

Nottingham City Council

Discretionary Housing  
Payment  
Policy



## Introduction

From July 2001, a scheme was introduced which grants all Local Authority's powers to pay a discretionary amount to top up the Housing and Council Tax Benefits statutory schemes. The legislation governing Discretionary Housing Payment (DHP) can be found in the Discretionary Financial Assistance Regulations 2001 (SI 2001 / 1167).

There are two separate DHP schemes, one covering shortfalls between rental liability and payment of Housing Benefit and one covering shortfalls between Council Tax liability and entitlement to Council Tax Benefit.

Shortfalls can occur due to: -

- The rent determined by the rent officer / Local Housing Allowance being lower than the claimant's eligible rent.
- The 65 per cent and 20 per cent tapers being applied to the benefit calculations
- A non-dependant deduction being made to the claimant's eligible rent / council tax.

Every claimant who has an entitlement to Housing and / or Council Tax Benefit and who has such a shortfall is entitled to make a claim for help

The main features of the DHP schemes are that:

- The schemes are discretionary, a claimant may be entitled if the criteria is satisfied.
- The amount that can be paid out by an Authority in any financial year is cash limited by the Secretary of State.
- DHP's are not a payment of Housing Benefit or Council Tax Benefit
- However, the claimant must have an entitlement to HB / CTB in the benefit weeks that a DHP is being considered for.
- There is a need for financial assistance.



## **Context**

The government has increased the amount of money allocated for DHP and intends to double the national allocation in 2012/13. The extra funding is intended to partly offset the financial impact of changes to the LHA scheme that were introduced on 1<sup>st</sup> April 2011. The Benefits Service has refreshed this policy to take into account the extra fund available and the increased pressure that will be placed on this small resource due to these changes.

However, this policy should not be viewed in isolation but as part of a wider response on behalf of the authority to aid citizens to maintain and sustain tenancies and provide a stable platform for their future well-being. This wider response will incorporate referrals to both Housing Aid and the Welfare Rights Service. Housing Aid will offer housing advice and help with landlord negotiations; whilst Welfare Rights will help maximise income and provide debt advice where required.

The Benefits Service, by working in conjunction with Housing Aid and the Welfare Rights Service, will provide citizens who are a DHP with the aid and advice to enable them to secure and maintain a home, maximise their income and consequently alleviate poverty.

## **Purpose**

The purpose of this policy is to specify how Nottingham City Council Benefits Service will operate the scheme and to indicate some of the factors that will be considered when deciding if a DHP can be made. Each case will be treated strictly on its merits and all customers will be treated equally and fairly when the scheme is administered. The Benefits Service is committed to working with the local voluntary sector, social landlords and other interested parties in the City to maximise entitlement to all available state benefits and this will be reflected in the administration of the DHP schemes. The Benefits Service operates within the Council's antipoverty strategy and is committed to the equitable operation of a DHP scheme. Where the evidence provided indicates that the claimant is not claiming another state benefit they may be entitled to, the Benefits Service will



advise them to make such a claim and provide details of other eligible City who may be able to help with such a claim

## Statement of Objectives

The Benefits Service will consider making a DHP to all claimants who meet the qualifying criteria as specified in this policy. In administering the scheme the Benefits Service will give consideration to the guidance produced by the Department For Work And Pensions. The Benefits Service will treat all applications on their individual merits and will seek through the operation of this policy to

- Help claimants through personal crisis and difficult events
- Alleviate poverty, by working in partnership with other agencies to provide support in times of difficulty.
- Support vulnerable young people in the transition to adult life, aiding first time leavers from home into their first property and help with rent deposit
- Encourage Nottingham City residents to obtain and sustain employment, - aiding both the claimant and non dependants into sustained employment by minimising the impact of tapers, non dependant deductions and earnings disregards.
- Safeguard Nottingham City residents in their homes and prevent homelessness;
- Help those who are trying to help themselves; working in conjunction with the advice sector and other organisations to provide residents with support and advice.
- Keep families together, helping a resident sustain a tenancy in an area that benefits family for health, education, and or caring responsibilities

The Benefits Service considers that the DHP scheme should be seen as providing timely assistance in partnership with other organisations. It is not and should not be considered as a way around any current or future entitlement restrictions set out within the Housing and Council Tax Benefit legislation



