



**Havering**  
LONDON BOROUGH

**Housing Benefit & Universal Credit  
Discretionary Housing Payments Policy**

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## London Borough of Havering

### POLICY FOR THE AWARD OF DISCRETIONARY HOUSING PAYMENTS FROM APRIL 2013

## BACKGROUND

- 1.0 From 2 July 2001, a new scheme was introduced which granted Councils new powers to make Discretionary Housing Payments(DHP) to top up the Housing Benefit and Council Tax Benefits Statutory Schemes. The legislation governing DHP's can be found in The Discretionary Financial Assistance Regulations 2001 (S1 001 / 1167). (DFA Regulations). From 1 April 2013 with the introduction of the local Council Tax Support scheme, DHPs are only available as a top up for HB. Please see the combined Council Tax Discretionary Reduction and Local Council Tax Support Scheme Hardship policies for hardship payments for CTS.
- 1.1 The main features of this scheme are detailed as follows:
  - a claimant does not have a statutory right to a payment
  - the amount that can be paid by an Authority in any financial year is cash-limited by the Secretary of State. As such, within any financial year, applications paid will be on a first come, first served basis subject to meeting the criteria. Should the pot run out, the payment will have to be delayed to the following year.
  - the operation of the scheme is for Council's to determine apart from in a few specific areas.
  - It is completely separate to the Statutory Housing Benefit Scheme apart from the fact that HB must be in payment and the weekly DHP amount awarded must not exceed the maximum HB that could be awarded in the case.
- 1.2 Subsequent amendments to the Discretionary Financial Assistance Regulations ensure the scheme covers the introduction of Universal Credit and the abolition of Council Tax Benefit from April 2013.
- 1.3 In addition, a good practice guide is included at Appendix A advising how DHPs can be used to provide support to customers affected by some of the key welfare reforms, including:
  - the benefit cap
  - removal of the spare room subsidy in social rented sector
  - changes to Local Housing Allowance (LHA) rates, including the 4 year freeze

## THE COUNCIL'S POLICY

### Purpose

- 2.0 The purpose of this policy is to specify how the scheme will be operated by this Council and to indicate the factors that will be considered when deciding if a DHP can be made. The Council has a duty to treat all claimants fairly, reasonably & consistently when administering the scheme.

### Deciding whether to award DHP-

- 2.1 Before you make an award you must be satisfied that the claimant is entitled to :  
Housing Benefit (HB): **or**  
Universal Credit (UC); **and**  
Has a rental liability; **and** requires further financial assistance with housing costs.

### What types of shortfalls can DHPs cover?

2.2 The various types of shortfalls that a DHP can cover include ( but are not limited to:

- reductions in HB or UC where the benefit cap has been applied;
- reductions in HB or UC due to the maximum rent (social sector) size criteria;
- rent officer restrictions such as local reference rent or shared accommodation rate
- reductions in HB or UC as a result of LHA restrictions;
- rent shortfall to prevent a household becoming homeless whilst the housing authority explores alternative options;
- non-dependant deductions;
- income tapers
- any other policy change that limits the amount of HB payable, eg removal of family premium

### **Example**

Harry has to move from his bed-sit in central London as his HB no longer meets his rent.

His only income is from a part-time job with his Net pay amounting to £100 per week. With the assistance of his LA he finds a bed-sit in another borough within the LHA rate with a rent of £101 per week.

He now has bus fares of £20 per week instead of being able to walk to work. This leaves him struggling to pay his rent and meet his day- to-day living expenses.

He discusses his problems with the Citizens Advice Bureau and they suggest he claims a DHP. One of the LAs objectives is to use DHPs to help people maintain their employment and it will consider disregarding fares to work in deciding on the amount of a DHP.

The LA awards a DHP of £13 which is the difference between his HB award and what the award would be if additionally the fares were included in the disregard.

### **What DHPs cannot cover (for further detail see Appendix B)**

2.3 There are certain elements of a customer's rent that cannot be included in housing costs for the purposes of a DHP because the regulations exclude them.

Excluded elements are:

- ineligible service charges
- increases in rent due to outstanding rent arrears
- certain sanctions and reductions in benefit.
- HB that is suspended
- Shortfalls caused by overpayment recovery

2.4 A customer who is receiving local council tax support only, with no rental liability (e.g. an owner occupier) is not eligible to apply for a DHP.

### **The level of a DHP**

3.0 If the purpose of the DHP is to meet a shortfall it is entirely up to the Local Authority how much of the shortfall is met. However, in the case of a shortfall the level of the DHP must not exceed

- the weekly eligible rent in the case of an HB claimant
  - the amount calculated in accordance with Schedule 4 of the UC regulations(i the value stated for housing costs on a UC award notice)
- 3.1 Eligible rent means all the payments specified in Regulation 12(1) of the Housing Benefit Regulations 2006 or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 except those specified in Regulation 12(3)(b)(i) to (iii) of those regulations, ie deductions in respect of certain specified service charges.
- 3.2 Following the introduction of UC, LAs will have to consider claims from customers who are not receiving HB. Customers receiving UC will not receive a specific amount towards housing costs therefore we will decide on the amount of DHP to award, providing it does not exceed the weekly eligible rent.
- 3.3 For lump sum payments such as deposits or rent in advance this limit does not apply subject to having regard to the overall DHP budget.

