

DUNDEE CITY COUNCIL

REPORT TO: FINANCE COMMITTEE - 17 SEPTEMBER 2001

REPORT ON: FINANCE DEPARTMENT - REVENUES DIVISION
DISCRETIONARY HOUSING PAYMENTS (DHP's)

REPORT BY: DIRECTOR OF FINANCE

REPORT NO: 244- 2001

1.0 PURPOSE OF REPORT

1.1 This report seeks authorisation from the Committee to allow for the implementation of Discretionary Housing Payments, together with the administration of an appeals service pertaining to Discretionary Housing Payments (DHPs).

2.0 RECOMMENDATION

2.1 That this Council delegates the following additional powers to the Director of Finance and instructs the Director of Support Services to amend the Scheme of Delegation to officers accordingly:-

The establishment of procedures for considering, authorising and making discretionary housing payments and for the consideration by officers, other than the original decision makers, of appeals against decisions on such applications, in line with guidelines approved by Committee.

2.2 That this Council approves the DHP guidelines appended, which outlines the way in which the new scheme will be administered by the Council.

3.0 FINANCIAL IMPLICATIONS

3.1 As stated in paragraph 6.1, DHPs have been introduced by the Government with effect from 2 July 2001.

3.2 In respect of the period 2 July 2001 to 31 March 2002, the net cost to the Council cannot exceed £114,617 as per Central Government Regulations.

3.3 For the financial year 2000/2001, this Council made payments to benefit claimants in respect of exceptional hardship and/or exceptional circumstances to the value of £102,134. Taking account of Central Government's contribution of £37,017, the net cost to this Council was £65,117.

3.4 In respect of DHPs, the Department of Work and Pensions (DWP) (formerly DSS) will contribute £76,411 in the form of a grant to the Council for the period 2 July 2001 to 31 March 2002.

3.5 If the total payments were to remain in line with the previous year's spend, there will be no additional cost to the Council.

4.0 AGENDA 21

None.

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

None.

6.0 BACKGROUND

6.1 A new statutory scheme has been introduced by the Government with effect from 2 July 2001 whereby local authorities are empowered to administer Discretionary Housing Payments (DHPs) to top up the Housing Benefit (HB) and/or Council Tax Benefit (CTB) of claimants who are experiencing financial difficulty. The new scheme replaces the discretion which was available to local authorities to top up either or both of the benefits where a claimant had exceptional financial difficulty or where a private tenant had their eligible rent restricted by the Rent Officer.

6.2 DHP is a discretionary scheme and not part of the statutory HB and CTB schemes, as such claimants will not have the right of appeal to the Independent Appeals Tribunal if they are dissatisfied with a DHP decision. Each local authority has been given the discretion to arrange its own system of internal review for the DHP scheme.

6.3 The main features of the new DHP scheme are:

- the claimant does not have a statutory right to a payment
- whilst DHP payments can only be made to recipients of HB or CTB, the additional top-up no longer takes the form of extra HB or CTB but is totally outwith each of these statutory schemes.
- councils have been given discretion to operate the DHP scheme as they deem appropriate and much of the prescription associated with the previous system of discretionary HB and CTB has been removed.

7.0 FUNDING ARRANGEMENTS

7.1 The amount that can be paid by an Authority in any financial year is cash limited by the Secretary of State. Dundee City Council has been empowered to make DHP awards for the period from 2 July 2001 to 31 March 2002 up to cash-limited total of £191,028. The Department of Work and Pensions (DWP) (formerly DSS) will contribute £76,411 in the form of a grant to the Council, with the balance being met by the Council.

7.2 If the total expenditure on DHPs is less than the DWP contribution then any shortfall has to be refunded.

8.0 OVERVIEW OF DISCRETIONARY HOUSING PAYMENTS

8.1 While there are no prescribed tests for making payments in respect of exceptional hardship or circumstances, under the new arrangements, the following criteria must be met:

- The claimant is entitled to housing benefit or council tax benefit or both,
- The claimant requires further help with housing costs,
- There are sufficient funds within the local authorities overall permitted total cash limit.

