

# MONMOUTHSHIRE COUNTY COUNCIL

## Discretionary Housing Payment Policy

### 1. Background - What is a Discretionary Housing Payment?

- 1.1** Under powers contained within the Discretionary Financial Assistance Regulations 2001 (as amended) Monmouthshire County Council has the ability to authorise Discretionary Housing payments (DHP) to those who may “require some further financial assistance...in order to meet housing costs”. This payment is in addition to any Housing Benefit or Universal Credit housing cost award.
- 1.2** Housing costs are not defined in the Regulations but, in general, housing costs mean rental liability. However, for the purposes of the DHP scheme they can be interpreted more widely to include
- rent in advance
  - rent deposits
  - any other lump sum costs associated with a housing need (e.g. removal costs).
- 1.3** Although the scheme is discretionary there are conditions that must be met before a DHP can be considered. The customer must be entitled to Housing Benefit (HB) or Universal Credit (UC) that includes an element towards rental liability and require further financial assistance with housing costs.
- 1.4** A DHP may be granted to meet the shortfall between rent and HB and may include the following
- Reductions in HB (or UC) where the household benefit cap has been applied;
  - Reductions in HB (or UC) due to the maximum rent (social sector) size criteria the so-called 'bedroom tax';
  - Reductions in HB (or UC) as a result of local housing allowance / private sector rent restrictions;
  - A reduction in HB (or UC) as a result of other welfare reforms e.g. the removal of the family premium for new claims;
  - Rent shortfall to prevent a household becoming homeless whilst Housing Options Team explores housing alternatives;
  - Non dependant deductions in HB or housing costs contribution in UC ;
  - The effect of income tapers, where the customer receives less than full benefit owing to the means test;
  - Rent in advance;
  - Rent deposits;
  - Any other lump sum costs associated with a housing need (e.g. removal costs).

Please note this list is not exhaustive

**1.5** Following the abolition of Council Tax Benefit in April 2013 DHPs can no longer be made to help meet any shortfall in council tax liability.

**1.6** A DHP also **cannot** be used to

- pay ineligible service charges (such as water rates and meals)

- minimise the effects of other benefit sanctions e.g. Job Seekers Allowance or UC sanctions or any HB overpayments;
- make a payment when HB is suspended;
- cover increases in rent (e.g. court costs ) due to outstanding rent arrears.

## **2. Funding**

**2.1** DHP payments are cash limited. Each year the Department for Work and Pensions (DWP) sets out in the annual finance orders the cash limit for each authority and the government contribution.

**2.2** The maximum level for each local authority is 2.5 times the government contribution. It is unlawful to exceed the cash limit. Any unspent amount from the government contribution (40 per cent of the cash limit) must be returned to the DWP.

## **3. Purpose of this Policy**

**3.1** The purpose of this policy is to specify how the Benefits Service will operate the DHP scheme and to indicate some of the factors that will be considered when deciding if a DHP can be awarded. Each case will be treated strictly on its merits and all customers will receive equal and fair treatment. The Council is committed to working with the local voluntary sector, social landlords and other interested parties in the Borough to maximise entitlement to all available state benefits and this will be reflected in the administration of the DHP scheme.

**3.2** This policy should be read in conjunction with the DWP's DHP guidance manual (last updated in February 2016) and the Council's DHP procedure.

## **4. Statement of objectives**

**4.1** The Benefits Service will consider making a payment of a DHP to all customers who meet the qualifying criteria. The Benefits Service will treat all applications on their individual merits, and will seek through the operation of this policy to:

- Alleviate poverty;
- Mitigate the effects of welfare reform ;
- Support vulnerable young people in the transition to adult life;
- Encourage Monmouthshire residents to obtain and sustain employment;
- Assist people to maintain their tenancy and prevent them from becoming homeless;
- Safeguard Monmouthshire residents in their homes;
- Help those who are trying to help themselves;
- Keep families together;
- Support the vulnerable in the local community;
- Support disabled people to remain in their own homes/ adapted properties ;
- Support the work of foster carers;
- Support domestic violence victims who are trying to move to a place of safety;
- Help customers through personal and difficult events.

**4.2** The Council considers that the DHP scheme should be primarily 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 HB and UC legislation.

## **5. Awareness, publicity and take up**

**5.1** We will make every effort to publicise the DHP scheme particularly as they are a key element of the Government's strategy for mitigating the impact of welfare reform changes.

**5.2** We will also proactively promote the DHP scheme by working in partnership with community, voluntary and statutory organisations to advertise the availability and take up of DHPs. In doing so, the Council will make claim forms and literature on DHPs available to the wider community via its website.

**5.3** Information about the DHP scheme is given on all HB decision letters.

## **6. The application and decision making process**

**6.1** A claim for a DHP can only be considered if it includes sufficient information to make a decision on entitlement. Claims can only be made in writing on a form specifically to claim a DHP. A claim can be made by the claimant or by their representative.

**6.2** The Benefits Section may request any reasonable evidence in support of an application for a DHP. The customer must also demonstrate that he/she is suffering from financial hardship as a direct result of his / her housing costs.

**6.3** All income will be taken into account when deciding whether a DHP is appropriate unless it is a disability-related benefit.

