

Discretionary Housing Payments

Good Practice Guide

March 2011

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Introduction

Purpose of this guidance

- 1 This guidance:
 - replaces the March 2008 Discretionary Housing Payments Best Practice to reflect local authorities' role in assisting customers affected by Housing Benefit (HB) reforms from April 2011
 - provides clarification on how assistance can be given with items such as deposits and removal costs
 - includes additional examples of good practice at Appendix A on assisting customers affected by reductions in Local Housing Allowance (LHA) rates.

2-9

What are Discretionary Housing Payments?

- 10 Discretionary Housing Payments (DHPs) provide customers with further financial assistance when a local authority (LA) considers that help with housing costs is needed.
- 11 The regulations covering DHPs are The Discretionary Financial Assistance Regulations 2001 referred to in this guidance as 'the regulations'.
- 12 You should be aware that although the legislation gives you a very broad discretion, decisions must be made in accordance with ordinary principles about good decision making, ie administrative law. In particular, LAs have a duty to act fairly, reasonably and consistently.
- 13 Once you have met your authority's overall cash limit you cannot award any more DHPs. By cash limit we mean two and a half times your government contribution. If you award above this limit, you are breaking the law. The legislation which specifies the overall limit on expenditure is Article 7 of The Discretionary Housing Payment (Grants) Order 2001. However, any unspent DHP funding will have to be returned to DWP.
- 14 You should also be aware that the amount of money you have left from your government contribution must not be a factor in your decision making. Each case must be decided on its own merits.

15-19

What do we mean by housing costs?

- 20 Housing costs are not defined in the regulations and this gives LAs a broad discretion to interpret the term as they wish.
- 21 In the narrowest of senses if the customer is getting Housing Benefit (HB) housing costs mean rent (subject to certain exclusions) and if they are getting Council Tax Benefit (CTB), housing costs mean council tax liability.
- 22 But housing costs can be interpreted more widely to include:
- rent in advance
 - deposits
 - other lump sum costs associated with a housing need such as removal costs.

See [Deciding whether to award a DHP](#) later in this guidance for more details.

23-29

What do we mean by 'further financial assistance'?

- 30 There is no definition of the phrase 'further financial assistance' in law. It is up to you how you interpret it.
- 31 The level of award may cover all or part of a shortfall or assist with the cost of taking up a tenancy.

See [Administering DHPs](#) and [The level of a DHP](#) later in this guidance.

32-99

Claiming a DHP

The claims process

- 101 Our regulations say that to make a DHP there must be a claim for a DHP.
- 102 However, that does not necessarily mean that there has to be a written claim form. How you choose to operate the claims process is up to you. If you decide not to use a written claim form you may instead decide to accept claims by another means, for example by telephone, or electronically.
- 103 Although you can institute your own procedures as to what constitutes a claim in each case, there has to be something in each instance which triggers the claim. This could be something as simple as a telephone call asking the customer if they wish to claim DHPs. You should also bear in mind that LAs have a duty to act consistently.

104-109

Who can claim DHPs

- 110 In most cases, the person who claims a DHP will be the person entitled to HB or CTB.
- 111 However, you may also accept claims from someone acting on behalf of the person concerned, such as an appointee, if you consider it reasonable to do so.

112-119

Who you can pay

- 120 DHPs may be paid to someone other than the customer if you consider it reasonable to do so.
- 121 That could be an agent, an appointee or a landlord. In the case of a person entitled to rent rebate or CTB, DHPs can be credited to the rent rebate or council tax account.

122-129

Information a customer must give

130 When someone claims a DHP, they must give you:

- information you may require to make a decision or look at a decision again
- any other information you may require in connection with their claim.

132-139

Telling the customer of the decision

140 If someone claims a DHP, you must tell that person of the DHP decision, in writing and with reasons, as soon as is reasonably practicable. You must be consistent and avoid unnecessary delay.

141 When issuing a decision you may also want to provide information about the process for reviewing the decision that you have in place. As DHPs are discretionary arrangements, there are no appeal rights to an HB/CTB tribunal, although the route of Judicial Review is available, see [Dispute procedures](#) later in this guidance.

