

## ISLE OF ANGLESEY COUNTY COUNCIL

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| REPORT TO:           | THE EXECUTIVE  |
| DATE:                | 26 MARCH 2018  |
| SUBJECT:             | DISCRETIONARY HOUSING PAYMENT POLICY 2018/ 2019 AND SUBSEQUENT YEARS |
| PORTFOLIO HOLDER(S): | COUNCILLOR JOHN GRIFFITH (PORTFOLIO HOLDER – FINANCE)                |
| HEAD OF SERVICE:     | MARC JONES (HEAD OF FUNCTION (RESOURCES) AND SECTION 151 OFFICER)    |
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|                      | NOT APPLICABLE   |

### A - Recommendation/s and reason/s

#### RECOMMENDATIONS

To approve the revised Local Discretionary Housing Payment Policy (DHP) Scheme for 2018/19 and for subsequent years (see Appendix A). To note that the approved scheme will apply for subsequent years and will only be brought back to the Executive if future amendments are required.

To ensure that total DHP spend for the financial years remains broadly in line with the amount allocated for the scheme by the Department for Work and Pensions (DWP).

#### REASONS AND BACKGROUND

The purpose of this report is to inform the Executive on the operation of the DHP scheme during the financial year 2017/18 and advise of any changes for the future.

#### DISCRETIONARY HOUSING PAYMENT

DHPs provide claimants with 'further financial assistance' to meet their housing costs, in addition to any other welfare benefits they receive, where the Local Authority considers that such additional help is necessary.

All DHP awards must be made within the overall cash limits as determined by the DWP. The DWP will award the Local Authority (LA) an annual sum (*Government Contribution*) towards administration of the scheme. LAs can top up the Government Contribution by an additional 150% (*permitted total*) if they so wish. Any awards in excess of the permitted total would be illegal.

#### RECOMMENDED CHANGES TO THE DHP POLICY FOR 2018/19 (and subsequent years)

Following the welfare reform measures of April 2013, demand for DHP increased substantially. In order to take account of the increase in demand and the effects of revised DWP guidelines for making awards, the Council's DHP policy has been updated and amended annually.

During the current year, there was an increase in cases affected by the benefit cap and a reduction in the number of cases impacted by the Spare Room Subsidy (Bedroom Tax). Claims for DHP with regard to the Spare Room Subsidy, however, still remain at a significant level. 2017/18 also showed an increase in the proportion of claims for repeat awards, showing an indication of the difficulties claimants continue to face. With the aim of providing support to those within these categories to move to more suitable accommodation, the following policy changes are recommended: -

- Specific reference to introduction of Universal Credit (UC) full service from late June 2018 detailing when claims for DHP can be considered under UC (see paragraph 1.7 of the Policy);
- To allow DHP to be paid towards clearing rent arrears in specified criteria. This will assist in allowing tenants to move to cheaper / more suitable accommodation where rent arrears is a barrier to the move (see paragraphs 2.1 and 2.9 of the Policy);
- Working more strategically with the Housing Options Team and considering making payments until their investigative work is complete and recommendations given (see paragraphs 2.2, 6.15 and 6.16 of the Policy);
- Reference in paragraph 2.8 to the introduction of the Council Tax Discretionary Relief Policy to reduce council tax liability; and
- Circumstances under which direct payments are made to landlords for rent arrears (see paragraph 6.23 of the Policy).

### **2017/18 YEAR TO DATE ANALYSIS**

The DWP grant to the Council for DHP in 2017/18 was £162,656. Spending above this amount would be permitted but would have to be funded by the Council.

A combination of fluctuating demand and revised DWP guidance is making it increasingly difficult to achieve an appropriate balance between spending the entire DWP funding available for DHP and ensuring that there is no substantial overspend for which the Council currently has no budget provision.

The main factors to note during the current financial year's administration of DHP are:-

- There was a reduction in the effects of the Spare Room Subsidy (SRS) (bedroom tax). 38% of all cases related to SRS in comparison with 58% for the previous year;
- Local Housing Allowance restrictions in the private sector due to welfare reform account for 38% of cases awarded, but in value amount to 47% of payments made, reflecting the emerging gap between actual rents paid and what is paid in Housing Benefit due to the freeze in the local housing allowance rates for the private sector;
- The demand for 'one off' costs such as rent deposits, removal costs and rent in advance is consistent. For 2017/18, these applications accounted for 14.9% of all DHP applications. This compares with 12.7% in 2016/17 and 15.7% for 2015/16;
- 48% of all applications were from claimants actively seeking work. This compares with 35% for 2016/17;
- There was an increase in the number of claims awarded due to the Benefit Cap.

At 28 February 2018, overall expenditure on DHP (spent and committed) amounted to £133,586 (82% of available funding), this leaves a sum of £29,070 to be spent over the remainder of the current financial year. Projections indicate that expenditure will be below the DWP's grant allocation for the year.

DHP applications up to 28th February amounted to 556, of which:-

- 45% were approved for payment (62% in 2016/17);
- 54% were refused (38% in 2016/17).