## Claiming a DHP



A claim for a DHP must be made in writing and signed by the claimant. A letter or signed statement made at any of the Benefits Service offices will be treated as a valid claim provided the following conditions are met:

- On request or in appropriate circumstances, the Benefits Service will issue the claimant with a special DHP application form. This will be date stamped and will count as the date of claim. The claimant will be required to return the form to the Benefits Service within one month of its issue and will be encouraged to include any relevant supporting evidence.
- The Benefits Service may request any reasonable evidence in support of an application for a DHP. The Benefits Service will make such requests in writing. The claimant will be asked to provide the evidence within one month of such a request although this will be extended in appropriate circumstances.
- If the claimant is unable to or does not provide the required evidence, the Benefits Service will still consider the application and will in any event take into account any other available evidence including that held on the Housing Benefit file.
- Verification of information will normally be required.

### **Period of Award**

In all cases, the Benefits Service will decide the length of time for which a DHP will be awarded on the basis of the evidence supplied and the circumstances of the claim.

The start date of an award is determined by the Benefits Service and can be either

- i) The Monday after the written claim for a DHP is received by the Benefits Service; or
- ii) The date on which entitlement to HB/CTB commenced (providing the application for DHP is received within one calendar month of the claim for HB/CTB being decided) whichever is the earlier, or the most appropriate
- iii) The date on which the need arose



- The minimum period for which the Benefits Service will award a DHP is one week
- The Benefits Service will usually award a DHP for not less than 3 months where it is to meet a shortfall due to the rent officer's determination.
- The Benefits Service will not normally award a DHP for a period exceeding 12 months

### **Guidance on How to administer a DHP**

The following are broad guidance around the administration of the DHP scheme and not every claimant's circumstances will fit into all of the situations highlighted below. There may also be circumstances where a number of the below criteria apply to a particular claimant or household, the decision maker needs to take into account all of the circumstances of the claimant or their household when determining whether they would qualify for a DHP

### **Changes in local housing allowance (LHA)**

From April 2011 through to 2014 there are various changes to the LHA scheme, these changes will, in all probability make claimants who are already in receipt of benefit worse off and increase the demand on DHPs Existing claimants will not be affected immediately by these changes but from the anniversary of their claim, however new claimants will be affected when they make an application after 1<sup>st</sup> April 2011.

The introduction of the Single Room Rent (SRR) being expanded from those under 25 to those under 35 from 1<sup>st</sup> January 2012 will lead to an increased demand on the DHP budget. This will see people who are classed as young individuals see their rent restricted to the SRR at the start of their claim, if they claim after 1<sup>st</sup> January 2012, or at their next anniversary date or when any transitional protection from the April 11 changes ceases. Whilst it would be



preferable to be able to offer support through the DHP budget ad infinitum this is not really an option as this would put undue pressure on a limited DHP pot

The January 2012 LHA for the self contained 1 room rate is £90.00, the SRR is £66.00. This is a shortfall of £24.00 per week, to support all of those who could be affected would cost nearly 3 times the total DHP budget.

When considering a DHP for this group it should be viewed as a short term measure, may be not longer than 13 weeks, in order for the citizen to find an alternative, sustainable tenancy.

### **Circumstances where we may consider a DHP**

- Assistance by paying rent in advance or a deposit to ensure that the claimant is able to secure a tenancy where the rent at the new property is at a reasonable level to fall within the remit of the LHA rates,
- Families where their children are at a critical point of their education e.g. taking their exams where shortfalls between rental liability and payment of Housing Benefit and or shortfalls between Council Tax liability and entitlement to Council Tax Benefit exist?
- Families with care arrangements for vulnerable children where shortfalls between rental liability and payment of Housing Benefit and or shortfalls between Council Tax liability and entitlement to Council Tax Benefit exist?
- Families with social service intervention for example highly dependant adults, children at risk or those who are involved in a family intervention project, where shortfalls between rental liability and payment of Housing Benefit and or shortfalls between Council Tax liability and entitlement to Council Tax Benefit exist?
- Elderly or frail claimants who have resided in the area for a considerable time, where shortfalls between rental liability and payment of Housing Benefit and or shortfalls between Council Tax liability and entitlement to Council Tax Benefit exist?
- Claimants who have moved to cheaper accommodation but this has led to increased travel to work costs
- People with disabilities who need adaptations to their home,

