with current rent will have a significant effect in alleviating hardship, reducing the risk of homelessness or alleviating difficulties that may be experienced in the transition from long term benefit dependence into work, for example:

- Circumstances unusual/exceptional among customers in that tenure
- Costs that are beyond their control and do not arise through the actions or failures of others
- Housing choices which are forced on or required by the customer because of urgency, care needs or significant health requirements
- Tenants whose benefit has been restricted because their home is considered too large under the government's size criteria and are actively looking to move into smaller accommodation e.g. tenants who have sought the advice of the Councils Housing Options team and may be on the waiting list to move to a smaller property
- Extreme and temporary situations which make it difficult to move in the short term or where decisions had to be made in an emergency
- Imminent loss of the home where meeting some or all of the current shortfall between the benefit and eligible rent will prevent the customer from becoming homeless. However in considering awards under this provision the Council will have regard to

- the reasons that the debts arose
- the involvement of other advisory services engaged in providing assistance to the customer to manage debt in order that any arrangement to accommodate agreements for repayment of debt might be realistically obtained and sustained.
- whether any proposed Discretionary Housing Payment award will have the desired effect of preventing the customer from becoming homeless
- the consequences of any potential increased demand on the fund in the event that the award was not made (such as having to move from affordable accommodation into highly priced private sector accommodation with reduced security of tenure)
- temporary hardship and difficulties which may arise during the transition for those who are coming off long term benefits into work.

The Council may also provide temporary assistance in the early months of a tenancy where a claimant has moved from homelessness provision and additional help is likely to increase the chances that the claimant will sustain a stable and secure home.

### **Awards of Discretionary Housing Payments**

Awards are expected to be made to meet current needs rather than past debts. No significant degree of payment for past periods is anticipated as requests for payment should be made promptly within the benefit period of the main benefit to which they relate and within a reasonable time of knowing the outcome of a claim for the main benefit.

Awards are expected to last for a short fixed period, depending on the individual circumstances. Given the limited scope of the scheme and the funding available, awards are expected to be at a modest level other than for very short periods in extreme circumstances. Awards to claimants with high rents are unlikely to be made

The Council recognises that a small proportion of awards will need to continue for longer periods, particularly where the current home has been significantly adapted to meet the needs of a family member with substantial and continuing disability.

Decisions on the level and duration of awards will also take account of what is affordable within the agreed budget, bearing in mind that the level of grant available is decided nationally by the Department for Work and Pensions rather than on the basis of any local assessment of need.

The Council expects to give higher priority to assisting people to retain an established home and to relieving temporary difficulties where the arrangement is likely to be sustainable longer term; and low priority to assisting people who take on housing costs which because of the nature, location or price of the property, are unaffordable and unsustainable from the start.

The Council recognises that some social sector tenants affected by the size criteria after April 2013 will live in properties that have been substantially adapted structurally to meet needs arising from severe and persisting disability or because of such disability will depend on the care and support of relatives and friends in the immediate vicinity. If it is unreasonable to expect the claimant to move in the short to medium term, awards of Discretionary Housing Payment, if appropriate, may be of much longer duration than usually expected.

In addition, where resources allow, the Council may also assist other social sector tenants affected by the size criteria if it would be beneficial for them to stay in the property because of the care and support they provide in, or other recognised contribution to, the immediate community.

The Council recognises the difficulties faced by absent parents who regularly look after children normally living with the other parent or who hope to make such arrangements. The benefit system does not provide for this situation. It is a common situation. The Council will therefore only rarely be able to assist with discretionary payments, mainly where existing arrangements are threatened by difficulties that are likely to be short-lived.

The Council recognises that welfare reform changes greatly increase the number of claimants who face a reduction of Housing Benefit that will be of relatively short duration such that it is unreasonable to expect them to move. This will most commonly be

- Where a social sector tenant is affected by the size criteria but will shortly reach the age for state Pension Credit and so become exempt from the restriction.
- Where at the start of a size restriction, an imminent birthday of a family member will increase the room requirement under the size criteria
- Where a single woman or couple expecting their first child live in two bedroom accommodation suitable for their new family while still assessed on the one-bedroom or shared accommodation rate. (This would apply where the family were already in social

sector accommodation but newly affected by the size criteria or where private tenants move to larger accommodation relatively late in the pregnancy.)

- Where a single private tenant in one-bedroom accommodation is restricted to the shared room rate of Local Housing Allowance but will shortly be 35 and thus exempt from it

In making decisions on discretionary payments, the Council expects also to be mindful of incentives to responsible behaviour, for example in the choice of a home or engagement in activities to address worklessness, debt or problematic behaviour.

Where a request for payments has been refused, it is not expected that repeated requests will be considered unless the customer can demonstrate that the situation has worsened significantly or a substantial period of time has elapsed.

### **Circumstances where the Council can not make an award**

Regulations provide that the Council can not make an award of Discretionary Housing Payment if the customer is not in receipt of an award of Housing Benefit.