The tables below show how Welfare Reform has impacted on DHP expenditure and for what purpose DHP was requested (this data is collected for, and requested by, the DWP) :-

**Table 1 – Impact of Welfare Reform**

| <b>Reason for Payment</b>   | <b>No. Awards</b> | <b>Expenditure</b> |
|---|-------------------|--------------------|
| Imposition of Benefit Cap under Welfare Reform  | 33                | £15,971            |
| Introduction of Social Size Criteria (Bedroom Tax) due to Welfare Reform in Social Housing Sector | 213               | £36,330            |
| Local Housing Allowance restrictions in the Private Sector due to Welfare Reform                  | 214               | £62,509            |
| Payments made not due to Welfare Reform   | 96                | £18,776            |
| <b>TOTAL</b>  | <b>556</b>        | <b>£133,586</b>    |

**Table 2 – Purpose of DHP award**

| <b>Purpose of DHP Award</b>  | <b>No. Awards</b> |
|--|-------------------|
| To help secure & move to alternate accommodation i.e. rent deposit                                     | 83                |
| To help with short term rental costs while the claimant secures and moves to alternative accommodation | 41                |
| To help with short-term rental costs while the claimant seeks employment                               | 270               |
| To help with on-going rental costs for foster carer  | 0                 |
| To help with on-going rental costs for disabled person in adapted accommodation                        | 8                 |
| To help with on-going rental costs (this covers any other relevant purpose)                            | 154               |
| <b>TOTAL</b>   | <b>556</b>        |

Despite the fact that making a further award of DHP will be conditional on the applicants making every effort to improve their financial situation by seeking cheaper accommodation, reducing living costs or finding work, 33% of all DHP applications in the current year were for repeat awards. This compares with 25% for 2016/17.

Overall, 41% of the repeat applications were successful in comparison with 46% for 2016/17 . Of those applying: -

- 23% were applying for a second period of DHP;
- 8% were applying for a third period of DHP;
- 8% were applying for a fourth period of DHP;
- 1% were applying for a 5th, 6th or 7th period of DHP.

In total, only 20 applicants requested that the refusal to award them DHP should be reconsidered by a second, more senior, officer. During the current year, no requests for a formal appeal to the Council's Appeals Panel were received.

|   |  |                  |
|---|--|------------------|
| <b>B - What other options did you consider and why did you reject them and/or opt for this option?</b>  |  |                  |
| <p>The Executive's intention, for a number of years, has been for DHP spend to be at, or near, the DWP grant awarded. For 2016 /17, the full DHP was spent (with a further £20k being met by local taxpayers), indicating that the current policy has met this objective. As it appears that there will be an under-spend on the budget this year, it is a timely period to review the policy to utilise the full budget to support the residents of the Island. Not reviewing and amending the policy could result in questions being asked about how the Council uses its DWP allocation. It is not expected that the policy changes will result in expenditure being above the DWP grant .</p> |  |                  |
| <b>C - Why is this a decision for the Executive?</b>  |  |                  |
| <p>The welfare reform measures introduced in April 2013 has resulted in a significant increase in demand for DHP. Due to the uncertainty as to the extent and effect of the changes, the DHP policy was updated and amended by the Executive to take account of operational experience in each of the past four financial years. Changes in legislation and the pattern of applications and awards have necessitated further revisions to the policy.</p>   |  |                  |
| <b>CH - Is this decision consistent with policy approved by the full Council?</b>   |  |                  |
| <p>Is consistent with the Council Plan 2017 – 2022 and contributes to Objectives 1 and 2 of the Plan.</p>   |  |                  |
| <b>D - Is this decision within the budget approved by the Council?</b>  |  |                  |
| <p>There is no specific budget for DHP expenditure above the level of the DWP grant. As was the case in previous years, the intention is to ensure that overall expenditure on the scheme is at, or near, the DWP grant award (for 2017/18 was £162,656). The DWP award for the Isle of Anglesey for 2018/19 is £153,308.</p>   |  |                  |
| <b>DD - Who did you consult?</b>  |  |                  |
| <b>What did they say?</b>   |  |                  |
| <b>1</b>  | <b>Chief Executive / Strategic Leadership Team (SLT) (mandatory)</b> | No comment       |
| <b>2</b>  | <b>Finance / Section 151 (mandatory)</b>                             | Author of Report |
| <b>3</b>  | <b>Legal / Monitoring Officer (mandatory)</b>                        | No comment       |
| <b>4</b>  | <b>Human Resources (HR)</b>  |                  |
| <b>5</b>  | <b>Property</b>  |                  |
| <b>6</b>  | <b>Information Communication Technology (ICT)</b>                    |                  |
| <b>7</b>  | <b>Scrutiny</b>  |                  |
| <b>8</b>  | <b>Local Members</b>   |                  |
| <b>9</b>  | <b>Any external bodies / other/s</b>                                 |                  |
| <b>E - Risks and any mitigation (if relevant)</b>   |  |                  |
| <b>1</b>  | <b>Economic</b>  |                  |
| <b>2</b>  | <b>Anti-poverty</b>  |                  |
| <b>3</b>  | <b>Crime and Disorder</b>  |                  |
| <b>4</b>  | <b>Environmental</b>   |                  |

|   |                           |   |
|---|---------------------------|---|
| 5 | <b>Equalities</b>         | <p>The Service undertook an Initial Impact Assessment of its proposed DHP Scheme. The Initial Impact Assessment identifies the groups likely to get assistance under the DHP Policy based on the DWP's own Impact Assessments regarding the groups affected by the UK Government's welfare reforms.</p> <p>The initial consultation and impact assessment assists the Council in satisfying the public sector equality duty in the Equality Act and are available from the Revenues and Benefits Section, Resources Function.</p> |
| 6 | <b>Outcome Agreements</b> |   |
| 7 | <b>Other</b>              |   |

