



## BRIEFING PAPER

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# Discretionary Housing Payments

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## Summary

Where a claimant is eligible for Housing Benefit but experiences a shortfall between the rent due and the Housing Benefit payable (e.g. because they live in a property that is deemed to be too large for their needs, or the rent charged is higher than the Local Housing Allowance rate), they can apply to the local authority for a Discretionary Housing Payment (DHP).

There is no obligation on authorities to pay DHPs. The Department for Work and Pensions (DWP) has issued [guidance](#) for authorities (updated in March 2018) but the method of allocation adopted and decision making process lies with local authorities.

Increasing the level of funding for DHPs was one of the ways in which the Coalition and Conservative Governments sought to mitigate the impact of some of the reductions to Housing Benefit entitlement introduced between 2010 and 2017. These reductions included the under-occupation deduction for working-age claimants in social housing (also referred to as the 'Removal of the Spare Room Subsidy' or 'bedroom tax'), the household Benefit Cap, and reforms to the Local Housing Allowance (for claimants in private rented housing). Both the Scottish and Welsh Governments have also taken steps to increase DHP funding to mitigate the impact of welfare reforms.

Measures in the *Scotland Act 2016* have given the Scottish Parliament legislative competence to develop its own DHP scheme. DHPs for Scotland were fully devolved from 1 April 2017. The Department for Work and Pensions is now obliged to transfer DHP funding to Scotland.

Welfare reform implementation was delayed in Northern Ireland – the under-occupation deduction was introduced for social housing tenants from 20 January 2017 and the Department for Communities has committed to mitigate tenants against the impact up to 2020. Only private tenants can apply for a DHP in Northern Ireland.

Alongside the announcement of further cuts to Housing Benefit entitlement as part of [Summer Budget 2015](#), the Chancellor said that £800m would be made available for DHPs over the five years to 2020/21.

Evidence on the use of DHPs has raised questions around the adoption of different practices by local authorities – leading to allegations of a 'postcode lottery.' There are references to disabled tenants (particularly those living in adapted properties) struggling to access DHPs in some areas, coupled with issues around the need to submit repeat applications and the consequent uncertainty and anxiety associated with this. The adequacy of the overall level of DHP funding has also been questioned.

Information on the implementation of the under-occupation deduction from Housing Benefit in social housing can be found in Library briefing paper 06272, [Under-occupation of social housing: Housing Benefit entitlement](#). A further briefing paper considers evidence on the impact of the under-occupation deduction: 06896, [The impact of the under-occupation deduction from Housing Benefit \(social rented housing\)](#).

# 1. Eligibility for DHPs

Discretionary Housing Payments (DHPs) can be awarded by a local authority where it considers that a person entitled to Housing Benefit or the housing costs element of Universal Credit needs “further financial assistance” with their “housing costs”.<sup>1</sup> While “housing costs” is usually taken to refer to a person’s rent, it can also include other costs such as rental deposits. Local authorities may interpret “further financial assistance” how they wish, but to be eligible for a DHP a person will usually have to show that they are unable to meet housing costs from their available income, or have a shortfall in rent as a result of welfare reforms.

Local authorities are not under any duty to make a DHP and DHPs may cover all or part of a shortfall in rent. DHPs are also generally not paid in perpetuity.

[The Discretionary Housing Payments Guidance Manual and good practice guide for local authorities](#) (for local authorities in England and Wales) provides more information on the eligibility criteria for DHPs and local authorities’ role in administering them. The guidance was updated and reissued in March 2018.

## 2. DHP funding

### 2.1 Summary

The Government provides funding to local authorities towards DHPs. Authorities in England and Wales are then permitted to contribute two and a half times the Government contribution.<sup>2</sup> This cap no longer applies to local authorities in Scotland (see section 4 below).

From the introduction of the DHP scheme in 2001 until 2011/12, the Government provided £20 million per year towards DHPs. From 2011/12 onwards, additional funding has been provided in order to mitigate the impact of some of the reductions to Housing Benefit entitlement arising from the following welfare reforms:

- the under-occupation deduction in social housing (also referred to as the Removal of the Spare Room Subsidy or bedroom tax)
- the household Benefit Cap; and
- reforms to the Local Housing Allowance (for claimants in private rented housing)

DHP funding is divided into separate streams for each of these reforms, in addition to a stream comprising core DHP funding based on local authorities’ overall housing benefit expenditure. The DHP funding is, however, paid as a single allocation that is not ring-fenced into the

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<sup>1</sup> This does not apply where owners are receiving Support for Mortgage Interest as a loan – a new system introduced from 6 April 2018. Owner-occupiers are not eligible to receive DHPs.

<sup>2</sup> Article 7 of *The Discretionary Housing Payment (Grants) Order 2001*. This ‘cap’ no longer applies in Scotland (see section 4 below).

