

# **DISCRETIONARY HOUSING PAYMENTS POLICY AND ADMINISTRATION PROCEDURE**

## **INTRODUCTION**

The purpose of this procedure is to provide the general policy intention in the way South Oxfordshire District Council and Vale of White Horse District Council wishes to use Discretionary Housing Payments and detailed information and practices to process applications for Discretionary Housing Payments in accordance with The Discretionary Financial Assistance Regulations 2001 (S.I. 2001/1167).

## **DEFINITIONS**

HB	-	Housing Benefit
UC	-	Universal Credit
DHP	-	Discretionary Housing Payments

## **BACKGROUND**

Since 2 July 2001 local authorities are no longer be able to award exceptional circumstance or exceptional hardship payments of Housing Benefit (HB). They have been replaced by Discretionary Housing Payments (DHP) which do not form part of the HB scheme and are free standing payments to be made at the discretion of the local authority to help with housing costs.

There were two separate DHP schemes, one covering shortfalls between rental liability and payment of HB and one covering shortfalls between council tax liability and Council Tax Benefit. Since 1 April 2013, Council Tax Benefit has been abolished and replaced by a local Council Tax Reduction Scheme (CTRS). DHPs may not be used to cover any shortfall between the Council Tax liability and CTRS.

The Welfare Reform Act 2012 introduced a new benefit called Universal Credit (UC), which will gradually replace Housing Benefit for help with housing costs for most people of working age. DHPs can be paid to people who are entitled to an award of UC the calculation of which includes a housing costs element under Schedule 4 of the Universal Credit Regulations 2013.

The main features of the new schemes are that:

- The schemes are purely discretionary. The claimant does not have a statutory right to a payment.
- The amount that can be paid out by the councils in any financial year is cash limited by the Secretary of State for Work and Pensions.
- The administration of the scheme is for the Revenues & Benefits Client Officers to determine (with the exception of reviews).
- A DHP is not a payment of HB or UC.

The claimant must be entitled to HB or the housing element of UC to be able to qualify for DHP. However, payments cannot be made for ineligible service charges, water rates, etc. Payments may only be made between the amount of HB and the eligible rent, or UC and the eligible rent. If a claimant receives full help with their eligible rent, they may not receive a DHP for the period they receive full help. However, the councils may look at an earlier period where the claimant was not receiving full help and make a DHP payment for the difference during that period.

If the claimant's Income Support, Job Seeker's Allowance or UC has been reduced because of sanctions this will not be taken into account when assessing DHP i.e. their gross income will be used. In addition to this, if their benefit has been suspended because of a doubt about entitlement or failure to supply information, a payment of DHP will not be made until the situation has been resolved. A DHP may not be paid to cover deductions from ongoing HB.

The level and duration of DHP are at the councils' discretion; however, the level of benefit plus the DHP must not exceed their eligible rent.

Before DHP can be paid there must be an actual claim. The councils will only accept a claim for a DHP in writing. Only the councils can receive DHP claims, they cannot be made to the Department for Work and Pensions for instance. Normally the claimant should make the claim but in certain circumstances an appointee may make them if the councils permit it.

Every claimant who is entitled to the minimum amount of HB or an award of the housing element of UC and who has a shortfall is entitled to make a claim for DHP.

## **LINKS TO THE COUNCILS' STRATEGIC OBJECTIVES**

The objectives that are relevant to this policy include:

1. Excellent delivery of key services.
2. Effective management of resources.
3. Meeting housing need.

In order to meet these objectives, the Benefit Service strives to ensure each eligible person receives the full amount of HB they are entitled to receive and to give advice on any other help they may qualify for. The Revenues & Benefits Client Officers will consider making a payment of a DHP to claimants who meet the qualifying criteria as specified in this policy. The Revenues & Benefits Client Officers will treat all applications on their individual merits and will seek through the operation of this policy to:

- Alleviate poverty.

- Support vulnerable young people in the transition to adult life.
- Support older people in their homes, particularly those who are physically or mentally frail.
- Encourage South Oxfordshire and Vale of White Horse residents to obtain and sustain employment.
- Help people with physical or mental disabilities to have equality of access to all services.
- Help residents in South Oxfordshire and Vale of White Horse remain in their homes.
- Help those who are trying to help themselves.
- Keep families together.
- Help claimants through personal crises and difficult events.

The above factors should be taken into account when making a decision. They are guides to making a decision on a DHP claim, but if a claimant does come under one or more of the expressed aims above will not automatically result in an award of DHP. The Revenues and Benefit Client Officers must take into account the claimant's circumstances as a whole.

The councils consider that the DHP scheme should be seen as a short term emergency fund. It is not and should not be considered as a way around any current or future entitlement restrictions set out within the HB legislation.

## **CLAIMING A DHP**

The councils will only accept claims for a DHP in writing. In most cases, this will be on the DHP application form (**Appendix 1**), although in certain circumstances this may not be necessary e.g. where a letter has been received with all the details that the claim form asks for. Where a request for a DHP is received, an application form will be posted to the claimant or handed over personally if at the councils' offices.

The councils may request any reasonable evidence in support of an application for DHP. Any such request will usually be made in writing. There are no prescribed time limits for the return of the information, but if it is not supplied within one calendar month, the councils reserve the right to make a decision on the information they have. If the claimant has any difficulty in providing the information and informs the councils, the one month time limit may be extended if appropriate.

In certain circumstances, the claimant may be visited, either to collect more information, or to satisfy itself of the validity of the claim. The councils may

take into account any other available evidence and reserves the right to verify any information or evidence provided by the claimant.