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|---|
| <b>F - Appendices:</b>  |
| Appendix A – Discretionary Housing Payment Policy 2018/19 and subsequent years.   |
| <b>FF - Background papers (please contact the author of the Report for any further information):</b>  |
| <ul style="list-style-type: none"> <li>• DWP's Discretionary Housing Payments Guidance Manual (including Local Authority Good Practice Guide) December 2016;</li> <li>• Resources Function (Revenues and Benefits) Initial Impact Assessment, Outcome Report and Action Plan – October 2012.</li> </ul> |



## DISCRETIONARY HOUSING PAYMENTS POLICY 2018/2019 (and subsequent years)

| Date          | Version | Name             |
|---------------|---------|------------------|
| January 2014  | 1.0     | Kevin Spice      |
| August 2015   | 1.1     | Kevin Spice      |
| January 2016  | 1.2     | Kevin Spice      |
| February 2017 | 1.3     | Russell Williams |
| February 2018 | 1.4     | Russell Williams |

## 1. BACKGROUND

- 1.1 The Discretionary Housing Payment (DHP) scheme is intended to provide customers in receipt of Housing Benefit or the Housing Element of Universal Credit with '*further financial assistance*' with their housing costs, where the Local Authority (LA) considers that such help is necessary.
- 1.2 Regulations covering payment of DHP are The Discretionary Financial Assistance Regulations 2000. Whilst the regulations give LAs very broad discretion as to how they administer the scheme, decisions must be made in accordance with good principles of administrative decision making. In determining whether to make an award, the LA must always act fairly, reasonably and consistently.
- 1.3 All DHP awards must be made within the overall cash limits as determined by the Department for Work and Pensions (DWP). The DWP will award the LA an annual sum (*Government Contribution*) towards the administration of the scheme. LAs can top up the Government Contribution by an additional 150% (*permitted total*) if they so wish. Any awards in excess of the permitted total would be illegal.
- 1.4 The amount of money remaining in the DHP 'pot' should not be a factor in the decision making process; each decision must be made on its own merits, regardless of whether an award will be funded by the Government Contribution element or the LA contribution element of the overall Permitted Total. Decision making must be fair, transparent and consistent throughout the year.
- 1.5 DHP awards will always be tenure neutral. Applications will be treated equally regardless of whether they relate to private or social sector tenants. The prime determinant for making an award will always be the individual circumstances of the applicant.
- 1.6 Unspent DHP funds must be returned to DWP at the end of the financial year.
- 1.7 The implementation of Universal Credit will progress in Anglesey from June 2018. Currently there are delays in Universal Credit being awarded, therefore, for information purposes it is noted that an award of Discretionary Housing Payment can only be made once entitlement to the Housing costs element of Universal Credit (or Housing Benefit) has been established.

## 2. WHAT CAN DHP BE USED FOR?

- 2.1 Housing costs are not defined in the regulations, so this gives LAs a broad discretion to interpret the term. In addition to rental liability, housing costs may also be interpreted to include:-
  - Rent in advance;
  - Deposits;
  - Lump sum costs associated with housing needs, such as removal costs;
  - In certain situations payment towards Rent Arrears. This will not apply where the claimants were receiving enough Housing Benefit / Universal Credit Housing Costs to pay all their rent at the time (see 2.9 for further details).

As long as they have been used for the purpose intended, there will be no requirement for 'lump sum' payments to be repaid by the recipient.

**2.2** Specific circumstances where DHP may be relevant will include:-

- Reductions in Housing Benefit (HB) or Universal Credit (UC) where the benefit cap has been applied;
- Reductions in HB or UC for under-occupation in the social rented sector;
- Reductions in HB or UC as a result of Local Housing Allowance (LHA) restrictions;
- Rent shortfalls to prevent a household becoming homeless whilst the Authority's Housing Service explores alternative options;
- Rent Officer restrictions, such as Local Reference Rent or shared room rate;
- Non dependant deductions;
- Claimants affected by the removal of the Spare Room Subsidy ("bedroom tax") who foster children;
- Claimants with specific medical issues that may result in them incurring additional expenditure or needing additional accommodation;
- Reduction of entitlement due to the effect of income tapers;
- Provision of lump sum payments in respect of 'one off' costs such as deposits, rent in advance or removal costs. When considering DHP awards for these costs, the assessing officer should be satisfied that the new property is affordable and suitable for the tenant's needs and that there is a valid reason for the move;
- Where rent can no longer be afforded due to a relevant change of circumstance which is beyond the control of the applicant, e.g. loss of employment;
- Where a claimant has taken on the tenancy at a new property but has not yet moved in and remains in receipt of Housing Benefit. The reasons why the claimant has not yet moved in will be considered to establish if this is reasonable. Conclusion will be made if they could have moved in at the onset of the tenancy;
- To prevent a household becoming homeless whilst the Housing Options team explores housing alternatives.