## Young Individuals

Citizens who fall under these circumstances should not expect the DHP fund to provide an everlasting source of funds in order for them to be able to afford their contractual rent. A time limited award, initially for 13 weeks in order for them to find alternative accommodation should be considered

In order to give the citizen a better chance of success in establishing a sustainable tenancy any application for a DHP from this group should be referred to Housing Aid and the Welfare Rights Service on receipt of the form. This would aid citizen in any negotiations with existing or potential landlords and maximise citizen's income (In order for this to work we need to establish referral procedures so that citizens who claim a DHP, not just for this group but all DHP applications, have their details passed to Housing Aid and WRS. The DHP application form does contain a clause which would cover this process).

"I/we agree that you may pass information about me/us to other departments of the City Council who may have services which may be of benefit to me/us "

Applications from young individuals who have a claim prior to 1<sup>st</sup> January 2012 and who had not claimed a DHP before should have any DHP award only up to the previous 1 room self contained rate, rather than their full contractual rent, if their contractual rent is higher than the previous 1 room self contained rate

## Circumstances where we would not consider a DHP

- Claimant in 5 bed or more accommodation without a reduction in their rent to the level of 4 bed accommodation (5 bed accommodation is no longer supported by the scheme and claimants need to find accommodation at a rent level that suits the size of their family),
- Where the rent is above the LHA level for that size criteria, claimants are expected to negotiate a reduction in their rent,
- Where the Authority has good reason to think that the tenancy is not on a commercial basis,



- Where a claimant moves into a property where the rent is above the LHA level for their household requirements, the claimant should have found suitable cheaper accommodation within the area or within the City, or
- Where the claimant has requested a larger property due to children staying overnight, the claimant has taken on the accommodation knowing that they will be unable to afford the level of rent when they took on the tenancy.

## **Prevention of homelessness**

DHP is an essential tool for the Authority to use in the strategic aim of reducing homelessness against main causes, one of which is households becoming homeless as a result of the termination of Assured Shorthold Tenancies. Deploying the DHP budget to assist with this aim links in with the City's Inter Agency Homelessness Strategy. In addition to this temporary accommodation is expensive to the authority in terms of resources and the levels of rent in accommodation, therefore early intervention to prevent homelessness should be a key issue for the authority. It is important that the benefit service works closely with Housing Aid in its efforts to prevent homelessness

Other alternatives to DHP should be considered first to help prevent homelessness and the benefit regulations are being relaxed more around direct payments specifically to assist in this area, but where Housing Aid have investigated a credible risk of homelessness, and it appears that a DHP could be made to secure a successful and cost effective homelessness prevention, a DHP may be made.

Alternatives to consider prior to making a decision on DHP to prevent homelessness

- Making benefit payments direct to the landlord for the period of the first shorthold tenancy,



- Making payments direct to the landlord where the benefit scheme is a this;
  - where there are arrears of rent equivalent to 8 weeks rent,
  - where payments are being made from other income related benefits to clear rent arrears,
  - where the authority considers the claimant is likely to face difficulty in relation to the management of their financial affairs,
  - where the authority considers it improbable that the claimant will pay their rent,
  - where the claimant has previously had payments made to the landlord under regulation 95 of the Housing Benefit (General) Regulations 1987,
  - where the authority considers that making direct payment will enable the claimant to secure or retain the tenancy,
  - where Housing Aid has established that a household is likely to become statutorily homeless, or has recently been homeless and is attempting to secure rehousing;
  - Where payment direct to a landlord will ensure that a tenancy is granted for a minimum of 12 months'
  
- Making payments direct where the landlord agrees to reduce the level of rent which is linked to the tenant retaining or securing the tenancy.

### **Circumstances where we may consider a DHP**

- Proximity of the accommodation to education and employment would help the claimant resettle from homelessness – this would be for a short period whilst the claimant seeks alternative cheaper accommodation, or
- Where the award of DHP would be central to the claimant maintaining employment and thus less likely to become homeless.



### **Issues around the tenancy**



Prior to considering issues around the tenancy it is reasonable to see what steps the tenant has taken with regard to the level of the rent hence the questions that are asked within the application form Is there scope for the landlord to reduce the rent and has the tenant approached the landlord to consider this, if not is it possible for the authority to intervene? As a final option would the offer of direct payments be an effective inducement for the landlord to reduce the rent?