### **Payment cycles**

- 4.0 The Local Authority decides the frequency of payments. Payments to meet shortfalls can be made at the same frequency as the HB or UC payment.

### **Income and other resources**

- 4.1 The Local authority decides how you treat any income or other resources for the purposes of deciding whether to award a DHP.

For example, we can decide to disregard income from disability related benefits as they are intended to be used to help pay for the extra costs of disability. However, we will also bear in mind that such money might be committed to other liabilities for which the money was intended, such as Motability schemes, provision of care etc.

- 4.2 We will also take account of unavoidable costs that the customer may have such as fares to work. This may include, for example, people who have had to move as a result of changes in the Local Housing Allowance rates and, as a result, are now incurring higher travelling costs.

### **Rent deposits and rent in advance**

- 5.0 DHPs can be made for a rent deposit or rent in advance schemes for a property that the claimant is yet to move into if they are already entitled to HB or UC at their present home.

The Local Authority should be satisfied that:

- the property is affordable for the tenant; **and**
  - the tenant has a valid reason to move; **and**
  - the deposit or rent in advance is reasonable
  -
- 5.1 Using DHPs for this purpose may be particularly appropriate to help existing customers move to alternative accommodation where their award of HB has been restricted following one of the welfare reforms. It may also be appropriate to consider using DHPs for this purpose where the LA rent deposit scheme is limited or exhausted.

- 5.2 The regulations are wide enough to permit this on the basis of a customer's entitlement to one of the eligible benefits at their current home. The regulations do not say that the housing costs to which the DHP relates have to be housing costs relating to the property for which the benefit has been awarded.
- 5.3 Although Regulation 4 of the regulations places a limit on the DHP award so that it does not exceed the weekly eligible rent on the customer's home, the limit only applies where the award is calculated as a weekly sum, for example, to meet a shortfall.
- 5.4 In a case where we are awarding a DHP for rent in advance or a deposit, the weekly limit does not apply as you are awarding a lump sum to meet an immediate housing need.
- 5.5 When awarding a DHP for a deposit, the Local Authority can include information about landlords legal obligations to protect any deposit paid in a Government approved tenancy deposit protection scheme. Compliance with this requirement will help reduce the need for future help with deposits. See link: [Deposit Protection schemes for private tenants](#) for further information.
- 5.6 When making a DHP to assist the customer with securing a new tenancy consideration should be given to making the payment to the landlord rather than the customer.
- 5.7 As a lump sum payment for rent in advance is not made in respect of a period, we do not have to be satisfied that the customer is entitled to HB or UC other than at the point you make the award.
- 5.8 If the rent in advance is for a property outside of our area this does not prevent us from making a payment as the customer is currently in receipt of HB or UC in our LA area.
- 5.9 Before awarding a DHP for rent in advance or a deposit it should be established with the customer whether they:
- are due to have a deposit or rent in advance in respect of their existing tenancy returned to them
  - have received assistance from the LA through a rent deposit guarantee scheme or similar.
- 5.10 Once a DHP has been made to the customer for rent in advance or a deposit and used for that purpose legislation does not provide for it to be refunded.

### **DHPs and two homes**

- 6.0 The regulations permit a person to have help through DHPs with rent due on a property they have moved into when treated as temporarily absent from their home, for example because of domestic violence.
- 6.1 In this case, if the customer is treated as liable for rent on both properties, and in both cases there is a shortfall, they could have DHPs in respect of both properties subject to the weekly limit on each property.
- 6.2 The regulations do not say that DHPs can only be paid in respect of one property; they just limit the amount that can be paid when the DHP does relate to rent on a person's home.

- 6.3 If the customer is only treated as liable for payments on one dwelling but is having to pay rent on two, for example they are temporarily absent from their normal dwelling to stay near a child receiving treatment in hospital, a weekly DHP could be made to assist with the temporary accommodation up to the level of the weekly eligible rent in the dwelling from which they are temporarily absent.

### **Claiming a DHP**

- 7.0 A claim for a DHP must be made on a claim form approved and issued without charge by the Council
- 7.1 A claim for a DHP may be made initially in writing, verbally or electronically.  
The Council will issue the applicant with its DHP application form for completion. For the claim to proceed the applicant must return the form to the Council within one calendar month of its issue.
- 7.2 All applications for a DHP must be made by the benefit claimant of HB/UC and in the case of a married or unmarried couple as decided for statutory HB/UC purposes must be made jointly.
- 7.3 The Council may request any reasonable evidence in support of an application for a DHP. The Council will make such requests in writing or electronically. The applicant should provide the evidence within one calendar month. Evidence and information provided to decide the HB/UC claim may be taken into account.
- 7.4 If a customer is in receipt of UC, you will not necessarily hold details of the customer's income or rental liability. However, data sharing powers introduced on 2 July 2012 provide a gateway for LA's to obtain relevant information from DWP to assess claims for DHPs.
- 7.5 Customers will be advised to seek advice and assistance from the Citizens Advice Bureau, Welfare Rights Agencies and our own Customer Services in order to help gain evidence to support their claim.
- 7.6 If the applicant does not provide the required evidence, within a reasonable amount of time the application will be treated as defective. As a guide four weeks would seem a reasonable amount of time, though give consideration to the fact that some customers are the very vulnerable and may need longer or help getting the information.
- 7.7 The Council may in any circumstances verify any information or evidence provided by the claimant(s) by contacting third parties, other organisations and the claimant(s).
- 7.8 Reports or applications from the Homeless Person's Unit supporting a customer's claim for a DHP may be provided. Customers claiming Housing Benefit through the Homeless persons unit are by nature, vulnerable and would have been interviewed by a Homeless Advise Officer.

