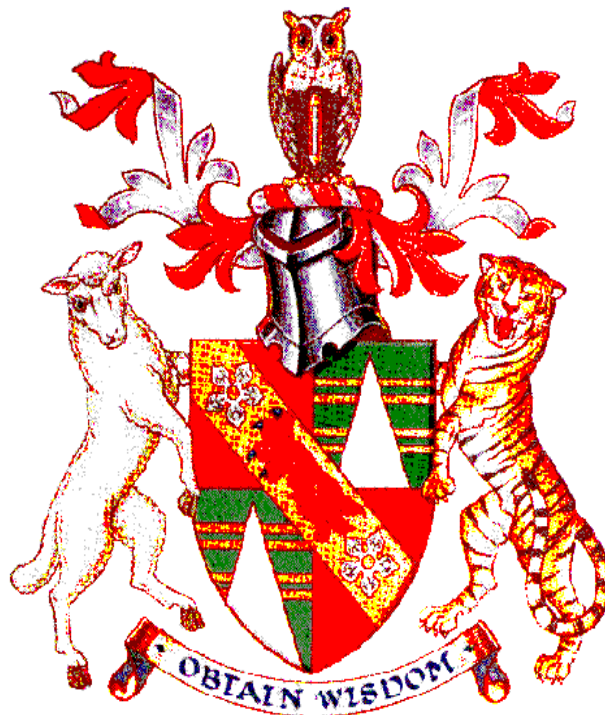


OADBY AND WIGSTON BOROUGH COUNCIL



DISCRETIONARY HOUSING PAYMENTS POLICY

Version	Date	Comments	Author
1.0	31 Dec 2010	Draft for consultation within service area	Daren Nowlan
1.1	04 Jan 2011	Amendments from Erica Bray	Daren Nowlan
1.2	05 Jan 2011	Amendments from Simon Folwell and Anthony Hickman	Daren Nowlan
1.3	29 Mar 2011	Passed as R&R committee	Daren Nowlan
1.4	4 Apr 2011	EIA completed	Daren Nowlan, Nicola Pedge, Beryl White, Chris Funnell

Glossary

BO	Benefit Officer
CT	Council Tax
CTB	Council Tax Benefit
DFAR	Discretionary Financial Assistance Regulations 2001
DHP	Discretionary Housing Payments
DWP	Department for Works and Pensions
HB	Housing Benefit
HOS	Head of Service
OWBC	Oadby and Wigston Borough Council
RBS	Revenues and Benefit Service
SBO	Senior Benefit Officer

1. Purpose

- 1.1. The purpose of this policy is to specify how Oadby and Wigston Borough Councils' Revenues and Benefits Service (RBS) will operate the Discretionary Housing payment scheme (DHP) and indicate some of the factors that will be considered when deciding if a DHP can be made.

2. Legislation and Funding

- 2.1. DHP awards are made under the provisions set out in Discretionary Financial Assistance Regulations 2001 (DFAR). These regulations require local authorities to administer a DHP scheme and set out key qualifying criteria for making payments under the scheme.
- 2.2. In particular, the DFAR regulations give details of when payments cannot be made and explain the general qualifying criteria for DHP (such as entitlement to Housing Benefit or Council Tax Benefit). The regulations also set financial limits for payments on Councils and these are updated annually.
- 2.3. The Department for Works and Pensions (DWP) provides an annual grant to each local authority to pay DHP. Any element of the grant not spent must be returned in full to the DWP. A local authority may spend more than its DWP grant up to an upper limit (2.5 times the DWP grant) but any amounts paid over the DWP grant fall upon the Councils general fund to finance.

3. Policy Statement

- 3.1. This policy contributes towards OWBCs corporate aims of providing stronger communities and ensuring that housing needs are met.
- 3.2. To contribute towards these aims, OWBC will make DHPs wherever appropriate and will publicise the existence of DHP.
- 3.3. The council will do everything possible to make it easy for potential beneficiaries of DHP to claim it. Claims for DHP shall be considered carefully and fairly.
- 3.4. The Senior Benefit Officer (SBO) shall make decisions on DHP claims. Reasons for their decisions will be recorded and the person claiming can ask for the reasons for our decision, either verbally or in writing.
- 3.5. In making decisions on claims for DHPs, officers shall have regard to the relevant legislation, the principles of natural justice, equality of opportunities and the additional guidance set out in this policy.
- 3.6. The RBS will work actively 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.