**2.3** DHPs are intended as a safety net for those experiencing difficulty in meeting their housing costs. The scheme should not be seen as a means of allowing applicants to maintain a certain level of lifestyle that they may have become accustomed to. To this end, the assessing officer may choose to reduce or refuse DHP where the applicant is clearly not prepared to make reasonable compromises with regards to their expenditure and lifestyle.

**2.4** When assessing DHP, applicants must complete a financial statement listing all household income and expenditure. Income from all sources will be taken into consideration, regardless of whether they are normally disregarded in mainstream welfare benefits means testing. If it is noted that recovery of Housing Benefit overpayment is in place, then consideration will be given to whether the reduction rate can be reduced.

**2.5** DHP awards are normally a short term measure intended to allow the applicant sufficient time to:-

- Seek cheaper alternative accommodation (will not apply to tenants in social housing);



- Negotiate a lower rent with their landlord (will not apply to tenants in social housing);
- Seek employment;
- Modify their household expenditure.

DHP should not be viewed as an indefinite top up of shortfalls in rent; awards will normally be made for a period of 26 weeks. Second or subsequent awards will only be made where the applicant can show that they have made every effort to improve their financial situation and that any failure to do so has been for reasons beyond their control.

However, in some circumstances, the applicant's circumstances may require a longer term or indefinite award of DHP. In such circumstances, the award will be reviewed on a periodic basis in order to ensure that there has been no change in circumstances that would affect the award.

- 2.6** One area of difficulty in assessing eligibility for DHP may arise with regards to applicants with alcohol and/or substance abuse problems. The individuals concerned may lead chaotic lifestyles that result in poor decision making. This may include expenditure on items that would, to most people, appear to be unreasonable. However, this should not necessarily preclude making a DHP award.

The main criteria in making a decision in such cases will be to determine whether the applicant is receiving appropriate help to deal with their problems. If they are being supported on a formal programme delivered by an official service provider, it **may** be relevant to consider making an award of DHP. Awards in these circumstances should be supported by documentary evidence from the organisation working with the applicant.

Furthermore, the proportion of household income devoted to these items will also be a relevant factor in the decision making process.

- 2.7** DHP assessment officers must always take account of individual circumstances when assessing the reasonableness of household expenditure. For example, some medical conditions or disabilities may require high levels of expenditure on some items; this should not necessarily preclude making an award. However, where such situations apply, the assessing officer may require the applicant to provide documentary evidence in support of the stated expenditure.

- 2.8** Following the abolition of Council Tax Benefits in 2013, **DHP can no longer be made towards Council Tax Liability.** Discretionary reductions in Council Tax liability can be made under the Local Government Finance Act 1992 Section 13A (1)(C) and the full Council has adopted, on 28 February 2018, a Council Tax Discretionary Relief policy to consider requests for discretionary reductions in council tax liability.

- 2.9** Payment towards Rent Arrears will only be considered where :-

- A breakdown of rent arrears is provided to establish when the rent account fell into arrears and the reason why there is rent arrears;
- A statement is provided to say for what period the request for payment towards the arrears is to be considered;
- The claimant is living at the property where the rent arrears is outstanding;

- The claimant must be able to provide proof of an offer of smaller more affordable accommodation;
- Payment of DHP would assist with moving to more affordable and sustainable accommodation where previously the rent arrears was a barrier to this;
- Details of the property that is more suitable and sustainable is provided by its landlord together with a statement confirming that the claimant is to be considered for this property;
- The DHP Officer will conclude if the new tenancy is affordable and only consider payment in cases where affordability is established.

A payment of DHP towards Rent Arrears will usually be paid direct to the landlord. If the claimant was already in receipt of DHP towards a rent shortfall, then the award will be reviewed in considering the new financial situation. This will be considered to conclude if the tenancy is affordable or not, which is a basis for determining DHP awards. Any subsequent awards for the same reason will not usually be made.

### 3. CRITERIA FOR MAKING DHP AWARD

3.1 Before making an award, LAs must be satisfied that the claimant is entitled to:-

- HB; **or**
- Universal Credit containing a housing costs element; **and**
- Has a rental liability; **and**
- Requires further financial assistance with housing costs.

Since the introduction of Universal Credit, LAs must consider DHP claims from customers who are not receiving HB. Where a customer in receipt of UC makes a claim for DHP, the assessing officer should ensure that:-

- The UC award does include a housing costs element; **and**
- The amount of DHP awarded does not exceed the claimant's weekly eligible rent; **and**
- The value of the 'housing costs' included in the UC award is established.