142 You should also clearly distinguish the dispute/appeal rights that apply to HB/CTB. It is important that customers are not inadvertently led to believe that such appeal rights also apply to DHPs.

143 There is no legal requirement to notify landlords of a DHP decision, but you may wish to do so. However, you should be careful not to breach any obligations of confidentiality owed to the claimant, including:

- under Article 8 of the European Convention on Human Rights (ECHR)(right to respect for private and family life)
- data protection law.

144 If you are already paying HB to the landlord and later award a DHP you may wish to advise that the DHP is also being paid directly to them.

145-149

Backdating a DHP

150 You should look at each claim on its own merits when deciding whether or not to backdate a DHP.

- 151 Unlike with HB/CTB, there are no rules on backdating, but you do have a duty to act consistently.
- 152 We amended the regulations from 7 April 2008 to make it clear that a DHP can only be considered for a period where the linked HB or CTB is payable. This is of particular relevance to requests for a period of backdated DHP. Additionally a DHP cannot be awarded in respect of a period before 2 July 2001.

153-199

Administering DHPs

Who can accept claims?

200 Only an LA can accept claims for DHPs but this can include any department of the LA.

201 As DHPs are not HB or CTB, provisions which allow Jobcentre Plus or Pension Service offices to accept claims in certain circumstances do not apply.

202-209

Who can administer DHPs?

210 Who administers DHPs is entirely up to you.

211 Your authority has the choice as to who, or which department, within your LA will administer, determine and award DHPs.

212-219

Method of payment

220 DHPs may be delivered via HB/CTB payment systems and may also be paid on HB/CTB instruments of payment.

221 However:

- the authority must be able to differentiate, in any given case, between HB/CTB and DHPs, ie there must be a clear audit trail
- if a DHP is paid with HB/CTB, notifications to the customer must clearly show how much is HB/CTB and how much is DHP.

222-229

Contracting out

230 A contractor can carry out all functions relating to the administration of DHPs.
This includes making decisions on whether or not to award a DHP.

231-299

Deciding whether to award a DHP

What are the criteria for award?

300 Before you make an award you must be satisfied that the customer:

- is entitled to HB or CTB, or both, and
- requires further financial assistance with housing costs.

301-309

What types of shortfalls can DHPs cover?

310 The various types of shortfalls that a DHP can cover include:

- Rent Officer restrictions such as Local Reference Rent (LRR), Shared Room Rate (SRR), size criteria or when the Local Housing Allowance (LHA) does not meet the rent
- reductions in HB entitlement following changes to LHA rates from April 2011
- non-dependant deductions,
- income tapers
- increases in essential work related expenditure such as increased fares to work if a customer has had to move because they could not afford to live in proximity to their work following a reduction in their LHA rates.

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 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 additionally the fares were included in the disregard.

		HB Calculation	Hypothetical HB Calculation	DHP
A	Eligible rent	101	101	
B	Personal Allowance	67.50	67.50	
C	Less Net earnings (£5 disregard)	95.00	75.00	
D	Difference =	27.50	7.50	
E	Apply 65% taper	17.78	4.88	
F	A - E	83.22	96.12	13.00

Alternatively, the LA could have decided to treat all disregarded income as being available to meet the fares.

311-319

Rent deposits and rent in advance

- 320 You can make DHPs for a rent deposit or rent in advance schemes for a property that the customer is yet to move into if they are already entitled to HB for their present home.
- 321 Using DHPs for this purpose may be particularly appropriate where your LA does not operate a deposit guarantee scheme or to complement the deposit guarantee scheme.
- 322 The regulations are wide enough to permit this on the basis of a customer's entitlement to HB 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 HB has been awarded.
- 323 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, or their council tax liability the limit only applies where the award is calculated as a weekly sum, for example, to meet a shortfall.

- 324 In a case where you 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. See [The level of a DHP](#) later in this section.
- 325 When awarding a DHP for a deposit, you may wish to 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 http://www.direct.gov.uk/en/HomeAndCommunity/Privaterenting/Tenancies/DG_189120 for further information.
- 326 When making a DHP to assist the customer with securing a new tenancy you might want to consider making the payment to the landlord rather than the customer.
- 327 As a lump sum payment for rent in advance is not made in respect of a period, you do not have to be satisfied that the customer is entitled to HB other than at the point you make the award.
- 328 If the rent in advance is for a property outside of your area this does not prevent you from making a payment as the customer is currently in receipt of HB in your LA area.
- 329 Before awarding a DHP for rent in advance or a deposit you may wish to establish 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.
- 330 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.