**6.4** In cases where a disability –related benefit is in payment the Council take into account the decision of the High Court in R v Sandwell MBC, ex parte Hardy. Each case will be considered on a case by case basis, the Council must have regard to the purpose of those benefits and whether the money from those benefits has been committed to other liabilities associated with disability.

**6.5** The Council will also consider whether the claimant has any savings which can be used to help them meet the shortfall.

**6.6** All genuine and reasonable expenses such as food, clothing utility bills travel costs and debts etc. will be considered. However in certain circumstances it may be reasonable to expect the claimant to reduce their household expenditure before they claim /reapply for a DHP.

**6.7** The Council will also take all relevant circumstances into account when making the award including

- Is there any genuine risk of eviction if help with housing costs is not provided?
- The medical needs of the claimant, their partner and any other person in the household.
- What other outgoings does the customer have which make it harder for them to meet their housing costs?
- Is it possible for the customer to negotiate a rent reduction with the landlord?
- Could the customer relocate to alternative accommodation that would incur lower housing costs?
- Has the customer applied for all available sources of income to them?
- The level of indebtedness of the customer and their family. Has the customer tried to renegotiate loans to reduce their expenditure or are they paying off debts, which are making their expenditure temporarily higher.
- Has the customer sought advice from a debt advisor to try to alleviate their situation?

- Is the hardship having particular effects on individuals within the family, for instance young children?
- Are non-dependants living in the household contributing financially?
- Is there a risk of the customer being declared statutorily homeless if a payment is not made?

This is not an exhaustive list and is covered in more detail in the Council's DHP Procedure.

## **7. The award**

**7.1** In all cases, the Council will make its decision on the known facts and the evidence supplied. The period and level of the award will be on the basis of need, with a minimum period of award of one week and a maximum period of fifty two weeks. An award will usually be made for between three to six months.

**7.2** The DHP award may be a full award covering the whole shortfall or a partial award which does not cover the full shortfall. This depends on the circumstances of the claimant and their household.

**7.3** The Council will decide the most appropriate person to pay based upon the circumstances of the case. This could include paying the claimant, an appointee or the landlord (or agent of the landlord).

**7.4** Payments will usually be made into a bank account every 4 weeks in line with the HB payment run.

**7.5** Any reasonable request for backdating an award of a DHP will be considered in line with good cause criteria as laid out in the 2006 Housing Benefit Regulations as to why there was a delay in making a claim. A DHP cannot be awarded for any period outside an existing HB benefit period granted under the HB statutory scheme. UC DHPs will be considered using the same criteria

**7.6** In all cases, we will inform the customer that the scheme is cash limited and that future payments cannot be relied upon. Awards will be reviewed if the customer's circumstances change e.g. starting employment.

**7.7** The onus is on the claimant to reapply for a DHP if help is still required to meet the shortfall in rent. There is no guarantee however that a further award will be made even if their circumstances remain the same. We do expect the claimant to show that they have made every effort to improve their financial position this includes working with the Council and its partners to improve their financial position.

## **8. Housing Options / Debt Advice**

**8.1** In all cases customers will be provided with details of contact arrangements for the Housing Options service.

**8.2** Customers requiring specialist debt advice and support will be referred to the Citizen's Advice Bureau or to their registered social landlord.

**8.3** If the customer gives us written permission they will be referred to the Housing Options Team, Council's Financial Inclusion Officer or their registered social landlord as appropriate. They may be able to provide assistance on a range of issues including

- Debt /budgeting advice;
- Housing related matters e.g. if a claimant is faced with eviction.

## **9. Notification**

**9.1** The Council will aim to inform the customer in writing of the outcome of their application within one week of receipt. Where the application is unsuccessful, the Benefits Service will set out the reasons why this decision was made and explain the right of review. Where the application is successful, the Benefits Service will advise:

- The weekly amount of DHP awarded;
- The period of the award;
- How, when and to whom the award will be paid;
- The requirement to report a change in circumstances.

**9.2** The notification will also advise the claimant of appropriate steps that should be taken to improve their financial situation. If they subsequently reapply for a DHP they will need to demonstrate the action taken and the outcome of such actions.

## **10. Review procedure**

**10.1** DHPs are not payments of HB and are therefore not subject to the statutory appeals procedure. The Council is committed to providing an appropriate review procedure.

A customer (or their appointee or agent) who disagrees with a DHP decision may dispute the decision. A request for a review should be delivered in writing to a designated office within one calendar month of the written DHP decision being issued to the customer. The Head of Revenues and Benefits will then consider the request and review the decision made and respond to the customer within fourteen days.

## **11. Final review**

If the customer is still unhappy with the decision a further review may be undertaken by an independent panel including a Chief Officer independent of the service. This is the final stage of the review process and may only be challenged further via the judicial review process.

## **12. Fraud**

**12.1** Monmouthshire County Council is committed to the fight against fraud in all its forms. A customer 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 alleged, or the authority suspects that such a fraud may have been committed, the matter will be investigated and if fraud is found to have occurred, action will be taken including the recovery of overpaid monies and, if appropriate, criminal proceedings.

## **13. Overpayments**

**13.1** Any DHP award found to be overpaid may be recovered where appropriate.

## **14. Review of policy**

**14.1** A review of this policy will be undertaken when major changes to Benefits legislation occur affecting the criteria for entitlement.