### 4. WHAT DHP CANNOT COVER

4.1 Certain elements of a claimant's rent cannot be included as housing costs for DHP because the regulations specifically exclude them. Excluded elements include:-

- Ineligible service charges;
- Increases in rent due to outstanding rent arrears;
- Certain sanctions and reductions in benefit.

4.2 In addition to the above, DHP will not be paid in respect of shortfalls resulting from:-

- A claimant choosing to lead an unreasonably lavish lifestyle which is clearly beyond their means (determining lifestyle may require a home visit);
- Repayment of certain welfare benefits overpayments and fines (see also 6.13).

## 5. THE APPLICATION PROCESS

- 5.1 Regulations require that there must be a claim for DHP before the LA can consider making an award.
- 5.2 The LA will actively promote the DHP scheme with internal and external partners as well as with HB/UC claimants. The Council's DHP policy will be made available online and in hard copy form. Internal and external stakeholders will also be provided with hard copies of the policy. Where staff identify situations where DHP may be relevant, they should always invite the customer or their representative to make an application.
- 5.3 Applications must be made in writing and may be received by the Revenues and Benefits Section or any department within the LA acting on their behalf. Where an application is made to a department other than the Revenues and Benefits Section, it will be passed to them for determination.
- 5.4 Applications for DHP should be accompanied by a statement of the applicant's income and expenditure in order to determine if they are suffering financial hardship. If requested, the claimant may also be required to provide documentary evidence in support of stated expenditure. Applicants for 'one off' payments may be required to provide bank statements in support of their application for DHP.
- 5.5 Where the DHP application relates to removal costs, the applicant will provide two quotes for the cost of the move.
- 5.6 DHP applications will normally be made by the person entitled to HB or UC. However, claims can also be accepted from third parties such as appointees or advocates acting on behalf of the claimant if they are vulnerable.

## 6. THE DECISION MAKING PROCESS

- 6.1 Each application for DHP should be considered on its own merits. Decisions should be fair and consistent throughout the year. The amount of funding available in the DHP 'pot' should not be a consideration in the decision making process.
- 6.2 When calculating DHP entitlement, welfare benefits and allowances that are normally disregarded during means testing **will** be treated as income for DHP purposes. The only exception will be the Mobility Component of Disability Living Allowance (DLA) if the claimant is using the allowance to pay for a vehicle under the Motability scheme. Whilst DLA and Personal Independence Payment (PIP) will be classed as income, the assessing officer should also ensure that any additional household expenditure attributable to the claimant's illness or disability is also taken into account when determining the application.
- 6.3 Where the applicant can show that benefits/allowances have been used for the specific purposes that they were intended, for example, additional expenditure required because of a disability or medical condition, the assessing officer can choose to disregard them as income when assessing DHP entitlement.
- 6.4 On occasion, the assessing officer may ask for a Revenues and Benefits Visiting Officer to call at the home of the applicant in order to obtain a clearer view of the applicant's circumstances and living conditions.

- 6.5** Should the assessing officer determine that an applicant's stated expenditure on certain items is **unreasonably** excessive, they have discretion to disregard part or all of that expenditure in the financial assessment. In determining this, an explanation of the decision must be given. Similarly, where the officer deems that the applicant is clearly living beyond their means in an unreasonable manner, they may choose to disregard such expenditure from the calculation. Again, an explanation of this must be given.
- 6.6** In some instances, an applicant will provide expenditure profiles that are clearly unrealistically low or do not include expenditure that would normally be present in any household. In such cases, the assessing officer should consider increasing the expenditure profile by an appropriate notional amount in order to ensure that the applicant is not unduly disadvantaged during the DHP assessment process.
- 6.7** The assessing officer should avail themselves of all relevant information relating to the application before reaching a decision. To this end, if a home visit is not conducted, every effort should be made to interview the applicant, either in person or by telephone, in order to obtain a more accurate picture of their circumstances.
- 6.8** DHPs are not intended as a long term solution to rent shortfalls. Consequently, 26 week awards of DHP will not normally be renewed unless there are exceptional circumstances.
- 6.9** When assessing entitlement to DHP, account must be taken of the affordability of the tenancy. In some instances, it will be clear that the applicant's financial circumstances are completely unsustainable; an award of DHP would have no impact on the claimant's ability to remain in their home regardless of any compromises that they may make. In such circumstances, the application **may** be refused on the grounds that it does not represent the best use of limited funding. Alternately, an initial award may be made in order to allow the applicant 'breathing space' to make alternative accommodation arrangements. However, repeat awards in such circumstances will be unlikely.
- 6.10** Non-dependant charges will normally be treated as part of household income. However, the assessing officer **may**, in certain circumstances, choose to disregard the non-dependant charge as income. As a general rule, where the charge relates to a non-dependant who is employed, it should always be treated as income. However, where the charge relates to someone in receipt of welfare benefits, the assessing officer **may** choose to disregard it as income if they believe that there is no reasonable prospect that the non-dependant will contribute towards household costs **and** that the failure to do so will result in financial hardship to the DHP applicant.
- 6.11** DHPs are not intended to be an indefinite top up of a shortfall in rent. Consequently, assessing eligibility for second, or subsequent, awards at the same address will require additional factors to be considered to those applied to an initial application. The assessing officer must consider whether the applicant has made all reasonable efforts to improve their circumstances since the initial DHP award. Factors to consider will include:-
- Efforts to reduce household expenditure – has household expenditure reduced since the original DHP award was made? If expenditure has not reduced, is there a valid reason?;

- Efforts to re-negotiate the contract rent. Has the tenant given permission for the Council to approach their landlord? (will not apply to social housing tenants);
- Efforts to downsize if they are over accommodated social housing tenants. For example:-
  - Have they asked their social landlord for a transfer to a smaller property?;
  - Are they on the housing provider's transfer list?;
  - If there is no alternative available in the social sector, could they consider moving to the private rented sector?