### **Administering DHPS:**

#### **Authorised Decision Makers**

- 8.0 All applications will be passed to the Quality Assurance & Appeals Officer for consideration.

- 8.1 Recommendations will be checked by a Benefit Supervisor/Exchequer Controls Manager before being authorised by the Benefits Manager/Exchequer Controls Manager.
- 8.2 Delegated powers for authorisation will be given to the Exchequer Controls Manager within the section also.

### **Period of award**

- 9.0 The Council will decide the length of time for which a DHP will be awarded if a payment can be made under this scheme.
- 9.1 The minimum period for which the Council will award a DHP is one day.
- 9.2 There is no time limit to the length of time over which DHP may be made. However, a DHP award will normally be paid for between 3 to 6 months. However, in exceptional circumstances, a long term or indefinite award can be considered eg if property has been significantly adapted or there are particular medical conditions to consider.
- 9.3 The Council may award a DHP for a shorter period depending on the circumstances of the case. This may for example be to assist someone whilst they find alternative accommodation.
- 9.4 The Council will consider any reasonable request for backdating an award of DHP. All such requests should be in writing and clearly give the reasons why the application was not made at an earlier time. The Council reserves its discretion not to make backdated awards of DHP, but in any case will not make awards where:
- a) the underlying conditions for an award are not met; and
  - b) the application was made more than 6 months after the period for which it is made.
- 9.5 Any delay in deciding the award of HB/UC under the statutory scheme will be taken into account and in the event that the Council has failed to decide such a claim within the DHP 6 month time limit so as to grant HB/UC the backdating time limit will be waived and the claimant will have one calendar month from the date of the Statutory HB/UC claim being decided in which to make a claim for a DHP

### **The amount of DHP awarded**

- 10.0 The award of a DHP will be the exception rather than the normality. The Council will consider whether to award a DHP and the amount of any such award. It will take into account:
- the amount of Housing Benefit or Universal Credit in payment;
  - the liability of the applicant to pay rent, net of any deductions specified by Regulation 3 of the Discretionary Financial Regulations 2001;
  - Steps taken by the claimant to reduce their rental liability
  - the circumstances surrounding the application;
  - the financial and social health/medical circumstances of the applicant, their partner and any dependants and any other occupants of the applicant's home;



- the income and “essential” expenditure of the applicant, their partner and any dependants or other occupants of the applicant’s home;
  - any savings or capital that might be held by the applicant or their family or could be made available to the applicant or their family;
  - the availability and any steps taken by the claimant(s) to obtain extra income or to reduce expenditure of the applicant or their family;
  - the level of indebtedness of the applicant(s) and their family;
  - the exceptional nature of the claimant(s) and their families circumstances
  - whether there have been any previous awards of DHP; and if so
    - a) the number, length and dates of those awards; and
    - b) what action the applicant has taken to reduce the need for a DHP;
  - Reasons for moving from previous address
  - If the customer has children the following questions may help:
    - Where do the children attend School – Do they have to travel? Are there particular reasons for attending their School i.e. religious etc.
    - Do you receive any help from the Father/mother of the children? i.e. help with food , clothing or pocket money for children.
- 10.1 In order to help make a decision or collect appropriate information consideration to interviewing or visiting (where necessary) each DHP claimant should be made.
- 10.2 Consideration will also be given to the impact any award of DHP will have on the Council’s budgets and its ability to make further awards of DHP to others within the financial year and the impact the non-award of a DHP will have on the applicant and other DHP’s.
- The Local authority will also consider the amount of money available to the Council to spend on this scheme, within the cash limits specified by the Secretary of State. The Council will take into account expenditure and estimated committed expenditure.
- 10.3 The award of DHP at one time does not guarantee that a further award will be made at a later date even if the claimant’ circumstances remain the same. The Council cannot fetter its discretion in making one decision on a claim with regard to a later claim by the same claimant(s).
- 10.4 The amount of any DHP award will be decided by the Council taking into account the above matters and limited to the statutory limits imposed by DFA Regs. The Council may decide not to award anything or any amount up to the maximum allowed under the DFA Regs.

### **A quick step by step Guide for assessing DHPS**

- 11.0 If application is for Housing Benefit consider a redetermination. This can be done whilst writing out and waiting for further evidence.
- 11.1 Has customer provided you with all the relevant information to substantiate their application? E.g. medical certificates

Look for any other means of Benefit entitled to the customer e.g. Are we making a higher Non Dependant deduction? Or is the applicable amount lower than customers assessed income.

- 11.2 If not recommending payment refusal letter can be sent though reasons not to be paying need to be clearly indicated.
- 11.3 If recommending a discretionary payment, complete the proforma, giving detailed reasons and supporting documentation why it should be awarded. In awarding DHP regard should be given to the effect it will have as indicated earlier in this policy. (A record of applications authorised is available in the office as examples.)
- 11.4 Discretionary notifications will be produced through Academy and will be edited by the Quality & Assurance Team to indicate why it was agreed.