331-349

DHPs and two homes

- 350 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. In this case, if the customer is treated as liable for the 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. See [The level of a DHP](#) later in this section.
- 351 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 on the dwelling from which they are temporarily absent. See [The level of a DHP](#) later in this section.

- 352 The regulations do not say that DHPs can only be paid in respect of rent on a person's home, they just limit the weekly amount that can be paid when the DHP does relate to rent on a person's home.
- 353 The situation for council tax is different because as far as council tax is concerned there is no reference to occupancy of the home. So DHPs can meet an amount equal to the council tax liability on as many homes as that person has.

354-359

What DHPs cannot cover

- 360 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.
- 361 Excluded elements are:
- ineligible service charges
 - increases in rent due to outstanding rent arrears
 - shortfalls in the second adult rebate elements of a customer's CTB, and
 - certain sanctions and reductions in benefit.

See [Appendix B](#) for more details

362-369

Income and other resources

- 370 You decide how you treat any income or other resources for the purposes of deciding whether to award a DHP.
- 371 For example, you may, or may not, 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, you may want to 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.
- 372 You can 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. You will need to decide locally how you treat disregarded income when calculating the amount of the DHP.

373-379

The level of a DHP

380 If the purpose of the DHP is to meet a shortfall it is entirely up to you how much of a shortfall that you decide to meet.

381 However, in the case of a shortfall the level of HB/CTB plus the DHP must not exceed:

- the weekly eligible rent on their home or
- their council tax liability

382 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.

383 For lump sum payments such as deposits or rent in advance this limit does not apply but you will need to have regard to your overall DHP budget.

384-389

Payment cycles

390 It is for you to decide the frequency of payments. Payments to meet shortfalls could be made at the same frequency as the HB payment. You can make lump sum payments for one off costs such as deposits or rent in advance.

391-399

Claim maintenance

Length of award

- 400 The length of time over which you can pay an award is up to you.
- 401 It may be appropriate for you to make a short term award to give a customer time to sort out their financial circumstances or you may wish to make an indefinite award until the customer's circumstances change. The start and end dates of an award are up to you.
- 402 When there is a specific end date, you should make it clear to the customer what the period of the award is.
- 403 The purpose of the award may be to meet a one off housing need such as a deposit or rent in advance. In this instance there is no requirement to specify the period of the award.

403-409

Change of circumstances

- 410 A customer getting DHPs is required to notify you of any changes of circumstances which may be relevant to their continuing to get DHPs.
- 411 You need to make sure the recipient is aware of the changes they should report. There is no statutory timescale for notification; it is for you to decide. It is also for you to decide the means by which such changes are notified.
- 412 Many changes of circumstances that customers have a duty to report for HB/CTB purposes may also be relevant to their continuing to get DHPs. You may use such information to review the level of the DHP.

413-419

When you can stop paying a DHP

420 There are instances other than a change of circumstances when DHPs can be stopped.

421 You can stop making any further DHPs:

- if you decide that DHPs are being, and/or have been, made because someone has misrepresented or failed to disclose a material fact, fraudulently or otherwise
- when they have been paid as a result of an error.

422-429

Overpaid DHPs

430 You can recover DHPs if you decide that payment has been made as a result of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise. You may also recover DHPs if you decide they have been paid as a result of an error made when the claim was determined.

431 You may not recover DHPs from ongoing HB/CTB. This is unlike HB overpayments and excess CTB, where there is a regulatory provision to allow recovery from ongoing HB/CTB.

432 There is also no provision for recovery of overpaid DHPs from other prescribed benefits.

433 Therefore the only method of recovery if a DHP is overpaid is to request repayment of the debt from the claimant. This may be in the form of an invoice or however you choose to do so, for example using debt collection agencies or via the courts.

434-499

Dispute procedures

Introduction

500 The LA can review a DHP decision in the event of disputes.

501 However, decisions on DHPs cannot be appealed to an HB/CTB tribunal as they are not empowered to deal with them. The route of judicial review is available, and the local government ombudsman if there is an allegation of maladministration.