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separate categories.<sup>3</sup> It was never the intention that the additional funding for DHPs would mitigate the full impact of reductions in housing benefit entitlement. Authorities are required to return any unspent DHP allocation to the Government at the end of each financial year.<sup>4</sup>

Details of local authorities' DHP allocations for each financial year are set out in a DWP Housing Benefit Subsidy Circular. Allocations for 2018/19 are set out in Circular S1/2018: [2018/19 Discretionary Housing Payments government contribution for English and Welsh local authorities](#). The Circular also explains the distribution formula behind the allocation of DHPs.

### Funding 2011/12 to 2018/19

The table below provides an overview of DHP funding since 2011/12. It should be emphasised that the figures prior to 2017/18 include funding for Scottish local authorities. Since 1 April 2017, DHPs for Scotland have been fully devolved and so figures in the table from 2017/18 onwards cover English and Welsh local authorities only. Following full devolution, the Department for Work and Pensions is obliged to transfer DHP funding to Scotland. In 2017/18 £18.5 million was transferred.<sup>5</sup>

**Table 1: DHP funding, 2011-12 to 2018-19**

£ millions, cash

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
	Great Britain	Great Britain	Great Britain	Great Britain	Great Britain	Great Britain	England & Wales	England & Wales
Baseline funding	20	20	20	20	15	20	18	18
LHA reforms	10	40	40	40	25	30	27	27
Social sector size criteria	-	-	55 <sup>(b)</sup>	60 <sup>(b)</sup>	60	60	54	54
Benefit cap	-	-	(up to) 65	(up to) 45 <sup>(c)</sup>	25	40	67.5	54
<b>Total</b>		<b>60</b>	<b>180</b>	<b>165</b>	<b>125</b>	<b>150</b>	<b>166.5</b>	<b>153</b>

Notes

(a) Increased from an original allocation of £30 million

(b) Increased from an original allocation of £35 million

Source

DWP, *Housing Benefit Subsidy circular S1/2018: 2018/19 Discretionary Housing Payments government contribution for English and Welsh local authorities 2017-18*, and equivalent for earlier years

## 2.2 Funding in 2011/12 and 2012/13

In the June 2010 Budget, the Coalition Government announced that the Government contribution to DHPs would be increased by £10 million in 2011/12 and by £40 million in each subsequent year of the Spending Review period (up to and including 2014/15).<sup>6</sup> The additional funding was intended to give local authorities "more flexibility to help a greater

<sup>3</sup> Department for Work and Pensions, [Discretionary Housing Payments Guidance Manual: Including Local Authority Good Practice Guide](#), March 2018, p22.

<sup>4</sup> [HC Deb 15 January 2014 c583W](#) (this Written Answer contains a table setting out annual DHP funding from 2001-02 to 2014-15)

<sup>5</sup> [Housing Benefit Circular S3/2017](#)

<sup>6</sup> HM Treasury, [Budget 2010](#), HC 61, June 2010, p48.

number of" people facing a shortfall in rent because of changes to the local housing allowance.<sup>7</sup>

## 2.3 Funding in 2013/14

### Social-sector size criteria funding

During the passage of the *Welfare Reform Act 2012* through Parliament, several amendments were proposed in an attempt to secure exemptions from the under-occupation provisions for various groups, including disabled tenants of adapted properties and foster carers. Baroness Wilkins drew attention to the [21st Report of the Joint Committee on Human Rights](#) in which it considered the *Welfare Reform Bill* and recommended "additional discretion to exempt disabled people facing exceptional hardship from the under-occupation provisions."<sup>8</sup>

The Government resisted amendments to the Bill but announced an additional £30 million (annually from 2013/14) for DHPs aimed at two groups:

- £25 million for disabled people who live in significantly adapted accommodation to enable them to remain in their existing homes; and
- £5 million for foster carers who need to keep an extra room for when they are in between fostering.

It was estimated that this £30 million would help around 40,000 cases based on an average reduction of £14 per week. The estimate was based on a group of 35,000 potentially affected claimants who are wheelchair users and who live in adapted accommodation, and an estimate of around 5,000 foster carers (note that approved foster carers with one spare room were subsequently exempted from the size criteria<sup>9</sup>). Lord Freud said the sum available would be kept under review.<sup>10</sup> The money was not ring-fenced for use on particular groups.<sup>11</sup>

The Government also provided additional funding of up to £65 million to help local authorities provide short term support to those affected by the Benefit Cap.

### Additional in-year funding

On 30 July 2013 the DWP announced additional in-year funding of £35 million for local authorities "to help claimants affected by changes to housing benefit in the social sector who need extra support."<sup>12</sup> The £35 million funding consisted of:

- £10 million transitional payments distributed to all councils;

<sup>7</sup> Department for Work and Pensions Housing Benefit Subsidy Circular, [S10/2011: Discretionary Housing Payments government contribution for 2012/13](#).

<sup>8</sup> HL Deb 14 December 2011 c1312

<sup>9</sup> Although the Government said that the £5m in DHPs allowed for this group would no longer apply, the overall sum of £30m in DHPs for 2013/14 remained unchanged according to DWP circulars.