### **The effect of an award**

- 12.0 In making any award consideration will be given to achieving the following:

Encouraging / sustaining a return to work

Safeguarding the home

Helping customers to help themselves

Keeping families together and the vulnerable in the community

Help during temporary crises or events

### **Changes of Circumstances**

- 13.1 Applicants for DHP must be in receipt of Housing Benefit or Universal Credit. Therefore remain under a general requirement to inform us of changes in their circumstances that might affect their claim for HB/UC.
- 13.2 The Council's policy will be that a change in the applicant's circumstances will not affect the level of their DHP providing:
  - they retain entitlement to Housing Benefit or Universal Credit;
  - the level of their Housing Benefit or Universal Credit, plus the DHP does not exceed their liability to pay rent, less the deductions specified in Regulation 3 of the Discretionary Financial Regulations 2001;
  - the change of circumstance was specifically defined as being critical to the award of the DHP in the notification of the award to the claimant(s). The Council may specify changes in circumstances that will need to be notified to the Council as it is considered that the amount or need for a DHP will change on such an event. In these cases the Council may revise the DHP award.

### **Method of Payment**

- 14.0 We will decide to whom to make payment of the DHP based upon the circumstances of each case. This could include:
  - the applicant;
  - their partner;
  - an appointee;
  - their landlord (or an agent of the landlord); or

- any third party to whom it might be appropriate to make payment.
- 14.1 We will pay any award of DHP by the most appropriate means available in each case. This could include payment:
- with Housing Benefit via BACs
  - by cheque
  - by crediting the applicant's rent account;
  - by offsetting the DHP against any other liability the applicant or partner has to the Council to reduce indebtedness and reduce their expenditure.
- 14.2 The DHP will be paid along with the award of Housing Benefit. For example, if the customer is paid Housing Benefit in arrears, any DHP will be paid at the same frequency.

### Notification

- 15.0 We will inform applicants of the outcome of the application within 14 days of making a decision about their DHP claim. We will notify:

Those whose application is unsuccessful:

- the reasons why we have decided not to award a DHP

Those whose application is successful:

- the weekly amount of DHP awarded;
- the period of the award;
- how, when and to whom the award will be paid;
- a summary of the reasons for the award;
- any requirement to notify us of changes in circumstances that could affect the DHP award.

All applicants:

- a reminder of the requirement to notify the council of changes in circumstances;
- the dispute procedure

### Overpayments

- 16.0 The Council will seek to recover any DHP if we decide that payment has been made as a result of misrepresentation or failure to disclose a material fact and also if an error has been made when the claim was determined.
- 16.1 Recovery of the overpaid DHP will be sought from the applicant and/or their partner, regardless of how and to whom the DHP was paid. We will do this by invoicing the claimant and/or partner.
- 16.2 DHPs cannot be recovered from on-going HB or UC. There is also no provision for recovery of overpaid DHPs from other prescribed benefits.

### Dispute Procedures

- 17.0 DHP's are not payments of Housing or Universal credit and are therefore not subject to the statutory benefits appeals mechanism where appeals are decided by the Tribunal Service which is an independent statutory body. **Disputes will therefore be decided by the Council.**

- 17.1 Therefore we will operate the following policy for dealing with disputes about DHP's.
- 17.2 An applicant (or their appointee or agent) who would like an explanation of a DHP decision, may request one in writing within one calendar month of notification of the DHP award.
- 17.3 An applicant (or their appointee or agent) who disagrees with a DHP decision may dispute the decision.
- 17.4 Any such dispute may be made in writing or electronically, but must be made within one calendar month of the written decision about the DHP being issued to the applicant. Officers will explain the DHP decision verbally to the applicant by telephone by interview or in writing and seek to resolve disagreement. Where this cannot be achieved Officers will formally review the decision.
- 17.5 The Officers will reconsider the award of any DHP that has been disputed and notify the applicant of the outcome of the review. A review will be suspended if we need more information from a claimant until the information is received.
- 17.6 In the event that following an internal review of a decision, the Officers decide that the original decision should not be revised, there is no further appeal. If the customer has a complaint about the way that the Council has acted with their application, they will be advised of the corporate complaints procedure, including the Local Ombudsman. This will be set out in the decision letter.

## **Fraud**

- 18.0 The Council is committed to the fight against fraud in all its forms. Any applicant who tries to fraudulently claim a DHP by falsely declaring their circumstances, providing a false statement or evidence in support of their application, will have committed an offence under the Theft Act 1968.
- 18.1 Any cases where the Council suspects that this has occurred, will be investigated and subject to the actions available within the Council's Anti Fraud policy. This may lead to our commencing criminal proceedings against suspected fraudsters.

## **Assurance Arrangements**

### **DHP Claim form**

- 19.0 The Discretionary Housing Payments (Grants) Order 2001 requires LAs to submit details of DHP expenditure to DWP Housing delivery Division. Three forms must be submitted each year, an initial estimate by 1 April of the preceding year, a mid-year estimate by 1 Sept and a final by 30 April of the following year
- 19.1 The DHP claim and estimate forms contain a LA certificate which must be signed by the Responsible Finance Officer (section 151 of the Local Government Act 1972 or section 95 of the Local Government (Scotland) Act 1973. Due to the increase in DHP funding highlighted in the table below, and following discussions with the National Audit Office, the Department has strengthened its assurance arrangements by including additional requirements in the local authority certificate.