### **Circumstances where we may consider a DHP**

- If it is possible for the tenant to move out of the property and find cheaper suitable alternative accommodation, if so then it might be reasonable to pay a DHP for a short period whilst the tenant finds alternative accommodation,
- If it is possible for the tenant to sub let part of the property – are there bedrooms that are not being used – if so then it might be reasonable to pay a DHP for a short period whilst the additional room is advertised, or
- If suitable alternative accommodation can be found but a deposit or bond is required and a DHP could secure the tenancy, however it would be important that the decision maker checks whether there have been claims with this particular landlord in the past and there is evidence that a deposit has not always been demanded.
- If the landlord will agree to reduce the rent to LHA levels and let the tenancy for a period of 12 months (NB could the amount of the DHP be a factor of the length of extension though? £50 per additional 6 months for example?)
- If a household in arrears of rent directly threatened with homelessness as a result, but is clearly actively engaging with debt advice and has a credible plan to address the arrear AND a DHP would persuade the landlord to suspend eviction action

### **Circumstances where we would not consider a DHP**



- Where the tenant moved into the property knowing that the rent was above the LHA rate and that they would be dependant upon HB/CTB,
- Where it appears that the tenancy is not on a commercial basis
- Where the rent is more than a 4 bed LHA rate,
- Where the rent is higher than the LHA rate for that size of the property and nothing has been done to renegotiate the level of rent,
- If it is not apparent to Housing Aid that the payment would be likely to lead to a homelessness prevention outcome

### **Issues around financial circumstances**

Prior to considering whether it is appropriate to make a DHP then the decision maker needs to consider what steps the claimant has taken themselves to alleviate their financial hardship. The decision maker also needs to be mindful of the other services that can be provided to claimants by the council and its partners around financial exclusion issues, these would include;

- Ensuring that the claimant and their family are receiving all the benefits they would be entitled to – this could be by referral to the Welfare Rights Service,
- By identifying a large number of debts outstanding for the claimant which has to make regular payments against;
  - Where the claimant has multiple debts owed to the authority look at reducing the regular payments with agreement from the Debt Recovery Team in the Revenues and Benefit Service,
  - Health thro' Warmth and Warm Front can look at measures to reduce fuel bills including the removal of coin meters which are more expensive than regular meters,
  - Where there is money due to a loan shark this can be referred to the loan sharking team.

### **Circumstances where we may consider a DHP**



- Where the claimant has taken steps to reduce their spending on non essential items but still has a deficit between their income and outgoings, this may be due to factors such as special dietary requirements,
- Where the claimant has taken long term action to reduce their outstanding debts but the repayments are still causing them financial problems,
- Where the claimant has committed to a short term repayment plan for their debts which causes some financial hardship but would mean that DHP would cover just a short period,
- Where the claimant could afford the rent when they agreed to take the tenancy and are tied into a specific rental period, this might be for a short period where they are either negotiating a reduction in their rent with their landlord or looking for suitable cheaper alternative accommodation, or
- Where the claimant works and has high travel costs to work for example where they work may be in area where there is no suitable cheaper alternative accommodation.

### **Circumstances where we would not consider a DHP**

- Where the claimant has taken no steps to reduce their outgoings or sought advice in reducing their debts,
- Where the claimant has capital that would allow them to clear their debts or subsidise their living costs,
- Where there are other people in the household who can contribute towards the rent but are not doing so e.g non dependants, or
- Where the claimant could not afford the rent before they moved in and there is no other overriding circumstances that would allow a DHP to be paid.

### **Issues around the households medical circumstances**

Due to the particular medical condition of the claimant or any member of their family this could mean that the claimant has to remain in a particular property or area




## Circumstances where we may consider a DHP

- Does the claimant or anyone in their household have a health problem that means that they have to;
  - Remain in the property due to the support they receive,
  - That they are unable to move from the property,
  - The property has been specifically adapted for their needs,
  - That their choice of housing or area is restricted on a temporary or permanent basis,
  - They require an additional room due to a health condition affecting themselves or a member of their family,
  - They live in a particular area as they need access to specific medical support services, or
  - They have additional health related expenses e.g. non prescription medicines.