<sup>10</sup> HL Deb 14 February 2012 c720

<sup>11</sup> [First Delegated Legislation Committee](#), 16 October 2012, c27

<sup>12</sup> [DWP Press Release](#), 30 July 2013

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- £5 million DHP funding for the least densely populated areas in the country; and
- a new £20 million DHP fund.<sup>13</sup>

A DWP press release provided following information on the additional funding:

£10m transitional payments will provide flexible funding for local authorities. It will be distributed to councils based on working age social sector caseload, rent levels and regional levels of under-occupation.

£20m additional funding will be available for councils, if they can demonstrate that they are managing their discretionary housing payment allocation in a robust, fair and appropriate manner.<sup>14</sup>

£5m funding to rural areas will be provided to the 21 most sparsely populated areas in the country. Additional guidance for local authorities will be developed to help direct support to claimants living in isolated rural communities.<sup>15</sup>

This brought the total funding from government for DHPs in 2013/14 to £180 million (£20 million of which was subject to a bidding process<sup>16</sup>). [HB Circular S06/2013](#) contained revised information on local authorities' DHP allocations for 2013/14 following the 30 July 2013 announcement. A further circular, [HB Circular S3/2014](#), was issued in March 2014 which set out the total funding available to each authority and the final overall expenditure limit in 2013/14 – appendix A details those authorities who received money from the £20 million reserve fund and the amount received.<sup>17</sup>

### Box 1: NAO report on Housing Benefit reform

The National Audit Office's (NAO) November 2012 report, [Managing the impact of Housing Benefit reform](#)<sup>18</sup> criticised the process for determining the level of DHP funding. Referring to the funding that had been committed to DHPs at that point for the years from 2011/12 to 2014/15, the report stated that it was "not clear how the overall level of funding has been determined or whether it is likely to be sufficient to tackle the effects of reforms. The total amount represents six per cent of the total savings expected from the Housing Benefit reforms over the Spending Review period, or around £200 per household affected."<sup>19</sup>

The report additionally called for clarification on the process for determining levels of DHP funding; a review of their allocation to authorities; and improved understanding on how DHPs are used. In response, the DWP confirmed that it would require authorities to monitor how DHPs are used (see section 3 below).<sup>20</sup>

<sup>13</sup> Ibid.

<sup>14</sup> Local authorities will be required to bid for this additional funding.

<sup>15</sup> Ibid.

<sup>16</sup> An invitation to bid was issued by the DWP in September 2013, see: [HB Circular A18/2013](#)

<sup>17</sup> HB Circular S3/2014 also advised that the Government intended to amend the *Discretionary Housing Payments (Grants) Order 2001* to clarify that the 2.5 times expenditure limit would be based on total central government contributions for the year in question, rather than the contribution awarded at the start of the year.

<sup>18</sup> HC 681, Session 2012/13, 1 November 2012

<sup>19</sup> Ibid., para 20

<sup>20</sup> DWP [Consultation exercise](#) August 2012

## 2.4 Funding in 2014/15 and 2015/16

In the [Autumn Statement 2013](#) the Government stated that it would increase DHP funding by £40 million in both 2014/15 and 2015/16. The funding would, it said, “ensure the pot of DHPs available to support those affected by under-occupancy deductions will not be reduced for the next 2 years, giving councils discretion to make longer term awards.”<sup>21</sup>

DHP funding in 2015/16 was, however, actually reduced by £40 million compared to 2014/15, although the amount included specifically to support under-occupation deductions remained at £60 million. When questioned on the DHP reduction, a DWP spokesperson reportedly referred to the decision to increase targeted funding for LHA claimants in 2015/16 by £50 million (to £95 million) by increasing LHA rates by 4% in areas with the highest differences between LHA rates and market rents.<sup>22</sup> PQs explored the impact of the reduction in support for DHPs:

**Paul Flynn (Newport West) (Lab):** What assessment he has made of the potential effect on people subject to the under-occupancy penalty of a reduction in funding for discretionary housing payments in 2015-16.

**The Minister for Disabled People (Mr Mark Harper):** We have actually increased the funding for discretionary housing payments to help those who are affected by the removal of the spare room subsidy, and, as the Chancellor announced in the autumn statement, it will be protected in 2015-16.

**Paul Flynn:** Does the Minister agree with the Child Poverty Action Group, which has said that any degradation of discretionary housing payments will threaten to “cut the parachute cord” that keeps so many vulnerable families from the homelessness and destitution created by the foul bedroom tax? Will he give an absolute guarantee that the payments will be not only maintained in real terms, but possibly increased when necessary, and ring-fenced?