19.2 In addition to providing details of DHP expenditure, the Responsible Finance Officer must certify that all entries on the claim form are accurate and expenditure has been made in accordance with this guidance and the regulations governing DHPs.

## **Monitoring Arrangements**

20.2 As a result of the increased funding DWP are required to monitor how DHPs are being used to support customers affected by the welfare reforms. In addition to the annual DHP claim form, LAs are asked to continue to provide supplementary data on a voluntary basis in October & May.

20.3 Following a successful application for DHPs, LA's are asked to record whether the claimant has been affected by one of the following:

- i) benefit cap
- ii) removal of spare room subsidy in social rented sector
- iii) LHA restrictions
- iv) Combination of reforms
- v) None of above

20.4 The following outcomes by value of payments are also recorded- To help :

- secure and move to alternative accommodation (eg rent deposit)
- with short-term rental costs until claimant is able to secure & move to alternative accommodation
- with short term rental costs while the claimant seeks employment
- with on-going rental costs for a disabled person/s in adapted accommodation
- with on- going rental costs for a foster carer
- with short-term rental costs for any other reason

## **Appendix A- Good Practice Guide**

### **Section 1: Support for customers affected by the benefit cap**

#### **Background to the benefit cap**

- 1.0 From April 2013, the total award of household benefit payments for working-age claimants has been subject to cap. For the purposes of applying the benefit cap we define a household as a claimant, their partner and any children they are responsible for and who live with them.
- 1.1 The cap can be applied by LAs through HB payments. When a household's total benefit entitlement exceeds the cap the LA will reduce the level of HB by the excess amount. A de minimus amount of £0.50 will be paid when the reduction of the excess would otherwise remove all payments of HB.
- 1.2 Where UC is in payment the cap is applied through UC, starting with all new claims for UC including those migrated from existing benefits.
- 1.3 Total entitlement to benefit payments has been capped at £500 per week for couples and lone parent households. The level of entitlement for single adults is capped at £350 per week.
- 1.4 For those claiming UC the cap will be applied for the assessment period, which will be monthly. The direct monthly equivalent limits are £2167 for couple and lone parent households and £1517 for single households.

## **Changes in 2016/17**

From November 2016 total entitlement to benefit payments will be capped at

- £23,000 in London & £20,000 in rest of country for couples & lone parents.
- £15,410 & £13,400 respectively for single childless households

## **Exemptions**

- 1.5 There are some exemptions from the cap among benefit recipients. The benefit cap is intended to increase work incentives, therefore we will exempt households that are considered to be “in-work.” Claimants in receipt of HB will be considered in-work and be exempt from the benefit cap if they are entitled to Working Tax Credit.
- 1.6 Claimants on UC will be considered to be in-work if they earn more than the prescribed earnings threshold.
- 1.7 We will also exempt households where someone is in receipt of:
- Attendance Allowance;
  - Industrial Injuries Benefit (and equivalent payments made as part of a War Disablement Pension or the Armed Forces Compensation Scheme/Armed Forces Compensation Scheme);
  - Employment and Support Allowance with a support component. For those on UC this will be limited capability for work and work-related activity;
  - Disability Living Allowance or its replacement Personal Independence Payment;
  - Where a person is not receiving Disability Living Allowance, Attendance Allowance or a War Disablement Pension because they are in hospital or a care home, the exceptions will continue to apply
  - War widows and widowers will also be exempt.
- 1.8 There is a grace period of 39 weeks (9 months in UC) for those claimants who have been in work for the previous 12 months and find that their circumstances have changed because their job has ended. This will allow people time to find alternative employment or consider other options to avoid the impacts of the cap.
- 1.9 HB paid to households in specified accommodation is disregarded from the benefit cap calculation. The disregard applies to benefit cap cases under HB & UC. So although not exempt, by not including HB in the calculation the majority of cases will not be affected

## **Support for those subject to the benefit cap**

- 1.10 The Government is providing additional funding for DHPs to support claimants affected by the benefit cap, who cannot to move immediately into work or more affordable accommodation or to help manage families move into more appropriate accommodation.
- 1.11 It is specifically aimed at a number of groups who are likely to be particularly affected by the benefit cap. These include (but are not limited to):
- Those in supported, exempt or temporary accommodation;
  - Individuals or families fleeing domestic violence;
  - Those with kinship care responsibilities;
  - Individuals or families who cannot move immediately for reasons of health, education or child protection
  - Individuals entitled to CA or to UC including the help for carers

- Households moving to, or having difficulty finding more appropriate accommodation
- Those with dual liability for housing costs
- Women within 11 weeks of the expected week of childbirth
- Households with a child aged 9 months or under.

- 1.12 There will be a number of ways that claimants affected by the cap may re-act to having their HB reduced by the benefit cap. The intention is that the majority will move into work and so become exempt from the cap. Some may choose to move whilst others may consider other means by which they might be able to meet any short fall such as trying to negotiate a reduction in their rent or meeting the shortfall from other income or capital.
- 1.13 Those who are affected by the cap will have access to and receive support from Jobcentre Plus and the Work Programme to help them find work. People in receipt of working tax credit will be exempt from the cap.
- 1.14 DHPs can make an important contribution to managing the transition for various customers whilst they make the necessary changes to adapt to the application of the benefit cap. The allocation of this funding reflects the varying impact of this measure on different LA areas.
- 1.15 The following examples show how DHPs can be used to assist those affected by the benefit cap.