4. Statement of Objectives

- 4.1. The SBO will consider making a DHP award to customers who meet the qualifying criteria as specified in this policy and DFAR regulations. They will treat all applications on their individual merits and will seek through the operation of this policy to:
 - 4.1.1. Alleviate poverty
 - 4.1.2. Enable local residents to find and retain affordable homes and prevent homelessness
 - 4.1.3. Encourage and sustain Oadby and Wigston Borough residents in employment
 - 4.1.4. Help those who are trying to help themselves
 - 4.1.5. Keep families together
 - 4.1.6. Support the vulnerable in the local community
 - 4.1.7. Promote stability in the private rented sector
 - 4.1.8. Help customers through personal crises and difficult events.

5. Claiming a DHP

- 5.1. A claim for DHP must be made on the approved form and received by OWBC at a designated office for the receipt of benefit claims. The claim must:
 - 5.1.1. Identify the claimant and the address that the claim relates to
 - 5.1.2. Be properly completed
 - 5.1.3. Contain sufficient reasonable information and supporting evidence to allow the Council to make a DHP decision.

- 5.2. Where a claim does not comply with the above requirements the Benefit Officer (BO) will take reasonable steps to remedy the DHP application. The BO may request any reasonable and relevant information or evidence in support of a claim for DHP.
- 5.3. The customer will be asked to provide the information or evidence within 1 month. BOs will have discretion to extend the above time limit if appropriate in the interests of promoting the objectives of this policy.
- 5.4. If the customer does not provide the required information or evidence within the time limits outlined in 5.4, then the Council will consider the DHP application taking into account any available evidence, including that held on the Housing Benefit (HB) and Council Tax Benefit (CTB) records.

6. Period of award

- 6.1. The SBO will decide the length of time for which a DHP will be awarded on the basis of the known facts and the evidence supplied. The start date of a DHP award will usually be:
 - 6.1.1. The Monday after the council receives the DHP claim, or
 - 6.1.2. The date on which entitlement to HB/CTB started, providing that the DHP claim is made within one month of the Council's notifying the customer of the HB/CTB decision, or such reasonable extension of time as officers may consider appropriate in the particular circumstances of the case, or
 - 6.1.3. The Monday after a relevant change in circumstances giving rise to the need for the DHP
- 6.2. A DHP cannot be awarded for any period for which the customer has no entitlement to Housing Benefit or Council Tax Benefit under the HB/CTB statutory scheme.
- 6.3. The minimum period for which a DHP may be awarded is one week, but in most cases DHPs will not be awarded for more than 26 weeks.
- 6.4. The SBO may set a review date for a DHP award in order to ascertain whether circumstances have changed. Furthermore, the customer will be under a duty to report all changes of their circumstances in writing to the Council's designated office.
- 6.5. The SBO will consider any reasonable request for backdating of a DHP claim, but such backdating will not usually be extended for more than 13 weeks before the date on which we received the customer's request for backdating. Backdating should be considered in line with existing benefit case law which states that the further the backdating is required, the more compelling the reason should be.

7. Awarding a DHP

- 7.1. The BO dealing with the claim shall consider the full circumstances available to them, of the claimant and their household and make a recommendation on how much, if any, DHP to award. The BO will pass this recommendation to the SBO who shall agree or amend the recommendation.

- 7.2. Whenever possible, the SBO will make a decision on any claim for a DHP within two weeks of receiving the necessary information and evidence, or as soon as is reasonably practicable thereafter.
- 7.3. In deciding whether to award a DHP, the SBO will take into account any of the following factors, which may be relevant:
 - 7.3.1. The current best practice guidance from the DWP and legislation
 - 7.3.2. The amount of the shortfall between HB/CTB and the rental/council tax liability (net of any ineligible charges) and the reasons for that shortfall coming about
 - 7.3.3. Any steps taken by the customer to reduce their rental or council tax liability
 - 7.3.4. Any steps that could be reasonably taken by the customer to mitigate the need for DHP such as but not limited to moving home or applying for unclaimed benefits
 - 7.3.5. The financial and medical or social needs and circumstances of the claimant, their partner and any other persons in the household
 - 7.3.6. The income and expenditure of the claimant, their partner and any other persons in the household
 - 7.3.7. Any savings or capital held by the claimant or family members
 - 7.3.8. The level of overall debt of the claimant and family
 - 7.3.9. Any exceptional circumstances of the claimant or family members
 - 7.3.10. Any special reasons which make it necessary or particularly desirable for the claimant to occupy the dwelling in respect of which the liability arises
 - 7.3.11. The likely consequences of rent or council tax arrears for the claimant or family members, especially if any of them are vulnerable by reason of age, sickness or disability
 - 7.3.12. Action taken by the landlord (or OWBC) to recover arrears of rent or council tax
 - 7.3.13. The discriminatory impact of legislation (e.g. restrictions on the rent and applicable amount of younger single claimants)
 - 7.3.14. The amount available in the council's DHP budget or within the limits of the permitted total
 - 7.3.15. The possible impact on the council of not making an award, e.g. the pressure on priority homeless accommodation
 - 7.3.16. Any other special circumstances brought to the officer's attention.
- 7.4. The BO will recommend how much to award based on all the circumstances. This may be any amount within the limits prescribed by the DFAR.
- 7.5. An award of DHP does not guarantee that a further award will be made at a later date even if the claimant's circumstances have not changed. In all cases where

additional DHP payments are sought, a customer will be required to submit a full re-application on the approved form.