**Mr Harper:** If the hon. Gentleman had listened to my answer, he would have heard me say that the level of discretionary housing payments relating to the removal of the spare room subsidy would be maintained in 2015-16, as the Chancellor said in the autumn statement. I listened carefully to the hon. Gentleman’s point of order about questions and answers last week. I think that my answer did relate to his question, and perhaps he should have listened to it.<sup>23</sup>

Analysis of the 2015/16 DHP allocations by *Inside Housing* led the magazine to conclude that London and other high-value areas in the south-east had been “hardest hit by the cuts, compared to areas in the north of England, Scotland and Wales.”<sup>24</sup> The average reduction in

<sup>21</sup> Treasury, [Autumn Statement 2013](#), 5 December 2013, para 2.71

<sup>22</sup> *Inside Housing*, “DWP cuts discretionary housing payments by £40m,” 30 January 2015

<sup>23</sup> HC Deb 9 March 2015 cc8-9

<sup>24</sup> “Crisis payment cuts bite hardest in London and south east,” *Inside Housing*, 6 February 2015



London authorities' 2015/16 DHP allocations was 33%. Chichester experienced the largest percentage reduction of 54%.<sup>25</sup>

## 2.5 Funding from 2016/17

Alongside the announcement of further cuts to Housing Benefit entitlement as part of [Summer Budget 2015](#),<sup>26</sup> the Chancellor said that £800 million would be made available for DHPs over the next five years.<sup>27</sup> The yearly breakdown of the funding is provided in the table opposite. It should be noted that, because at the time of the Budget DHPs had not been devolved to Scotland, the figures include funding for Scotland as well as England and Wales.

**Table 2: DHP funding announced at Autumn Budget 2017, Great Britain**  
£ millions

2016-17	150
2017-18	185
2018-19	170
2019-20	155
2020-21	140

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<sup>25</sup> Ibid.

<sup>26</sup> For example, the withdrawal of entitlement to certain 18-21 year olds; the freezing of LHA rates for four years and the reduction in the household benefit cap to £20,000 (£23,000 in London).

<sup>27</sup> [Summer Budget 2015](#), para 1.153

### 3. Evidence on use of DHPs

Starting in 2013/14, local authorities were requested to provide details to DWP of their use of DHP funds. This information is collected twice yearly, in the middle and at the end of the financial year. The [most recent full-year release](#), covering the 2017/18 financial year, was published in July 2018.<sup>28</sup>

The data shows the proportion of DHP expenditure on each welfare reform in England and Wales. As shown in the table below, between 2013/14 and 2017/18:

- the proportion of total DHP expenditure spent on the Benefit Cap increased from 16% to 28%
- the proportion of expenditure spent on the Social Sector Size Criteria decreased from 50% to 27%
- the proportion of spending not related to welfare reforms increased from 18% to 29%
- the proportion of expenditure spent on the Local Housing Allowance, and on a combination of welfare reforms stayed broadly stable over the period.

**Table 3: Use of DHPs in England and Wales, 2013/14 to 2017/18**

Welfare reforms for which DHP was awarded	2013/14	2014/15	2015/16	2016/17	2017/18
Benefit Cap	16%	19%	14%	23%	28%
Social Sector Size Criteria	50%	45%	46%	35%	27%
Local Housing Allowance	13%	13%	13%	12%	13%
Combination of welfare reforms	3%	1%	2%	2%	3%
Award not for welfare reforms	18%	22%	25%	28%	29%
Total	100%	100%	100%	100%	100%

Source: DWP, Use of Discretionary Housing Payments, various years

In 2017/18, local authorities in England and Wales spent less than the (non ring-fenced) amount allocated for DHPs in respect of all three welfare reforms (69% for the Benefit Cap, 81% for the Social Sector Size Criteria, and 76% for the LHA). 98% of the DHP funding allocated to local authorities in England for 2017/18 was spent. 102% of the funding allocated to Welsh authorities was spent. 101 local authorities in England and Wales spent more than their DHP allocation, with a total over-spend of around £6.3 million. 229 authorities spent less than their DHP allocation, with a total under-spend of around £8.6 million.<sup>29</sup>

#### 3.1 Access to DHPs in different areas

Concerns have been raised regarding something of a 'postcode lottery' in terms of access to DHPs. For example, in its 2014 [report on support](#)

<sup>28</sup> DWP, [Use of Discretionary Housing Payments: financial year 2017 to 2018](#), 12 July 2018.

<sup>29</sup> DWP, [Use of Discretionary Housing Payments: financial year 2017 to 2018](#), 12 July 2018, table 2 and 4.

[for housing costs in the reformed welfare system](#), the Work and Pensions Committee stated:

Many witnesses reported that the level of discretion allowed to local authorities in managing DHPs was creating too much variation in decision-making and leading to a “postcode lottery” whereby households with similar circumstances would receive different DHP decisions because of where they lived. Witnesses also described variation in local authorities’ priorities for DHP; for example, some LAs prioritised households in temporary accommodation over other households. Some LAs are also placing conditions on payments, such as requiring claimants to meet some of the shortfall themselves.<sup>30</sup>

*Inside Housing* has attributed this problem to how the funds had been allocated by DWP. The initial allocation of DHPs for 2013/14 included a higher proportion of funding in respect of changes to the Local Housing Allowance and Benefit Cap – both measures which impact more in the south, whereas under-occupation of social housing is more prevalent in the northern regions:

Redcar and Cleveland Council received an initial allocation of £308,690, which was topped up by £110,000 in February. With this money, it was expected to deal with 2,313 applications - effectively giving it £181 per application.