Assessing this element of repeat applications will be a subjective matter; each case must be considered on its own merits. Where it is accepted that the applicant has made every reasonable effort to improve their situation, **or** the circumstances preventing them from doing so were beyond their control, it may be appropriate to make a further award. However, where it is clear that the applicant has made no effort to improve their circumstances, a further award will not normally be appropriate.

- 6.12** There will be some cases where the applicant's circumstances are such that it would be neither reasonable nor feasible for the DHP applicant to move home, find work or reduce their household expenditure, for example, someone with disabilities living in a property adapted for their needs. In such cases, a longer term or an indefinite award may be appropriate. Awards of 12 months should be made and reviewed annually in order to determine whether there has been a change of circumstance that would preclude extending DHP for a further period.
- 6.13** Expenditure on court fines or welfare benefit overpayments will not be considered in the financial calculation; DHP cannot be seen to be paying off such liabilities. An exception to this rule applies for Child Tax Credit and Working Tax Credit. Where recovery of previous years Child Tax Credit and Working Tax Credit overpayment is being recovered from current award, then the net payment of Tax Credit is treated as income. This is in line with the Housing Benefit rules. Payment of arrears of TV license is not classed as a fine for this purpose.
- 6.14** The question of whether or not to accept expenditure relating to the servicing of debts in the DHP calculation will often be a contentious one. Whilst the repayment of outstanding debts will clearly place additional financial pressure on many households, DHP should not be viewed as a means of paying off such debts. DHP assessing officers will need to consider the amount of the debt outstanding as well as how and when it was incurred before making their determination. Factors to be considered with regards to expenditure on the servicing of debt will include:-
- Has the claimant sought to re-negotiate non-priority debts? e.g. credit card agreements;
  - Have they sought professional advice on how to clear their debts or reduce repayments?
  - Could the claimant afford to service the debt before they began claiming benefits?
  - Have the debts been incurred as a result of irresponsible borrowing/expenditure whilst in receipt of welfare benefits?
  - The level of debt outstanding and the proportion of household income allocated to servicing the debt.

- 6.15** In cases where the applicant is at risk of becoming homeless, Revenues and Benefits staff should liaise with the Housing Options Team in order to determine whether there may be another course of action or alternative source of funding that may be more relevant than DHP.
- 6.16** Where the applicant is in imminent danger of eviction, the DHP application should be 'fast tracked'. Fast tracking will only be considered when the request is from an official body such as CAB, Housing Department and Social Services etc. Where fast tracking is appropriate, the matter should be fully resolved within three working days.
- 6.17** If all supporting information is not present when fast tracking is deemed necessary, DHP should be awarded for a period of one month pending receipt of the required supporting evidence. The applicant should be told that the award is an interim one and that there is no guarantee that DHP will continue once all required information is received.
- 6.18** If, following receipt of all information, it transpires that DHP would not have been awarded, any fast track payment already made should not be recovered.
- 6.19** Where a DHP application is made due to a shortfall between Housing Benefit and contract rent, every effort should be made to establish whether there is any prospect of the landlord agreeing to reduce the contract rent (this can only be done with the permission of the claimant). The DHP application will proceed as normal; however, if the negotiation of a rent reduction has been successful, the rate of DHP awarded will be reduced or extinguished as appropriate.
- 6.20** Where the DHP application is for help with a shortfall in private sector rent, the applicant should be asked to give their consent to allow the Council to contact the landlord to see if there is scope for negotiating a rent reduction. Where consent is refused, the applicant should be informed that failure to give consent without good cause may result in their application for DHP being refused.
- 6.21** In some instances, it may be necessary to discuss the DHP application with other departments or agencies before making a final determination on the matter. In such instances, the approval of the claimant to share information should always be obtained.
- 6.22** The length of the award will be determined by the person dealing with the claim. Normally, awards will be for a period of 26 weeks; however, in some circumstances, an open ended award may be relevant. Where an award is indefinite, it should be reviewed annually to ensure that there has been no material change in circumstances. A change in the DHP recipient's circumstances during the award period may lead to the reduction or termination of the award.
- 6.23** Payment will normally be made to the claimant; however, in some instances, payment to a third party may be appropriate:-
- Landlord in the case of rent in advance, deposit or payments towards rent arrears;
  - Landlord if the claimant is considered vulnerable and is already having HB payments made to the landlord;
  - Removal company for removal expenses;
  - By way of a credit on the rent account in respect of Rent Rebate shortfalls;
  - Landlord where there is already rent arrears equivalent to 8 weeks or more.