## **PERIOD AND AMOUNT OF AWARD**

In all cases, the councils will decide the length of time for which a DHP will be awarded on the basis of the evidence supplied and the facts known. The shortest period of an award will be one week. No individual award shall exceed 52 weeks.

The start date of any award will be decided on its merits in each case. A claimant may ask for a claim for DHP to be backdated. There is no restriction on the councils in backdating a DHP, subject to the statutory limits and the 52 week period mentioned above.

Subject to the Secretary of State's cash limit, ineligible payments as defined by statute, and the limit placed on paying up to the claimant's eligible rent, the amount of payment will be determined by the councils.

## **METHOD OF PAYMENT**

The councils will decide the most appropriate person to pay, based upon the circumstances of each case. This could include paying:

- The claimant.
- An appointee
- Their landlord or agent.
- Any third party to whom it might be most appropriate to make payment.

The payment will be made for those in receipt of HB by the same method and frequency as their HB payment. For those in receipt of UC, payments will be made by bank transfer 4 weekly. Other payment frequencies may be considered on request.

In exceptional circumstances, it may be made by other methods e.g. a manual cheque.

## **NOTIFICATION**

The councils will inform the claimant of the outcome of their claim for DHP as soon as possible after the decision has been made. Where the claim has been unsuccessful, the letter will explain the reason why it has not succeeded. Where the claim is successful, the letter will include details of:

- The period the award covers.
- The weekly amount of DHP awarded.
- The right of review and how to go about asking for a review.

## **CHANGE OF CIRCUMSTANCES AND OVERPAYMENTS**

An award of DHP may need to be revised where a claimant's circumstances have materially changed. It is required that a claimant informs the Benefit Service of any changes in circumstances in writing. If the change of circumstance has the effect of making the HB or UC award nil, then the end date of the DHP will be the same as the HB or UC.

The council will usually seek to recover any DHP which has been overpaid. This will be in the form of an invoice, accompanied by an overpayment letter which will detail:

- The fact that an overpayment has occurred.
- The amount of the overpayment.
- The period of the overpayment.
- The fact that the Council is going to recover the overpayment and how.
- A right of review.

Should no request for a review be received after 28 days, a debtor invoice will be sent and the overpayment will be subject to the normal debt recovery procedure.

There is no provision in the regulations to recover overpaid DHP from HB or UC.

A claimant may ask for an overpayment not to be recovered and, depending on the circumstances, the council may decide not to recover the overpayment.

## **FRAUD**

The councils are committed to fight against fraud in all its forms. A claimant who tries to fraudulently claim a DHP 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 suspected that such a fraud may have occurred, the matter will be investigated as appropriate and this may lead to criminal proceedings being instigated.

## **REVIEWS**

A claimant may ask for a review of any decision in connection with a claim for DHP. This includes turning down a claim, the amount paid, how and to whom it is paid and the recovery of overpayments. Unlike HB or UC, there is no appeal to an Appeals Service Tribunal. The review process for each council is detailed below.

### South Oxfordshire District Council

DHP requests for reviews at South Oxfordshire District Council will be heard by a tribunal of Councillors on the NNDR Appeals Panel. When a request for review is received for South Oxfordshire District Council, it will first be reconsidered by the Revenues and Benefits Client Manager. If the decision remains unchanged, the Committee Administrator at South Oxfordshire District Council will be contacted to arrange a meeting of the panel.

The claimant will be informed of the date and venue of the meeting and both the panel and the claimant will be sent a copy of the case papers in good time to allow the case to be considered. The claimant will be allowed to attend and put his case forward if he so wishes, or have someone represent him. Witnesses for either the claimant or the council may be called.

The decision of the panel will be final, subject to the usual statutory remedies of Judicial Review for any perceived illegality, irrationality or procedural impropriety concerning the decision and complaints to the Local Government Ombudsman for any perceived failings in the administration of the claimant's claim.

### Vale of White Horse District Council

At the Vale of White Horse District Council, reviews will be considered by the Revenues and Benefits Client Manager, or the Head of Finance in his absence. The Revenues and Benefits Client Manager will review all the relevant paperwork and his decision will be notified in writing to the claimant.

The decision of the Revenues and Benefits Client Manager will be final, subject to the usual statutory remedies of Judicial Review for any perceived illegality, irrationality or procedural impropriety concerning the decision and complaints to the Local Government Ombudsman for any perceived failings in the administration of the claimant's claim.

## **ASSESSMENT PROCEDURE**

Upon receipt of a completed application form, a Revenues and Benefits Client Officer will input the details on the internal DHP form (**Appendix 2**), if it is decided no further information or evidence is necessary. The details to be put in are:

- The period for which the DHP is requested.
- The shortfall between eligible rent.
- The background to the claim.
- A decision whether an award should be made.
- The amount of the award.
- The period of the award.

This award will be made in line with this policy and the decision criteria (**Appendix 3**). A Revenues and Benefits Client Officer will then send a letter to the claimant informing him of his decision, including the details mentioned above in the section entitled notification.

The duly completed form will be sent to the Contractor and the DHP entered onto the Academy computer system if successful. The claimant will be notified in writing of the outcome.

## **REFERENCE DOCUMENTS**

The Discretionary Financial Assistance Regulation 2001 (S.I. 2001/1167)

## **APPENDICES**

1. Discretionary Housing Payments Application Form
2. Discretionary Housing Payments Internal Form
3. Discretionary Housing Payments Criteria