#### **Example**

Mr and Mrs Smith rent a 3 bedroom property at £340.00 per week. They have two children and receive the following benefits:

Jobseekers Allowance: £114.85, Child Tax Credit: £116.83, Child benefit: £34.40  
Housing Benefit: £340.00 **Total welfare benefits: £606.08**

The benefit cap for Mr and Mrs Smith is £500.00 per week; therefore, their award of housing benefit is reduced to £233.92 per week (reduction of £106.08).

Mr Smith has been unemployed for one year and has found it difficult to find employment in his usual vocation; he is currently attending his local Work Programme provider for support to find work.

In addition, Mr & Mrs Smiths oldest child is 15 years old and in the process of completing her GCSEs. Mr & Mrs Smith have found a cheaper property that would take them below the benefit cap in another area but it would mean their oldest child would have to move schools. They believe this would have a negative impact on their childs education. You may decide to award a weekly DHP of up to £106.08 until Mr Mrs Smith move into work or their eldest child completes the GCSEs.

#### **Example**

Ms Martin has 2 children and is receiving HB for temporary accommodation where she has been living for 3 months waiting for a permanent move.

In addition to Job Seekers Allowance, Child Benefit & Child Tax credits, Ms Martin is receiving higher than average HB as a result of the cost of rent for temporary accommodation. So Cap applies.

Ms Martin is struggling to move into work as she does not have any qualifications or work experience. She is participating on the Work Programme to develop her skills and try to find work.

You may decide to award a DHP until permanent accommodation can be found for Ms Martin or she is able to move into work so she no longer has the benefit cap applied.

**Example** Mr Benn is Universal Credit for himself, his partner and four children. Mr Benn is currently appealing the decision that he doesn't have limited capability for work and work-related activity. As no one in the household meets the criteria for an exemption the benefit cap will be applied.

Mr Benn does not want to adapt his circumstances to avoid the benefit cap until he is notified of the decision from his appeal. You may decide to award a DHP until Mr Benn's appeal is heard and decided.

## **Section 2: Support for customers affected by removal of the spare room subsidy**

### **Background**

- 2.0 From April 2013 working-age claimants living in the social rented sector may face a reduction to their eligible rent if they are under-occupying their property. The level of under-occupation is determined by the LHA size criteria (the Shared Accommodation Rate is not applicable, however).
- 2.1 The rates of reduction to the eligible rent for those affected by this measure are:
- 14% where there is under-occupancy by 1 bedroom; and
  - 25% where there is under-occupation by 2 or more bedrooms
- 2.2 We expect that most claimants affected by this measure will find ways of making up the shortfall themselves, in order to remain in their existing home.
- 2.3 LAs are encouraged to continue engaging with affected claimants to identify effective ways of mitigating the effects of any reduction in entitlement

### **Support for disabled people living in significantly adapted accommodation**

- 2.4 Additional funds continue to support disabled people living in significantly adapted accommodation. In specially adapted accommodation, it may be more cost effective not to move. LAs should identify such groups and invite an application for DHP.

### **Example**

Mr and Mrs Thom rent a four bedroom house from a registered housing provider. They have two children, a girl of 7 and a boy of 5. They receive Housing Benefit to cover the full rent of £90 per week.

Under the new size limit rules they are considered to be under-occupying the house by two bedrooms as the children would be expected to share a room because they



are both under ten years old. As they are under-occupying by two bedrooms a 25% reduction of £22.50 would be applied to the eligible rent meaning they would now receive Housing Benefit of £67.50 per week.

Mrs Thom is in a wheelchair and significant adaptations have been made to the property to make it more accessible. If the family moved to a different property that property would then need to be adapted at considerable expense. You may therefore decide to award a DHP of £22.50 per week to enable the family to remain in their current adapted house.

2.9 **Significantly Adapted Accommodation:** There are two questions for consideration:

- What is our definition / interpretation of “adaptation”?
- What is our definition / interpretation of "significant"?

2.10 There is some case law to help us with the word "adapt". This is not in connection with DHP but in relation to Housing Benefit being paid on two homes where a tenant has been delayed in moving into their new home due to the property being adapted to meet disablement needs. (It is still relevant though and can be used.)

2.11 Basically the Commissioner concluded that “adapting” a building should be interpreted as “*altering the fabric or structure of the building in order to meet a disablement need (including such matters as the provision of fixed handrails, raised lavatories or widened doors)*”

Therefore, so long as the fabric / structure of the building has been adapted we are half way there. The next question we must ask ourselves is how "significant" has the adaption been?

"Fixed handrails" and "raised lavatories" are not significant as these could be temporary by nature and removed / added reasonably easily somewhere else.

Widening door ways for the use of a wheel chair for example together with a ramp is not so temporary. I would imagine other adaptations would have occurred too for example the installation of a shower room. This would lend itself to the property being termed as significantly adapted.

2.12 If adaptations have been made to enable a wheel chair to be used around the house it is likely the customer is receiving Council Tax Disabled Relief and this may prove as further evidence for awarding DHP.