**6.24** Under Universal Credit, the default method of payment will always be direct to the claimant. This will also apply to the 'housing allowance' element of UC award. However, payment to the landlord may be made if the claimant meets the relevant vulnerability criteria relating to Alternative Payment Arrangements. This provision applies to both private sector and social tenants. DHP applicants in receipt of UC will need to specify to who the 'housing allowance' element of UC payments are made.

**6.25** DHP applications should be considered in the light of the applicant's current circumstances as well as their previous history. Factors to consider will include:-

- Have they received returned deposits from their previous tenancy?;
- Was the applicant able to afford the rent liability when they first moved into the property?;
- Do they frequently move to properties with unreasonably high rent?;
- Do they have a history of renting properties larger than they need?;
- Is the applicant or their partner expecting a child and is moving to a larger property in anticipation of the need for an additional bedroom?;
- Do they have any medical or family circumstances that would warrant payment of DHP?;
- Has the applicant demonstrated that they have made reasonable efforts to find cheaper alternative accommodation?;
- Are there any exceptional or unforeseen circumstances that would warrant the award of DHP?;
- Whether anyone in the household will be reaching a 'critical age'. For example, a child reaching an age where they qualify for the sole use of an additional bedroom; or a working age individual in a social tenancy becoming pensionable age.

**6.26** In some instances, DHP awards may be conditional on the applicant agreeing to a course of action that may help alleviate their financial problems. The applicant cannot be compelled to undertake the suggested action. However, they should be informed that failure to agree to any suggested actions may lead to applications being refused despite there being a financial case for an award. Such circumstances may include:-

- Failure to accept a referral for help/advice to either internal or external stakeholders with regards to financial capability, budgeting, debt management etc.;
- Failure to give authority for the Council to contact their landlord to try and negotiate rent reduction.

Conditional DHP awards will be subjective and, potentially, contentious in nature; care should always be taken to ensure that any conditional actions placed upon the applicant are fair and reasonable and do not place unrealistic expectations upon them.

**6.27** With regards to lump sum payments, there will be no need to establish entitlement to HB/housing cost element of UC at the address for which the application is received. As long as the applicant was in receipt of HB/UC at their previous address (even if the property was outside the LA boundary), DHP may be paid. Checks should be carried out to establish whether or not the LA where the applicant previously resided have already paid DHP in respect of the move.

**6.28** When considering an application for a deposit, rent in advance or removal costs, the following should be considered:-

- Is there a valid reason for the applicant to move home? Applications for one-off costs may be for substantial amounts of money, especially if the applicant is applying for deposit, rent in advance and removal costs. Before applications can be considered, the assessing officer should be satisfied that there is a justification for the move. Reasons for moving may include:-
  - Medical reasons e.g. needing a property with no stairs;
  - Over accommodation or overcrowding;
  - Fleeing domestic violence;
  - Eviction from previous tenancy.

One-off DHP payments should not be used to cover the costs involved where the applicant simply wishes to move to another property without valid justification.

- Will the new property be affordable? DHP should only be considered when the new property is affordable and suitable for the claimant's needs;
- Is there a rent deposit due to be returned from the previous tenancy?;
- If there is an application for removal costs, was the applicant's previous address furnished or unfurnished? If it was furnished, is there a need for a full removal service?;
- Does the applicant have anyone who can help with the costs or removal?

If the DHP award does not fully meet the cost of the claim, it may be appropriate to refer the applicant to the Discretionary Assistance Fund for additional help by means of an Emergency Assistance Payment. Where such referrals are made, it is important to make the applicant aware that there is no guarantee that the application will be successful.

**6.29** If the application for deposit/rent in advance/moving costs is for a property outside Anglesey, payment can still be made if the claimant is currently entitled to HB or UC within the area.

**6.30** In certain circumstances, payment of DHP on two homes may be appropriate e.g. someone fleeing domestic violence.

**6.31** Backdated awards can be considered, however, backdated DHP cannot be awarded in respect of a period before 2<sup>nd</sup> July 2001. Any application for backdating must show continuous good cause.

## **7. TIMESCALES**

**7.1** DHPs are requested because the applicant is suffering hardship as a result of experiencing difficulty in meeting their housing costs. Consequently, it is essential that applications are dealt with as quickly as possible. Unless exceptional circumstances prevent it, all DHP applications should be determined within one month of receipt.

**7.2** Where the officer administering the DHP application deems a home visit to be appropriate, this should be undertaken as soon as is practicable so as not to create unnecessary delay to the determination process.



**7.3** A home visit may not be required if all supporting evidence of income and expenditure is present with the DHP application **and** there is no indication of unreasonable expenditure or that the applicant is living beyond their means in an unreasonable manner.

## **8. THE AMOUNT OF DHP**

**8.1** The amount and length of an award will vary depending on individual circumstances. It may take the form of a 'one-off' payment or regular periodic payments. In some cases, an indefinite award may be appropriate. Where such an award is made, it should be reviewed on an annual basis in order to ensure that there has been no change in circumstances that may be relevant to the award.