Meanwhile, in Conservative-led Wandsworth, £1.83 million of funding was spread between 1,629 applications - effectively £1,129 per application. It turned down just 386 applications but at the end of the year returned £500,000 to the Treasury.<sup>31</sup>

The Work and Pensions Committee also took evidence from Carers UK and Homeless Link indicating a reluctance amongst some authorities to grant DHPs to claimants who do not have an ‘exit strategy’ such as moving house or entering work. There is evidence of authorities using DHPs as a longer term solution to households who cannot move, such as those in adapted accommodation, but the need for these claimants to make repeat applications is a source of anxiety. When announcing DHP funding for 2015/16 the Government made reference to giving authorities confidence to make long-term awards where appropriate. The Select Committee declared this guidance to be “not strong or explicit enough” and recommended new guidance be issued making clear the Government’s support for long-term awards and need to avoid re-applications for certain specified categories of claimant. The Committee also called for the impact of these long-term awards to be taken into account when deciding on DHP funding beyond 2014/15 – the Committee favoured a three-year funding period to aid effective planning.

### 3.2 DHPs and disabled people

Particular concern was raised in relation to local authorities taking disability benefits into account when means testing DHP applications.

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<sup>30</sup> HC 720, Work and Pensions Select Committee, Fourth Report of 2013/14, [Support for housing costs in the reformed welfare system](#), 2 April 2014, para 138

<sup>31</sup> *Inside Housing*, “[The DHP divide](#)”, 16 May 2014

Independent research carried out on behalf of the DWP, and published in 2014, acknowledged these issues:

A key concern raised by landlords and local agencies is that disabled people in adapted homes have not always been awarded DHP because disability benefits, which are intended to help with some of the extra costs of having a long-term disability or health condition, can cause them to fail means tests based on their income. Local agencies are also concerned about some groups who fail to apply for DHP, or fail to adequately evidence their application, especially those with mental health difficulties. More than half (56 per cent) of RSRS-claimants surveyed who have not applied for DHP said they were not aware of it. The claimants who were unaware of DHP were similarly likely to other claimants to report having difficulties paying rent and similarly likely to be in arrears.<sup>32</sup>

As part of the DWP sponsored research, authorities were asked about their approach to means-testing DHPs and whether they took account of Disability Living Allowance. The research report stated:

...the large majority of local authorities reported that they always carried out a means test, and most of these included DLA where they deemed it appropriate to do so. DLA is a benefit to help people meet some of the extra costs of living with a long-term health condition or disability. Some voluntary sector agencies and landlords interviewed expressed concerns that disabled people were not always adequately demonstrating the ways in which they needed their DLA to cope with their disability on their DHP application forms.<sup>33</sup>

In its 2014 report in support for housing costs, the Work and Pensions Select Committee recommended that the Government should issue "revised guidance to local authorities which advises them to disregard disability benefits in means tests to assess eligibility for DHP awards."<sup>34</sup>

The matter was, however, overtaken by the High Court decision in [\*Hardy, R \(on the application of\) v Sandwell Metropolitan Borough Council\*](#).<sup>35</sup> The court held that Sandwell Council's policy of always taking account of Disability Living Allowance (DLA) when assessing DHP awards "fails to have due regard to the DHP guidance, constitutes a failure to exercise the council's discretion and fetters any future exercise of that discretion."

The DWP guidance on DHPs, most recently updated in March 2018, makes clear that local authorities must have regard to the Sandwell decision:

When deciding how to treat income from disability-related benefits such as Disability Living Allowance (DLA) or the Personal Independence Payment (PIP), you must have regard to the decision of the High Court in R v. Sandwell MBC, ex parte Hardy. This decision places an obligation on LAs to consider each DHP application on a case by case basis having regard to the purpose

<sup>32</sup> DWP [Removal of the Spare Room Subsidy: interim evaluation report](#), July 2014, p15

<sup>33</sup> Ibid., p42

<sup>34</sup> HC 720, Work and Pensions Select Committee, Fourth Report of 2013/14, [Support for housing costs in the reformed welfare system](#), 2 April 2014, para 141

<sup>35</sup> [2015] EWHC 890

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of those disability related benefits and whether the money from those benefits has been committed to other liabilities associated with disability.<sup>36</sup>

Concerns around the impact of HB restrictions on disabled people and the variable response to DHP applications have been repeated in several research studies. For example, in [Housing benefit size criteria: impacts for social sector tenants and options for reform](#) (April 2014) the Joseph Rowntree Foundation found:

Councils are making full use of Discretionary Housing Payments (DHPs) to help tenants adjust to the change. However, practice varies. There are concerns about whether current DHP provisions are appropriate for disabled tenants living in adapted homes.<sup>37</sup>