2.13 As a refresher the current qualifying criteria to receive Council Tax Disabled Relief is:

- There is an **additional** bathroom or kitchen required for the needs of the disabled person, (I'm not sure this fully meets the significantly adapted criteria unless the additional bathroom or kitchen has been adapted?) or
- There is a room, **other than mentioned above**, used mainly by and adapted for the disabled person, or
- A wheelchair is **used in the property** by the disabled person

Where Disabled Relief has been granted a Visiting Officer has been to see the customer for verification.

- 2.14 Where tenants have adapted their homes to meet disablement needs in most cases they would have received a grant and proof of this grant together with a list of the adaptations made will also provide useful evidence in any such claim for DHP.
- 2.15 If we can agree that a property has been significantly adapted then how long do we pay DHP for in these instances as in most cases the tenant's condition may not improve?
- 2.16 The cost to re house them, make good the adaptations before carrying out adaptations on a new home is surely greater than awarding DHP indefinitely? Generally the DHP will not be paid for more than 6 months and sometimes less. That said customers can make a new application at the end of their DHP award and in some instances we can consider paying for a longer period.

**Other Circumstances in which to consider DHP awards:**

- 2.17 Support for disabled children or non- depts who need an additional bedroom for an overnight carer. Only claimants or their partners are exempt so DHP may need to be considered in these circumstances.
- 2.18 Support for approved or prospective adoptive parents

**Example**

Ms Roberts rents a 3 bedroom flat from her LA. She already has one daughter of her own aged 7. She is matched with her adoptive child, a 5 year old girl, and the child moves into the third bedroom. Under size criteria rules, the family is considered to be under occupying the home by one bedroom as the children are both under 10 years old and expected to share a room.

However, social workers have made it clear that this particular adopted child must have own room due to early life experiences. DHP should be considered in order to support the adoption process.

- 2.19 Support for approved or prospective foster carers. Size criteria rules only allow foster carers to have one extra bedroom. DHP can assist if additional rooms are required given that Fostering Services advise child 3+ should have own room.
- 2.20 Support for disabled children. Changed legislation allows extra bedroom for a severely disabled child eligible for middle or highest rates of DLA care. DHP can be considered where middle/high rate DLA not in payment
- 20.21 In cases where a child is not entitled to DLA care (middle or higher) but claimant advises child unable to share, a DHP could be considered.

**Section 3: Support for customers affected by LHA restrictions**

**Background to the changes to LHA rates**

- 3.0 Since April 2011, the calculation of LHA rates has been revised and these changes are likely to result in an increase in demand for DHPs, particularly as any protection measures come to an end. The changes are as follows:

- The five bedroom LHA has been removed so that the maximum rate is for a four bedroom property;
  - Absolute caps for each property size have been introduced as follows:
    - £250 for a one bedroom property
    - £290 for a two bedroom property
    - £340 for a three bedroom property
    - £400 for a four bedroom property
  - LHA rates are now set at the 30th percentile rather than the median.
- 3.1 Customers in receipt of HB on 31 March 2011 were not affected by these changes straight away. The new rates will normally apply from the anniversary of their claim but they could have up to a further nine months' protection from a reduction in their LHA rate.
- 3.2 Although the period of transitional protection may have provided existing customers with time to look for alternative accommodation, once their LHA rate reduces, some customers may still require assistance beyond the period of protection.
- 3.3 In addition to these changes, from **April 2013**, LHA rates will be updated annually in line with the Consumer Price Index inflation (CPI), instead of being set every month in line with market rents (Retail Price Index – (RPI)).
- 3.4 As part of the preparation for this measure, LHA rates will be frozen at the April 2012 rates until the first uprating takes place in April 2013. The precise impact of this measure depends on the choice of accommodation made by LHA recipients and whether landlords decide to restrict their rent increases in line with LHA rates, but it could mean some customers have a greater shortfall between their LHA and their rent.

### **Support for those subject to LHA restrictions**

- 3.5 The Government has provided an additional £40 million to the DHP budget for 2013/14, aimed at enabling local authorities to provide additional support to claimants who have been impacted by the changes to LHA

#### **Example**

Harry has to move from his bed-sit in central London as his housing benefit no longer meets his rent. His only income is from a part-time job with his net pay amounting to £100 per week.

With the assistance of his local authority he finds a bed-sit in another borough within the LHA rate with a rent of £101 per week. He now has bus fares of £20 per week instead of being able to walk to work. This leaves him struggling to pay his rent and meet his day- to-day living expenses.

He discusses his problems with the Citizen's Advice Bureau and they suggest he claims a DHP. One of the LA's objectives is to use DHPs to help people maintain their employment and it will consider disregarding fares to work in deciding on the amount of a DHP.

The LA awards a DHP of £13 which is the difference between his HB award and what the award would be if the fares to work were included in the disregard.

	Actual	Hypothetical HB Calc	DHP award
Eligible Rent	£101.00	£101.00	
Personal Allowance	£67.50	£67.50	
Less net earnings	£95.00 (£5 disregard)	£75.00 (£5 disregard plus £20 bus fares)	
Difference	£27.50	£7.50	
Apply 65% taper	£17.78	£4.88	
HB award	£83.22	£96.12	£13.00

#### **Section 4: Considering the DHP strategy to take account of increased demand**

4.0 Given the numbers of people affected by the changes, awarding DHPs to meet all shortfalls is not going to be a viable option. You will need to consider how best to target the funding within your priority groups, whilst remembering that each case must be considered on its own individual merits.