502 There is flexibility as to how you apply any dispute process. You may look at a decision again in the light of representations made by the customer (in whatever form you decide) or whenever you consider it appropriate for whatever reason. You may also review a DHP decision in the event of a dispute either at the time of the initial rejection or subsequent to a cancellation or recovery. We do not set out circumstances in any more detail. However, you do need to be consistent.

503-509

Reviewing the decision

510 You may also decide who in the authority may look at a decision again.

511 To minimise the risk of legal challenge you are advised to ensure that the review is carried out by someone other than the person who made the original decision.

512-519

Notifying the customer

520 Notify the customer of a review outcome:

- in writing
- with reasons
- as soon as is reasonably practical.

521-599

Good practice

Section one—Managing the DHP scheme

Overview

- 1 These good practice examples are to help you to decide whether or not to award a DHP.
- 2 But first and foremost you should be aware that this is a discretionary scheme. Therefore you should consider each case on its own merits rather than on a set of rigid pre-defined criteria.
- 3 A policy that is too rigid will effectively prevent you from exercising your discretion properly in individual cases. This could make some of your decisions vulnerable to challenge by judicial review.
- 4 However, this does not mean that you must not develop a policy at all, it simply means that your policy must be flexible and allow for deviation for unusual cases, however rare.
- 5 The examples are simply ideas as to what you may wish to think about when considering a DHP. You should bear in mind that in some cases, there may be a good reason for doing things differently.
- 6 You may want to consider a process for monitoring the decisions made in relation to DHPs. This could help you to ensure compliance with the duty to act fairly, reasonably and consistently.

7-9

Objectives for award

- 10 Some authorities have certain objectives in mind when considering whether to make an award of DHP. These include:
 - alleviating poverty
 - encouraging and sustaining people in employment
 - tenancy sustainment and homelessness prevention

- safeguarding residents in their own homes
- helping those who are trying to help themselves
- keeping families together
- supporting the vulnerable or the elderly in the local community
- helping customers through personal and difficult events
- supporting young people in the transition to adult life, or
- promoting good educational outcomes for children and young people

11-19

Publicising DHPs

20 It is important to publicise the existence of the DHP arrangements as they are a key element of the Government's strategy for managing reductions in LHA rates arising from HB reform.

21 In order to raise awareness of DHPs you may wish to consider the following methods of communication:

- including Information on all HB/CTB decision notices where there is a shortfall
- leaflets and posters
- giving advice on DHPs when people come to the LA to discuss a claim
- informing external and internal bodies that give advice to customers, of the existence of DHPs
- developing and establishing links with Housing/Homelessness/Social Services departments
- including DHP advice as part of your general welfare advice services
- making landlords aware of the scheme
- information on your LA website

21-29

Administration of DHPs

30 It is entirely up to you how you administer the DHP arrangements but you may wish to consider the following suggestions.

- Would using the same payment cycles as the customer's HB/CTB make the system easier to operate?
- A second member of staff could check the decision to ensure consistency.
- Some LAs find a partnership approach between HB departments and other housing departments such as Housing Options, Housing Strategy, Private Rented Sector Access Schemes highly effective in making best use of DHPs.
- You could set up a system, for example a spreadsheet, to ensure awards are reviewed and monitored.
- You may wish to visit customers in their own home as it helps to confirm their circumstances and establish what further help or advice they require.
- When a change of circumstances means that an award of HB/CTB is reviewed, you could review the DHP award at the same time, as the change of circumstances may mean that the criteria for DHP are no longer met.
- You could identify at the time of the first award whether a second award might be necessary, and issue a review form prior to the end of the award asking what action has been taken during the period of the award.
- Paying DHPs from the date on the application form would make things more transparent for both LAs and customers, though backdating and paying in advance is allowable.
- Customers normally have to arrange their finances quickly and so you could ensure that decisions on DHP claims are made within four weeks.