The first detailed report based on work carried out by Ipsos MORI on behalf of the National Housing Federation was published in February 2014: [Impact of welfare reforms on housing associations: early effects and responses by landlords and tenants](#). On DHPs the researchers found:

- Housing associations estimate that on average almost a quarter (24%) of those currently affected by the size criteria have made a DHP claim. Of these, around two-thirds (63%) have been successful – equivalent to 15% of all those currently affected.
- A fifth of those who have been awarded a DHP are living in an adapted property.
- Housing association perceptions of the ease with which tenants have managed the DHP application process are divided. Around a third (34%) of associations say that the process has been easy, with slightly more (37%) reporting it has been difficult.<sup>38</sup>

The final report in the series was published in January 2015: [Welfare reform impact assessment: Final report](#). Housing associations were reporting a slowdown in the number of successful DHP applications:

It is not clear at this stage the extent to which impacts on arrears levels have been mitigated by Discretionary Housing Payments (DHP). However, associations are reporting a slowdown in the number of successful DHP awards since the start of the 2014/15 financial year, which may have subsequent impacts on arrears levels in the future. Case study associations also reported that they expected arrears to increase as the financial resilience of tenants is further eroded.<sup>39</sup>

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<sup>36</sup> DWP, [Discretionary Housing Payments Guidance Manual: Including Local Authority Good Practice Guide](#), March 2018, paragraph 3.9.

<sup>37</sup> JRF, [Housing benefit size criteria: impacts for social sector tenants and options for reform](#), April 2014

<sup>38</sup> Ipsos MORI for the NHF, [Impact of welfare reforms on housing associations: early effects and responses by landlords and tenants](#), February 2014

<sup>39</sup> Ipsos MORI for the NHF, [Welfare reform impact assessment: Final report](#), January 2015, p7

The Housing Committee of the London Assembly published [Assessing the consequences of welfare reform](#) in April 2014. Observations on DHPs are reproduced below:

Concerns have been raised regarding the choices boroughs have made on awarding DHPs. It is not, sometimes, clear why one household is awarded DHPs and another has been refused. The way funding has been allocated varies both between boroughs and within individual boroughs, for ostensibly comparable households.

Despite these concerns about local variability, boroughs are keen to maintain a locally-led process. They argue this is fundamental to DHP being awarded according to local need and they offer a defence for DHP spending in 2013/14 being particularly varied for a number of reasons: their discretionary nature, delayed implementation of some reforms and uncertainty over future need. The Committee accepts that boroughs should lead on allocating DHPs, but calls on them to establish a greater level of predictability.<sup>40</sup>

The Committee echoed the Work and Pension Select Committee in calling for clarity on future funding and questioned whether the transitional nature of DHPs represented an appropriate form of assistance for claimants with “a long-term enduring need.”<sup>41</sup>

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<sup>40</sup> London Assembly Housing Committee, [Assessing the consequences of welfare reform](#), April 2014, paras 2.41-2

<sup>41</sup> *Ibid.*, para 2.45

## 4. Scotland

### 4.1 Funding

The Scottish Government committed £20m in funding over 2013/14 to “limit the impact of the bedroom tax”.<sup>42</sup> This brought total DHP funding in Scotland over 2013/14 up to £35 million (the maximum that could be provided under the rules at that point<sup>43</sup>).

#### 2013/14 and 2014/15: Lifting the cap on DHPs expenditure

In October 2013 the Scottish Government promised a further £20 million for DHPs over 2014/15.<sup>44</sup> Nicola Sturgeon, then Deputy First Minister, wrote to Lord Freud on 3 February 2014 asking for the ‘cap’ on DHP funding to be lifted. She said that the Scottish Government was willing to fund an additional £15 million (bringing total DHP funding to £50 million taking into account the UK Government’s £15 million contribution) to assist all 76,000 people in Scotland affected by the under-occupation deduction.<sup>45</sup> Figures released at the end of January 2014 showed a fourfold increase in DHP claims in Scotland between April and November 2013 compared with the same period in 2012.<sup>46</sup>

**Table 4: Discretionary Housing Payments in Scotland, 2013/14 to 2016/17**

	2013/14	2014/15	2015/16	2016/17
UK Government Contribution	18.1	15.2	13.3	15.2
Scottish Government contribution	20.0	35.0	35.0	35.0
<b>Total</b>	<b>38.1</b>	<b>50.2</b>	<b>48.3</b>	<b>50.2</b>

#### Notes

(a) Around £3 million of the Scottish Government’s contribution was made available following the publication of the DHP statistics to reimburse local authorities against actual DHP expenditure.

(b) Around £9 million of the Scottish Government’s contribution was made available following the publication of the DHP statistics to reimburse local authorities against actual DHP expenditure.

#### Sources

Scottish Government, *Discretionary Housing Payments in Scotland*, various years.