### **Other issues to consider**

The above is not a definitive list of circumstances that may apply to a particular claimant and their family but is there to give guidance when a decision maker would and would not consider making a DHP. Even if the particular circumstances fall into a category where we may consider making a DHP the claimant may not have demonstrated that they are suffering exceptional hardship. The following will give the decision maker other circumstances they may consider before wanting to make a DHP.

## Circumstances where we may consider a DHP

-  Is the claimant fleeing domestic violence so they are unable to take time to find reasonably priced accommodation,



- Is the claimant expecting a child which would mean that they would qualify for a larger property under the LHA scheme, we might consider paying a DHP for a short period until the child is born,
- Does living in the area improve the claimant's chance of gaining employment?
- Would the landlord consider renting on a longer term basis than 6 months if they were to receive a DHP?

### **Change of Circumstance**

The claimant has a duty to notify the Benefits Service of any change in circumstance. The Benefits Service can revise an award of a DHP to take account of a change in circumstance.

### **General Administration**

The Benefits Service will decide the most appropriate person to pay based upon the circumstances of each case This could include paying

- the claimant,
- their partner;
- an appointee;
- their landlord (or an agent of the landlord), or
- any third party to whom it might be most appropriate to make payment

The Benefits Service will pay an award of DHP by the most appropriate means available in each case. This could include payment

- by cheque or electronic transfer (e.g. BACS)
- by crediting the claimant's Council Tax and / or rent accounts,

Payment frequency will normally be made in line with how the Housing Benefit and / or Council Tax Benefit are paid



## Notification

The Benefits Service will inform the claimant in writing of the outcome of their application within 14 days of receipt of all information. Where the application is unsuccessful, the Benefits Service will set out the reasons why this decision was made and explain the right of review. Where the application is successful, the Benefits Service will advise

- the weekly amount of DHP awarded;
- whether it is paid in advance or in arrears,
- the period of the award;
- how, when and to whom the award will be paid;
- the requirement to report a change in circumstances;

## The Right to Seek A Review

DHP's are not payments of Housing or Council Tax Benefits and are therefore not subject to the statutory dispute mechanism. All Councils are expected to set up an appropriate review process

The Benefits Service will operate the following policy for dealing with requests to review a refusal to award a DHP, a decision to award a reduced amount of DHP, a decision not to backdate a DHP or a decision that there has been an overpayment of a DHP.

- A claimant (or their appointee or agent) who disagrees with a DHP decision may dispute the decision. A dispute must be made in writing to the Benefits Service within one calendar month of the written decision about the DHP being issued to the claimant.
- Upon receipt of a dispute the DHP request will be re-considered by an officer who was not involved in the first decision and notify the claimant of the outcome in writing
- As part of the dispute process the Benefits Services may feel it appropriate to offer the claimant an explanation of the DHP decision by telephone, at interview or in writing in order to seek to resolve the





matter Where agreement cannot be reached a re-consideration will be carried out.

- Where agreement cannot be reached, a complaint can be made under the City Council's Complaints procedure
- Where the claimant is still not satisfied, the decision may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman

### **Overpayments**

The Benefits Service will seek to recover any DHP found to be overpaid Normally this will involve issuing an invoice to the claimant or the person to whom the award was paid. It is most unlikely that recovery of any overpayment caused by an official error will be sought. Under no circumstances will recovery be made from any amounts of Housing and / or Council Tax Benefit due to the claimant (except if the claimant requests this method of recovery specifically in writing). The decision letter that notifies a decision that there is an overpayment will also set out the right of review

### **Publicity**

The Benefits Service will publicise the scheme and will work with all interested parties to achieve this A copy of this policy statement will be made available for inspection and will be posted on the Nottingham City Council web site Information about the amount spent will not normally be made available except at the end of the financial year.

### **Fraud**

The Benefits Service is committed to identifying and subsequently investigating suspected fraudulent claims to benefit and Discretionary Housing Payments (DHP). Individuals who falsely declare their circumstances in order to claim DHP will have committed a criminal offence, which may lead to criminal proceedings being instigated



## **Reporting**

On a quarterly basis a report detailing all DHP applications received, decisions made and DHP fund available is forwarded to the Head of Service for approval

## **Review**

The policy will be reviewed annually, or sooner if appropriate, to take account of operational adjustments and or changes to legislation The Council will seek amendments to this policy to be approved by the Cabinet Member concerned