31-39

Notifying decisions on DHPs

- 40 Customers will need clear information about the decision on their DHP claim you can include Information about the DHP decision on the HB/CTB notification form (but you should make it clear that DHPs are not HB/CTB and you should specify the amount of the DHP).
- 41 Where you have made a decision on the award customers will need the following information:
- the reasons for an award decision (be it positive or negative), the start and end dates of the award – and the reason for those dates
 - their dispute rights (if you have a disputes procedure)

- information on who to contact if they need further help or advice.

42-49

Disputes procedures

50 It is good practice to have a disputes procedure. This could also help to reduce the probability of a legal challenge. Examples of good practice are:

- involve an officer other than the one who made the original decision, or possibly a more senior officer, when looking at a decision again
- the decision letter should clearly state the reasons for a negative decision.
- customers know who they can complain to in the first instance
- customers are given some idea how long the process will take
- if they disagree with the first decision they should know where they may go next

51-99

Section two – Assisting customers affected by reductions in LHA rates

Background to the changes to LHA rates

100 From April 2011 changes to the way in which rent officers set LHA rates are set are likely to result in an increase in demand for DHPs. The changes are as follows:

- the five bedroom LHA is being removed so that the maximum rate is for a four bedroom property
- absolute caps for each property size are being 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 to be set at the 30th percentile rather than the median

101 Customers who are in receipt of HB on 31 March 2011 will not be 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.

102 The changes to the LHA arrangements apply to new customers claiming from 1 April 2011 although they could be protected under the existing 13 week and protection on death provisions.

103 Although the period of transitional protection will give existing customers time to look for alternative accommodation which they can afford, once their LHA rate reduces, some customers may still need assistance beyond the end of the period of protection.

104 In addition to the changes to Local Housing Allowance rates non-dependant deductions are being increased in stages from April 2011 so that by April 2014, these increases will bring the rates to the level they would have been had they been fully up-rated since 2001 to reflect growth in rents and council tax.

105 The Government has increased its DHP funding to local authorities in anticipation of greater demand on their budgets to ensure that LAs are able to assist customers in a variety of ways. The additional funding had been allocated on the basis of the estimated impacts.

Profiling your DHP budget

- 110 As the DHP scheme has been in place for some years LAs will have built up expertise and local knowledge enabling them to profile their DHP budgets to meet demand over the course of the year.
- 111 With the changes to LHA rates in 2011 you can use information you already hold to predict when demand is going to increase and the likely scale of shortfalls.
- 112 It may be helpful to gather and analyse information you hold on your benefit systems to help you profile your DHP budget. The Department also published estimates of the impacts at LA level at the end of July 2010 <http://www.dwp.gov.uk/docs/impacts-of-hb-proposals.pdf>.
- 113 For example you could take account of the following.
- The distribution of anniversary dates for existing customers. Are there peaks caused by previous large scale redundancies? Will these cause a surge in demand for DHPs at the end of the transitional protection period?
 - Do you have information on the range of rents charged in the area?
 - Can you anticipate the scale of shortfalls by using the information published by the three national rent services on indicative/actual LHA rates?
 - England [English Local Housing Allowance Rates](#)
 - Wales [Welsh Local Housing Allowance Rates](#)
 - Scotland [Scottish Local Housing Allowance Rates](#)
 - Can you identify particular types of cases such as households in properties with more than five bedrooms and possible shortfalls?
 - People who are disabled or frail or families with school age children may be less able to move, can you establish volumes of these types of cases?
 - Are you likely to use funding to pay for lump sum assistance for rent in advance and deposits?
- 114 You may also be able to reduce some demand by offering customers alternative support and advice in advance of considering whether a DHP is appropriate. In many cases it may be possible for tenants to stay at their existing accommodation at a reduced rent. For example, you may consider paying HB directly to the landlord if they are prepared to reduce their rent to the level of the LHA rate
- 115 By taking action in advance of the financial year to analyse your caseload you will have useful information that will help you profile and prioritise your budgets

116 Your DHP budget will need to be carefully monitored and managed for example keep records on:

- amounts requested against amounts awarded
- type of accommodation
- reason for award
- duration of award
- customer's characteristics.