The Scottish Affairs Committee launched an inquiry into the under-occupation deduction from HB on 8 May 2013. The Committee’s interim report, [The impact of the bedroom tax in Scotland: interim report](#) (December 2013), recommended the removal of the cap on local authority contributions to DHPs.<sup>47</sup>

On 2 May 2014 David Mundell, Parliamentary Under-Secretary of State for Scotland, confirmed that Scottish Ministers *would* be given power to set the statutory cap on DHPs in Scotland:

The UK Government has legislated to provide local authorities across Great Britain with the ability to grant DHPs to support tenants in their area with housing costs not covered by Housing Benefit. As you will be aware, the UK Government provides a substantial contribution towards DHPs, which has increased to over £15 million in Scotland this financial year. Local Authorities are able to exercise broad discretion to determine how and when

<sup>42</sup> [A budget for Scotland’s future](#), 9 September 2013

<sup>43</sup> Article 7 of *The Discretionary Housing Payment (Grants) Order 2001*

<sup>44</sup> *Inside Housing*, “£20m to help bedroom tax victims next year”, 21 October 2013

<sup>45</sup> [Scottish Government Press Release](#), 3 February 2014

<sup>46</sup> [Scottish Government Press Release](#), 21 January 2014

<sup>47</sup> [HC 228, Fourth Report of 2013/14](#), 16 December 2013, para 47

the money is distributed within each financial year, and are able to add to this contribution, subject to a formula-based cap. Powers for the Secretary of State to vary the cap are found in the Child Support, Pensions and Social Security Act 2000.

The Scottish Government has indicated that it would like to spend additional funds on DHPs in Scotland and following my direct programme of constructive engagement on welfare reform implementation with local authorities across Scotland, I have discussed this matter with colleagues in the Treasury and Department for Work and Pensions. As a consequence, I have written to the Scottish Government today to offer to provide Scottish Ministers with a power to set the statutory cap in Scotland. I propose to do so using section 63 of the Scotland Act 1998.

As you are aware, section 63 orders are a fundamental part of Scotland's flexible devolution settlement. They allow us to respond to situations of this sort in a pragmatic way. Devolution of the power to set the cap would enable the Scottish Government to set a separate cap for DHPs in Scotland. As you will be aware, this power will require agreement and cooperation between Scotland's two Governments and the approval of both the UK and Scottish Parliaments.<sup>48</sup>

After David Mundell's announcement the Scottish Affairs Committee published [The Impact of the Bedroom Tax in Scotland: Devolving the DHP Cap](#) and commented:

We welcome the decision of the UK Government to allow Scottish Ministers to set the statutory cap on DHPs in Scotland. We also welcome the Scottish Government's commitment to make additional funding available for mitigation. We urge both Governments to expedite the necessary procedures which will enable the Scottish Government to lift the cap on DHPs in Scotland as quickly as possible. (Paragraph 7)

Meanwhile, in the interim period, we urge the Scottish Government to:

- i) make a clear commitment to provide sufficient funding to enable every Local Authority in Scotland to make DHP payments which will cover the full costs of the bedroom tax for all of those who have been affected by it.
- ii) make a commitment that any rental arrears which have been accumulated during this financial year, as a direct result of the bedroom tax, should be written off, and any additional rent paid as a consequence of the bedroom tax, should be refunded.
- iii) ensure that the process of application for such a refund is as simple as possible. (Paragraph 8)

We reiterate our view that if the Scottish Government is able to mitigate the impact of the bedroom tax in the current financial year, then it should also do so for the previous financial year (2013/14). Thus it should make additional funding available to ensure that all bedroom tax arrears are written off and, to avoid moral hazard, all bedroom tax payments made last year are

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<sup>48</sup> [Letter from Rt Hon David Mundell MP, Parliamentary Under-Secretary of State for Scotland](#), 2 May 2014



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refunded. It is essential that these issues are resolved and processes clarified as soon as possible. (Paragraph 9)<sup>49</sup>

The [Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc\) Order 2014](#) (SI2918/2014), which transferred the power to set the statutory cap on DHPs in Scotland, came into force on 6 November 2014. Following this, the Scottish Government made [The Discretionary Housing Payments \(Limit on Total Expenditure\) Revocation \(Scotland\) Order 2014](#). The regulations, which came into force on 9 December 2014, removed the upper limit on DHP expenditure in Scotland. As a result, the limit of two and a half times the central government contribution no longer applies in Scotland.

### 2015/16 and 2016/17

DWP allocations for DHPs in Scotland over 2015/16 were reduced by £1.9 million. In response, Margaret Burgess wrote to the Welfare Reform Committee on 24 February 2015 to set out the Scottish Government's intentions to mitigate the under-occupation deduction:

I want to reassure you that local authorities will still receive sufficient funding to fully compensate for bedroom tax losses in 2015/16. DWP's funding for DHPs covers four areas of support i.e. core funding, Local Housing Allowance (LHA), Benefit Cap, and Removal of the Spare Room Subsidy (RSRS), each local authority has been informed of their total allocation. The Local Government Finance (Scotland) Amendment Order 2015 will top up DHP funds to 80% of the estimated funding required to fully mitigate the bedroom tax. Following the publication of DWP statistics in May 2016 the Scottish Government will make further payments to each local authority to ensure that they receive the funding needed to cover their spending on bedroom tax mitigation for 2015/16.<sup>50</sup>

How local authorities dealt with outstanding arrears from the application of the under-occupation deduction in 2013/14; for example, by writing off arrears, was a matter for local authorities to decide.