8.2 A DHP cannot be made in the following circumstances:

- For service charges otherwise ineligible for housing benefit,
- Charges for water or sewerage services,
- Increases in rent due to outstanding rent arrears,
- Liability to meet Council Tax where second adult rebate is payable,
- Any reduction or loss of benefit due to a Jobseekers Allowance employment sanction.
- Any reduction in Income Support or Income Based Jobseekers Allowance due to a Reduced Benefit Direction.
- Any reduction in benefit as a result of non-attendance at a work focused interview.

8.3 Subject to these overall rules, local authorities have total flexibility as to where, how much and for how long a HP may be awarded.

Authorities have discretion to increase payment in individual circumstances but the total amount of Housing Benefit/Council Tax Benefit and DHP should not exceed the total amount of the claimant's eligible rent/Council Tax liability. Circumstances might include loss of savings because of a burglary, or unforeseen need due to non-payment of wages. An award should not be made on the basis of predefined conditions, which would be applicable to whole groups.

Councils have scope to make a one-off award, or increase benefit on a weekly basis.

9.0 CONSULTATION

The Chief Executive, the Director of Support Services and the Director of Corporate Planning have been consulted in the preparation of this report.

Director of Finance

Date

DUNDEE CITY COUNCIL DISCRETIONARY HOUSING PAYMENT SCHEME - GUIDELINES

Purpose

The purpose of this document is to specify how the scheme will be administered by Dundee City Council, indicating the approach that will be adopted in considering applications for payments and how reviews of decisions will be carried out.

Statement of Objectives

The Council will consider awarding Discretionary Housing Payments (DHPs) to claimants who meet the qualifying criteria as specified in this document. The Council will treat all applications on their individual merits and all claims will be treated equally.

The Council may make DHP payments up to the maximum permitted figure allowed by the Department of Work and Pensions (DWP) with a view to meeting any or all of the following criteria:

- provide assistance to private tenants where the Rent Officer has restricted their eligible rent leaving the claimant with particular financial difficulties
- help people through periods of particular financial difficulty
- assist claimants taking up employment – where an extended Housing Benefit and/or Council Tax Benefit payment is not appropriate.
- Any other relevant circumstance.

Claiming a DHP

A claim for DHP must be made on a claim form approved and issued by the Council.

- Applications for a DHP in respect of Housing Benefit and/or Council Tax Benefit can only be considered where the claimant receives either Housing Benefit (HB) and/or Council Tax Benefit (CTB). In the case of a married or unmarried couple as defined in the statutory HB/CTB regulations, the application must be made jointly.
- The Council may request any reasonable evidence in support of an application for a DHP. The Council will request in writing any additional documentation to support a DHP claim. The claimant should provide the evidence within one month. Evidence and information supplied with the HB/CTB claim will be taken into account when considering a DHP claim.
- If the claimant does not provide the required evidence, the Council will still consider the application. However, the Council may disregard any unsubstantiated statements or draw its own conclusions from other evidence available.

- The Council may in any circumstances verify any information or evidence provided by the claimant by contacting third parties, other organisations and the claimant.

Period of Award

The Council will decide the period for which a DHP will be awarded and will also decide from which date the DHP claim will be treated as having been made by the claimant, having due regard to the following:

- the date on which the claim for a DHP is received by the Council
- the date on which entitlement to HB/CTB commenced
- the minimum period for which a DHP award will be made is generally one week
- no award of a DHP will be made outwith any benefit period granted under the HB/CTB statutory scheme
- awards of DHP will not normally be for a period in excess of 6 months, after which the claimant will be invited to reapply
- any reasonable request for backdating a claim for DHP will be considered, applying the criteria used when adjudicating on a backdated claim for HB or CTB:

The amount of DHP awarded

In considering a DHP claim, the following will be taken into account (although the list is not exhaustive):

- the amount of HB or CTB in payment;
- the remaining net liability for rent and/or council tax;
- whether the claimants eligible rent has been restricted by the Rent Officer and if so:
 - the amount of the restriction
 - the reason for the restriction
 - the duration of the restriction
 - steps taken by the claimant to reduce their rental liability
- the financial, social and medical circumstances of the claimant, partner and anyone else in their household
- any savings or capital that might be held by the claimant, partner and anyone else in their household
- other steps that could be taken by the claimant, partner or anyone else in the household to obtain extra income or reduce the household expenditure

- the level of indebtedness of the claimant and their family
- any exceptional circumstances associated with the claim
- whether there has been any previous award(s) of DHP; and if so the circumstances under which such an award(s) was made
- the impact that the non-award of a DHP will have on the claimant his/her household and other DHP's
- the amount of money available to the Council to spend on the DHP scheme.

The award of DHP at any time will not set a precedent whereby a further award will be made at a later date even if that claimant's or any other claimants` circumstances remain/are the same or similar.

The Council will review any DHP in payment if the claimant has a change in circumstances whether or not this effects the level of their HB or CTB.

Method of Payment

The Council will decide to whom the DHP award will be made, taking into account the circumstances under which has been deemed appropriate. Payees may include any of the following:

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

Any award of DHP will be paid by whichever means the Council deems appropriate including the following:

- along with each payment of HB or CTB;
- by crediting the claimant's council tax and/or rent account;
- by offsetting the DHP against any other debt or liability the claimant or partner has to the Council thereby reducing their indebtedness and therefore their expenditure.

The Council will decide in each case whether the DHP should be paid in advance or in arrears. Payments will not normally be made more than one month in advance unless the total amount due to be paid during the whole DHP period is less than £25.

Notification

The Council will inform claimants of the outcome of their DHP application within 14 days of all the information and documentation requested from the claimant being made available.

Where the application has been unsuccessful, the notification will contain the reasons why no award has been made.

Where an award has been made the notification letter will contain the following information:

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

All notifications will include information to claimants about what to do if they disagree with a DHP decision.

DHP Review Process

DHPs are not payments of Housing or Council Tax Benefit and are therefore not subject to the statutory benefits appeals mechanism where appeals are decided by the Appeals Service, which is an independent statutory body. The Council will therefore decide appeals.

The Council will operate the following policy for dealing with appeals about DHP's.

- a claimant (or their appointee or agent) who wants a further explanation of a DHP decision may request one in writing provided they do so in writing within 28 days of receipt of the decision notice
- the claimant (or their appointee or agent) may ask for a review of the decision provided they do so in writing within 28 days of receipt of the decision notice. Any such request should include an explanation as to why he/she does not agree with the decision and include any additional information which had not been made available to the Council with the original application

An appeal will be subject to a review by either the Director of Finance or the Corporate Finance Manager, neither having had any involvement with the original decision. The claimant will be notified in writing of the outcome of the review. A review of the decision may be suspended if more information is required from the claimant or from any other relevant source.

Overpayments

The Council will seek to recover any DHP found to be overpaid. Recovery will be sought from the claimant and/or partner, regardless of how and to whom the DHP was paid. This will be done by invoicing the claimant and/or partner. No DHP overpayment will be recovered where the Council made the award in error. A decision that a DHP is overpaid will be notified by decision letter. An appeal may be made against the decision. Appeals relating to overpayments of DHPs will follow the DHP Review process as previously detailed.

Fraud

Any claimant, who makes a fraudulent claim for a DHP by falsely declaring their circumstances or providing a false statement or evidence in support of their application, will have committed a criminal offence. Any cases where the Council suspects that this has occurred will be investigated and appropriate action taken. This may include referral of a fraudulent claim to the Procurator Fiscal.