8. Change of circumstances

- 8.1. RBS staff may revise, revoke or suspend the award of DHP where the customer's circumstances have materially changed or where false, misleading or incomplete information has been supplied to the Council. Such amendments will lead to the issue of a new decision notice with new appeal rights. However, a decision to suspend payments while further enquiries are undertaken by RBS does not carry a right of appeal.

9. Method of payment

- 9.1. As a general rule DHPs will be paid together with HB or CTB.
- 9.2. The SBO will decide on the most appropriate person to pay, the method and timing of payments, based upon the particular circumstances of each case. In most cases, payment with HB will be the most convenient payment method. In most cases where the DHP is awarded in respect of council tax liability, any DHPs will be credited to the Council Tax (CT) account.
- 9.3. In the event that the award of a DHP puts a customer's rent account or CT account in credit, the customer will have the option of applying for a refund or leaving the credit on the account against future liability.

10. Notification

- 10.1. Once a decision has been made, the SBO will notify the customer of the outcome of their application within one working day or as soon as is reasonably practicable thereafter.
- 10.2. Where the DHP application is unsuccessful, the notification will state briefly the reasons for the decision and what the SBO considered in making their decision.
- 10.3. Where the application is successful, the notification will advise:
 - 10.3.1. The weekly amount of DHP awarded
 - 10.3.2. The period of the award
 - 10.3.3. How, when and to whom the DHP will be paid
 - 10.3.4. The requirement to report any relevant change
- 10.4. All notifications will advise the customer of their rights to ask for a review (an appeal).

11. Appeals

- 11.1. DHPs are not payments of HB or CTB and are therefore not subject to the statutory appeals mechanism. Accordingly, RBS will operate the following policy for dealing with appeals against any decision on a claim for DHP:
 - 11.1.1. A claimant or person acting on their behalf who disagrees with a DHP decision may dispute the decision or request the full reasons for it.

- 11.1.2. A request for a review or for reasons shall be made in writing and must be delivered to the RBS by any method, which is acceptable for a DHP claim.
- 11.1.3. Any request for a review must be made within one month of the customer being notified of the decision.
- 11.1.4. Where appropriate, RBS staff will explain the DHP decision to the customer by telephone, letter or e-mail and will seek to resolve the matter.
- 11.1.5. Where agreement cannot be reached, the Head of Service (HOS) will consider the DHP appeal.
- 11.1.6. Where the HOS decides not to revise the original decision, they will notify the appellant of the outcome of the review, setting out the reasons for confirming the original decision.
- 11.1.7. In exceptional circumstances the HOS may extend the time limit for an appeal.
- 11.1.8. There is no right of appeal against a decision by the HOS not to extend the time limit for appealing.
- 11.1.9. There is no statutory right of further appeal beyond the HOS for any DHP matter.

12. Overpayments

- 12.1. If a DHP has been overpaid, officers will consider whether it is appropriate to recover it in full, in part or not at all. As a general rule, overpayments caused by official error will not be recovered, unless the customer caused or contributed to the error or could have been reasonably aware that too much was being paid.
- 12.2. Overpaid DHPs will always be recoverable from the claimant, the payee or any party who has knowingly made false or misleading statements to the Council. In most instances OWBC will issue a sundry debtor invoices to the party liable to repay the overpayment. Under no circumstances will overpaid DHP recovery be made from ongoing HB payments due to the claimant.

13. Fraud

- 13.1. OWBC is committed to the fight against fraud in all its forms. (For details, see the council's Fraud Prosecution Policy). A claimant or other party who knowingly supplies false or misleading information or fails to report relevant information may have committed an offence under the Theft Act. In these cases details of the alleged offences will be passed to the Council's fraud team for further investigation.
- 13.2. If fraud is found to have occurred, action will be taken in line with the Council's Prosecutions Policy and may include the full recovery of overpaid monies and, if appropriate, criminal proceedings.

14. Publicity

- 14.1. OWBC will promote the availability of DHPs and will work with all interested parties including both voluntary and statutory organisations, to achieve this.
- 14.2. When undertaking benefit take-up work it will also promote the DHP scheme.