117-119

Managing the transition

120 Have you had an authority wide discussion on your overall strategy on issues including the following:

- providing information on the changes and ensuring that customers have adequate time to consider options
- making information on DHPs more available
- providing housing advice and help with negotiating reductions in rents with landlords (from April 2011 you have discretion to pay HB direct to the landlord if it helps the customer to secure a new or retain an existing tenancy)
- how best the homelessness prevention or housing options teams can work with the HB administration team to identify cases where a DHP may be appropriate for example can they
 - help to collect evidence to inform DHP decisions
 - negotiate with the landlord to reduce the contractual rent
 - advise on length of awards if they are helping to find an alternative tenancy
- whether assistance with rent in advance and deposits is likely to be needed or is there a local deposit guarantee scheme for people who might move?
- whether social service departments can be involved in applications from people with disabilities to advise on their accommodation needs.
- have you considered whether additional resources for processing claims are needed?
- do you need to reconsider and streamline your processes?

121 Have you considered working with neighbouring LAs if your customers will be more likely to find accommodation outside of your own area? For example:

- agreeing that as the exporting LA you will meet the cost of rent in advance and deposit for a property in the LA area to which the customer is moving

- having mechanisms in place to ensure the new LA is aware that you have awarded rent in advance and a deposit
 - discussing availability of accommodation and other services such as school places
 - involving your homelessness prevention teams or other housing advice teams in these discussions
 - agreeing that the importing LA might make DHPs to help with fares to work if these are increased as a consequence of the move.
- 122 If people from neighbouring areas are likely to be moving into your LA area have you had discussions with other departments on possible increases in demand, for example, on school places or social service support?

123-129

Considering your DHP strategy to take account of increased demand

- 130 Given the numbers of people affected by the changes, awarding DHPs to meet all shortfalls arising from the 2011 changes is unlikely to be an option. You will need to consider how best to target the funding.
- 131 If you are in an area (generally in London) where LHA rates are limited by the LHA caps, there may be particular issues for you to consider. This is because the shortfall between benefit and rent levels may be such that it is impractical to use DHPs for any substantial period. You may wish to consider how best to support customers in these circumstances.
- Can you work with the homelessness prevention team or housing options to help the tenant negotiate at least some reduction in rent with the landlord and consider DHP arrangements for the rest?
 - Where there is a substantial gap between the rent and benefit levels, it may be more practical to consider supporting the customer to move, for example to pay rent in advance, deposit and removal expenses.
- 132 Some groups you may want to assist to stay in their home for example:
- families with children at a critical point in their education.
 - young people leaving local authority care
 - foster carers and Staying Put Carers with children in care and care leavers respectively.
 - families with kinship care arrangements. Children who go into the care of family and friends care 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 social service intervention, for example highly dependant adults, children at risk or involvement in a family intervention project
- 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 adaptations to their property. Maintaining the existing tenancy may be more cost effective overall to the LA.
- 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.
- 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/split shifts/inadequate public transport.

133 Customers who are able to move to properties with a rent within their LHA rate but as a consequence have additional travel to work costs may still have difficulty meeting their rental commitment. You might consider there is a need for a DHP in these circumstances. This may also be the case if a customer has moved into your area because they could not afford to rent in another area.

134-199

Section three - Considering a DHP award, further examples of good practice

200 The following are examples of good practice (in the form of questions you may wish to consider or facts that you may wish to take into account) that you may find helpful when considering a DHP award. What questions you decide to ask and how you form a decision based on the responses to such questions is up to you. Each case should be treated individually.

Prevention of homelessness

201 Homelessness can have a negative impact for the household concerned in terms of health, education and employment prospects. Also, temporary accommodation used to house the homeless can be expensive. Therefore, early intervention to prevent homelessness should be a key issue for LAs. You may wish to consider how DHPs could help.

- A DHP would prevent the household from being evicted and thus becoming homeless.
- An award of DHP would be central to the person being able to access or maintain employment, education or training and so they are thus less likely to become homeless.
- Paying DHPs to households, who have previously been homeless, would help to increase the long-term sustainability of their accommodation.
- You could work with homelessness organisations, and those operating rent deposit schemes, as well as your council's homeless section to prevent loss of tenancy.

The tenancy

202 You could consider the following issues concerning the tenancy.

- Is there scope for the landlord to reduce the rent?
- Can your housing options or homelessness prevention team help the customer to negotiate a lower rent if the customer feels unable to attempt to do so themselves.