**8.2** The level of award may cover all or part of a shortfall in rent or assist with the costs of taking up a tenancy. However, awards must not exceed the amount of the claimant's eligible rent (this will not apply in the case of 'one-off' payments such as deposits, rent in advance or removal costs).

**8.3** Where 'one-off' payments for rent in advance or rent deposits are made, the applicant should be made aware that the award must be used for the purpose stated. Failure to use the award for the stated purpose may result in the sum having to be repaid by the claimant.

## **9. APPEALS**

**9.1** DHPs are not part of the HB scheme and are, therefore, not subject to normal appeal rights. However, the interests of natural justice dictate that there should be recourse to a formal review process where the applicant disagrees with the LA determination.

**9.2** Where the applicant disagrees with the decision not to award DHP, or the amount or length of award, they can request that the decision be reconsidered. The reconsideration will be undertaken by a different officer at a more senior level.

**9.3** Should the applicant disagree with the reviewing officer's determination, they can request that the matter be referred to a panel of the Council's elected Members for a final determination on the matter.

**9.4** When considering their decision, elected Members should ensure that their decision is made in accordance with the Council's DHP policy and be mindful of the fact that any award must not result in the Council's 'permitted total' being exceeded.

**9.5** Should the applicant disagree with the decision of the Council's Appeals Panel, the only recourse to further review will be to the Local Government Ombudsman service if they feel that the matter has been mishandled, or Judicial Review if they believe that the decision was incorrect in law.

## **10. NOTIFICATIONS**

**10.1** Following determination of an application for DHP, the applicant must be notified of the outcome in writing. Notification letters must be sufficiently detailed so as to enable the applicant to put forward an appeal should they disagree with the decision. Notifications will include the following:-

- The amount of award;
- Whether the award is to be paid as a lump sum or over a period;
- The period of the award, including the date of termination, if relevant;
- The method of payment;
- To whom the payment is to be made;
- Where the award is for less than the amount of shortfall, an explanation of how and why the figure was determined;
- Explain that the award is intended to:-
  - Allow the applicant time to seek cheaper alternative accommodation;
  - Allow the applicant time to negotiate a lower rent with the landlord;
  - Help alleviate short/medium term financial hardship;
- Explain that awards made on the grounds of error, misrepresentation or a failure to declare material facts may be recovered;
- Explain that the applicant is required to notify the HB Section if their financial circumstances change during the period of DHP award. Failure to notify changes may result in recovery of the DHP;
- An explanation of the appeals process.

**10.2** Where the award is for a deposit, it should include information about the landlord's legal obligations to protect the deposit in a government approved tenancy deposit protection scheme.

**10.3** Where DHP has been refused, the notification must give sufficient information to allow the applicant to decide whether to request that the matter be reconsidered or to lodge an appeal. The notification should clearly state the reasons for the decision and the factors taken into account when reaching that decision.

**10.4** The notification should also clearly distinguish that appeal rights relating to the determination for DHP are separate from the appeal rights relating to HB and UC.

**10.5** Where DHP is paid with HB, notifications must clearly show how much is HB and how much is DHP.

**10.6** When a DHP award period is due to end, the claimant will be notified of the fact one month before the award is terminated. They will also be sent an application form for a repeat award. However, it should be made clear that there is no guarantee that a repeat application will be successful, even if the claimant's circumstances remain unchanged.

**10.7** Where the applicant has given their permission for the landlord to be made aware of the outcome of the DHP application, the Authority will notify the landlord of both successful **and** unsuccessful outcomes.

## **11. PAYMENT CYCLES**

**11.1** Payment cycles will vary depending on the circumstances of the applicant and the reason for the award. Where a 'one-off' payment is awarded, the notification should make that fact clear to the claimant.

**11.2** Periodic payments will normally be made on a four weekly basis; however, weekly payments may be relevant should the claimant indicate that they have problems with money management/budgeting.

**11.3** Where a claimant is in receipt of UC, the payment cycles will need to align with the monthly payment of UC.

## **12. OVERPAYMENTS AND RECOVERY**

**12.1** Where an award of DHP has been made as a result of an error, misrepresentation or failure to disclose a material fact, fraudulently or otherwise, any resulting overpayment may be recovered.

**12.2** Overpaid DHP awards cannot be recovered from other prescribed benefits. The only method of recovery is to request repayment of the debt from the claimant. This may be via the Council's sundry debtor system, debt collecting agencies or the courts.

**12.3** There is no requirement for DHP awards in respect of rent deposits to be repaid so long as the award has been used for the purpose stated.

**12.4** DHP awards made 'on account' under the fast track process should not be recovered.

## **13. RECORD KEEPING**

**13.1** Department for Work and Pensions are required to monitor how DHPs are being used by customers affected by welfare reform. Consequently, Local Authorities are required to record the main reasons for making awards. Each DHP award should be recorded under the following categories:-

- To support customers affected by the benefit cap;
- To support customers affected by the social rented sector size criteria;
- To support customers affected by LHA reforms;
- Any other reason.