4.1 Some groups you may want to assist to stay in their home are, for example:

- Families with children at a critical point in their education;
- Young people leaving local authority care;
- Foster carers, including those between placements: foster children are not included in the HB assessment but neither is the income from foster allowances. The Government greatly values the work done by foster carers. Whilst some carers may be able to make up the shortfall using some of their allowance, or by other means, you may want to consider supporting foster carers who are deemed to be under-occupying their accommodation because they have rooms required by foster children, or being kept available for future placements. Local authorities should bear in mind that foster carers should not be out of pocket because of their foster caring role.
- People going through the approval process to become foster carers who may need to show that they have a spare room to be approved. If a DHP was paid on this basis it would be up to the claimant to inform the LA of any change of circumstances if, for example, they were not subsequently approved.
- Families with kinship care arrangements. Children who go into the care of family and friends are often extremely vulnerable and will usually benefit from the stability of remaining in a familiar area and continuing to attend their local school;
- Families with a child temporarily in care but who is expected to return home. What constitutes temporary will be at your discretion
- Families with a social services intervention, for example highly dependent adults, children at risk or involvement in a family intervention project;
- People who have had to flee domestic violence or have moved because of the threat of violence in another area;
- Where someone in the household is expecting a baby (including those currently in shared accommodation or subject to an under-occupation reduction);
- ex-homeless people being supported to settle in the community;

- people with health or medical problems who need access to local medical services or support that might not be available elsewhere;
- people with disabilities who need, or have had, significant adaptations made to their property, or where they are living in a property particularly suited to their needs.
- where the claimant or someone in their household has a disability which requires them to have a larger property than would usually be the case for the size of their household due to, for example, a medical condition or where a child has a particular disability that might mean they are unable to share a bedroom;
- people with disabilities who receive informal care and support in their current neighbourhood from family and friends which would not be available in a new area. In this respect you may also consider families who have a child with a disability who rely heavily on local support networks
- households with disabled children who require an overnight carer;
- the elderly frail who have lived in the area for a long time and would find it difficult to establish support networks in a new area;
- people who need to live near their jobs because they work unsocial hours or split shifts; or where moving home may mean living in an area where public transport would be inadequate to enable them to sustain their current job.

## Appendix B: What DHPS cannot cover

- 1.0 These are the elements of a person's rent, and shortfalls in benefit that cannot be met by a DHP under the legislation.
- 1.1 **Ineligible charges:** service charges that are not eligible for HB cannot be covered by a DHP. These are as specified in Schedule 1 to the Housing Benefit Regulations 2006 and Schedule 1 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Nor can DHPs cover charges for water, sewerage, and environmental services – as defined and calculated under the HB provisions.
- 1.2 **Increases in rent due to outstanding rent arrears:** Regulation 11(3) of the Housing Benefit Regulations 2006 and Regulation 11(2) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 refer. This refers to those cases where a customer's rent is increased on account of outstanding arrears which are owed by the customer in respect of their current or former property.
- 1.3 **Sanctions and reductions in benefit:** DHPs cannot meet these because to do so would undermine the effectiveness of the sanctions or reduction in benefit. These are:
  - any reduction in Income Support (IS) or income-based Jobseeker's Allowance (JSA(IB)) due to a Reduced Benefit Direction (RBD) for failure to comply with the Child Support Agency in arranging maintenance. The RBD is a reduction in benefit of 40% of the personal allowance and only applies to IS or JSA(IB)
  - any reduction in benefit as a result of non-attendance at a work-focused interview. This applies both where the person's HB/CTB is reduced and when any other benefit that the person is receiving, such as IS is subject to a sanction

- any reduction or loss of benefit due to a JSA employment sanction. JSA is not payable for the period of sanction if they have contributed towards their unemployed status, for example, by leaving employment voluntarily or failing to attend a prescribed training scheme. In such cases, it may be possible for a reduced rate of JSA to be paid under the JSA hardship provisions.
  - any reduction in benefit due to a JSA sanction for 16/17 year olds – for certain young people who receive JSA under a Severe Hardship Direction. JSA is not payable for the period of the sanction if they have contributed towards their unemployed status, for example, by leaving unemployment voluntarily or failing to attend a prescribed training scheme, or any restriction in benefit due to a breach of a community service order
- 1.4 **Benefit suspensions:** HB can be suspended either because there is a general doubt about entitlement or because a customer has failed to supply information pertinent to their claim. In such cases, it would not be permissible to pay DHPs instead. One of the intentions of the suspension provisions is to act as a lever to ensure that the customer takes the necessary steps to provide the authority with the necessary information/evidence - paying DHPs could reduce the effectiveness of this lever.
- 1.5 **Rent, when the person is getting council tax support but not HB or help with housing costs in UC:** in other words, when a person is only getting local council tax support, you should not take into account any financial assistance that they may require with their council tax, when considering the award of a DHP.
- 1.6 **Shortfalls caused by HB overpayment recovery:** when recovery of an HB overpayment is taking place, such shortfalls should not be considered for a DHP.