A Discretionary Housing Payment can not be made to accommodate the cost of any services which are not eligible for help under the Housing Benefit scheme such as

- ineligible service charges,
- water & sewerage,
- fuel
- heating charges.

It is not normally expected that Discretionary Housing Payment payments will be made because of

- significant overcharging by a landlord
- the ordinary impact of rent restriction either resulting from a Rent Officer decision or the use of Local Housing Allowance rates
- the preference for a size or type of accommodation or location which is not strictly necessary for pressing reasons

- the failure of non-dependants to make up the deduction attributable to them when they have the means to do so
- the inadequacy of benefits for disability to cover the costs of disability towards which they are paid
- the unwillingness of the customer to use other available resources or to apply for other more appropriate forms of assistance  
a move from social sector accommodation to unaffordable private accommodation, other than for the most compelling of reasons
- a move to private rented accommodation where it should be clear to the claimant that the property is too large or unaffordable
- an increase in rent to cover rent arrears
- certain sanctions and reductions in benefits

The Council is aware of calls for discretionary funding to cover the cost of deposits and advance rent to assist a person to move to affordable accommodation. Given the limited nature of the funding available and the risk of landlords levying such costs where they may presently waive them, the Council would not normally expect to help with items of this sort. It is also possible to use Discretionary Housing Payments to help with removal costs and other expenses associated with moving. The limited funding available makes it unlikely that the Council can afford to help in this way given its priority of assisting people to remain in existing homes where appropriate but will keep this under review in the context of awards and expenditure, particularly for situations where it would release larger social sector accommodation.

### **How to claim a Discretionary Housing Payment**

A claim for a Discretionary Housing Payments must be made in writing and signed by the customer. A letter or signed statement made at a designated office will be deemed as sufficient.

On request or in appropriate circumstances, the Council will issue the customer with a Discretionary Housing Payments application form. Alternatively a form can be downloaded from the Councils web pages.

The customer will be required to return the form to a designated office within one month of its issue and will be encouraged to include any relevant supporting evidence. However the one month time limit can be

extended at the discretion of the Council.

The Council may request any (reasonable) evidence in support of an application for a Discretionary Housing Payments. The customer will be asked to provide the evidence within one month of such a request although this will be extended in appropriate circumstances.

The Council reserves the right to verify any information or evidence provided by the customer in appropriate circumstances.

The Council will seek to maximise the customer's income by checking the availability of state benefits and other sources of financial assistance that may be available to the customer upon application

### **Changes in circumstances**

The Council may need to revise an award of Discretionary Housing Payments where the customer's circumstances have changed.

As applications for Discretionary Housing Payments must be in receipt of Housing Benefit, they remain under a general requirement to inform the Council about any changes in their circumstances that might affect their claim for Housing Benefit

### **Overpayments**

In the event that a Discretionary Housing Payment is found to have been overpaid, officers will consider whether it is appropriate to recover it in full, in part or not at all. As a general rule the Benefits Section will seek to recover any Discretionary Housing Payment found to be overpaid. Normally this will involve issuing an invoice to the customer or the person to whom the award was paid. However, if the overpayment was caused by an official error and it is not reasonable for the customer to have known that they were being overpaid, recovery of the overpayment may not be sought

## **The right to seek a Review**

Discretionary Housing Payments are not payments of Housing Benefits and are therefore not subject to the statutory appeals procedure. However, all Councils are expected to set up an appropriate review process.

The Council will operate the following policy for dealing with requests to review a decision not to award a Discretionary Housing Payment, a decision to award a reduced or lesser amount of Discretionary Housing Payment, a decision not to backdate a Discretionary Housing Payment or a decision that there has been an overpayment of a Discretionary Housing Payment.

A customer (or their appointee or agent) who disagrees with a Discretionary Housing Payment decision may dispute the decision. A request for a review shall be delivered in writing to a designated office within one calendar month of the written Discretionary Housing Payment decision being issued to the customer.

A Senior Officer, who has not been involved in the case previously, will then consider the request and review the decision made, to ensure that it was reasonable. The customer (or their appointee or agent) will be informed of decision in writing.

This decision will be final and binding and may only be challenged via the judicial review process or by complaint to the Local Government ombudsman.

## **Publicity**

The Benefits Service will publicise the scheme and will work with all interested parties to achieve this. In particular the Housing Options Team, Citizens Advice Bureau, housing associations, Six Towns Housing and voluntary sector organisations. A copy of this policy statement will be made available for inspection and will be posted on the Councils web site. Information about the amount spent will not normally be made available except at the end of the financial year.



## **Fraud**

The Council is committed to the fight against fraud in all its forms. A customer who tries to fraudulently claim a Discretionary Housing Payment by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under the Fraud Act 2006. Where it is alleged, or the Council suspects that such a fraud may have been committed, the matter will be investigated and if fraud is found to have occurred, action will be taken including the recovery of overpaid monies and, if appropriate, criminal proceedings.