- Does the customer have a fixed term tenancy and if so when does this end?
- Can the tenant leave the tenancy without incurring a financial penalty?
- Could the tenant afford the tenancy before they took it on?

The household's financial circumstances

203 Although there are no rules on the financial issues to be taken into account when considering the award of DHPs, you may wish to think about the following.

- Does the customer have other debts to pay?
- Have they sought advice on how to clear their debts?
- Can the customer re-negotiate non-priority debts, such as credit card agreements?
- Is the customer entitled to other welfare benefits and not claiming them?
- Do they have any capital or disregarded income that they could use to make up the shortfall (bearing in mind its intended purpose)?
- Is there anyone else willing to make up the shortfall?
- Can the customer change their spending pattern on non-essential items?
- Is the customer taking long-term action to help their problems in meeting their housing costs?
- Could the customer afford the rent when they moved in?
- Can the customer increase his hours or do any overtime?
- Is the customer in work but with high travel costs, because of split shifts for example?

The household's medical circumstances

204 You may wish to consider whether the following apply.

- Does the household have health or support needs which require them to remain in a particular property?
- Does the household have a health problem which means that the choice of housing is restricted either temporarily or permanently?

- Does the customer require an extra room because of a health problem that affects them or a member of their household?
- Does the household have to live where they do because of the need for access to medical or support services – for example a particular hospital?
- Does the household have extra health-related expenses, such as the need for therapeutic classes or non-prescription medicine?

Other circumstances

205 There may be other circumstances applying to the customer or a member of their household which you think need to be taken into account.

- Is the customer fleeing domestic violence so they do not have time to shop around for a reasonably priced property?
- Does the household have to live in a particular area because the community gives them support or helps them contribute to the district?
- Is the customer expecting a child and had her HB restricted to that of smaller accommodation until the child is born?
- Is the customer a single person who is expecting a child and who would thus no longer be subject to the Single Room Rent once the child is born?
- Is the customer a single person living in an area where there is a shortage of shared accommodation?
- Is the customer a care leaver who has a reduction in their LHA rate after becoming 22 years old?
- Is there is a particular reason that the customer chose to live in this accommodation?
- Is the property the cheapest available in the area for the household's needs?
- Does living in the area mean a better chance of employment?
- Would it be helpful to pay DHPs when a training scheme is almost, but not yet complete?
- Would it be helpful to pay DHP where the household contains children at a critical point in their education?
- Is someone in the household undertaking care duties for relatives in the neighbourhood?

- You could consider paying the DHP to those returning to the workplace as an encouragement for others to do the same.

Likely duration of award

206 The length of time over which an award of DHPs can be paid is up to you, but you may find it helpful to consider the following.

- Is any need likely to be short-term?
- Is the customer likely to require assistance in meeting their housing costs for as long as they remain in the property?
- You could consider paying DHPs until the earliest opportunity that cheaper accommodation could reasonably be sought.
- You could consider paying DHPs until a particular milestone, such as the end of training, first possible break clause in a tenancy, and so on.

Backdating of DHPs

207 When backdating an award you may wish to consider:

- the customer's age
- health
- circumstances
- make-up of household
- the local housing market

What DHPs cannot cover

These are the elements of a person's rent or council tax, and shortfalls in benefit that cannot be met by a DHP under the legislation.

- **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.
- **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.
- **Any shortfall in the second adult rebate element of a person's CTB:** this is to ensure that DHPs are not made in cases when a person is not entitled to CTB in their own right, but is getting a second adult rebate. In such cases DHPs cannot meet any shortfall between the second adult rebate and the council tax liability, because the second adult rebate relates to the circumstances of the other person in the household and not the customer themselves.
- **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

- **Benefit suspensions:** HB or CTB 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.
- **Rent, when the person is getting CTB but not HB (and vice versa in relation to Council Tax):** in other words, when a person is only getting HB, you should not take into account any financial assistance that they may require with their Council Tax, when considering the award of a DHP. Similarly, where the person is entitled to CTB but not HB, you should not take into account any liability to make rent payments.
- **Shortfalls caused by HB/CTB overpayment recovery:** when recovery of an HB/CTB overpayment is taking place, such shortfalls should not be considered for a DHP.