In 2016/17, the Scottish Government again made an extra £35 million available to fund DHPs above the £15 million contribution from central government; bringing the total funding for Scottish LAs to £50 million. The additional funding from the Scottish Government was made available with the explicit intention of being used to fully mitigate the removal of the spare room subsidy policy/bedroom tax.<sup>51</sup>

### 2017/18 onwards: full devolution of DHPs

The *Scotland Act 2016* contains measures to transfer legislative competence to the Scottish Parliament to set up its own scheme in relation to DHPs, subject to certain limitations. DHPs for Scotland were fully devolved from 1 April 2017.

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<sup>49</sup> HC 1292, Fourteenth Report of 2013/14, [The Impact of the Bedroom Tax in Scotland: Devolving the DHP Cap](#), 20 May 2014

<sup>50</sup> Margaret Burgess letter to Welfare Reform Committee, 24 February 2015

<sup>51</sup> DWP, [Use of Discretionary Housing Payments – Analysis of End of Year returns from Local Authorities, 2016-17](#), 6 July 2017, p6.

Finance Secretary, Derek Mackay, announced that the Scottish Government would provide £47 million to fully mitigate the bedroom tax through DHPs over 2017/18 in his first draft Budget in December 2016.<sup>52</sup> An “Other DHPs” funding stream worth £10.9 million was added to this to give a total budget for DHPs in Scotland of £57.9 million.<sup>53</sup>

In its draft budget for 2018/19, the Scottish Government said that it would “provide £50 million to continue to fully mitigate the ‘bedroom tax’ through Discretionary Housing Payments.” The draft budget also committed £10.9 million to the “other DHPs” funding stream.<sup>54</sup>

Information on the number of DHP applications, determinations, awards and the total award values for each local authority can be found on the Scottish Government website at: [Discretionary Housing Payments in Scotland](#).<sup>55</sup>

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<sup>52</sup> [A Budget for Scotland’s Future](#), 15 December 2016

<sup>53</sup> Scottish Government, [Discretionary Housing Payments in Scotland: 1 April 2017 to 31 March 2018](#), May 2018.

<sup>54</sup> Scottish Government, [Scottish Budget: Draft Budget 2018-19](#), December 2017.

<sup>55</sup> [Discretionary Housing Payments in Scotland](#) [accessed on 5 May 2017]

## 5. Wales

The Welsh Affairs Committee held an inquiry into [The impact of Housing Benefit changes in Wales](#) the report of which was published in October 2013.<sup>56</sup> On DHPs the Committee recommended:

...that the Department for Work and Pensions carries out robust monitoring of the demand for DHP funding by social housing tenants affected by the under-occupancy policy, and monitors how local authorities are choosing to use this fund. This will help identify any particular shortfalls.

We call on the Government to clarify at the earliest opportunity the support that will be available to tenants through the Discretionary Housing Payments scheme after 2014– 2015.<sup>57</sup>

The Government's response pointed out that an additional £2.6 million in DHPs had been made available to Welsh authorities to mitigate the impact:

This means that Wales will receive a greater share of the total funding than its share of affected claimants. In addition, should Welsh local authorities need more funding, they can apply for funds from the £20 million reserve fund the Government has set up.<sup>58</sup>

The Minister for Housing and Regeneration approved additional funding of DHPs by Welsh local authorities in 2013/14 totalling £1,026,771:

Discretionary Housing Payments are made available by the UK Government to help people cope with the changes to Housing Benefit that are being made as a result of the UK Government's welfare reform policy. The Minister for Housing and Regeneration was asked to allocate additional funding for 2013/14 to allow local authorities to further develop their approach in order to prevent people from needing future support from the Discretionary Housing Payment Fund.<sup>59</sup>

The additional funding provided by the Welsh Government in 2013/14 has not been repeated in subsequent years.

In April 2014 five Welsh Government Ministers [wrote](#) to Lord Freud calling for an exemption from the under-occupation deduction for disabled tenants who have had adaptations undertaken to their homes. They cited issues with DHPs as one of the reasons for this broad exemption:

Disabled tenants cannot easily up sticks and move home. They should be exempt from these reforms and should not be left to rely on help from the discretionary housing benefit system.

Our analysis of the discretionary housing payments system shows that demand far outweighs the number of applications being approved. In the first half of the financial year 2013/14 demand

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<sup>56</sup> [HC 159, Second Report of Session 2013/14](#), October 2013

<sup>57</sup> *Ibid.*, paras 56-57

<sup>58</sup> [HC 1012, Fourth Special Report of 2013/14](#), 23 January 2014

<sup>59</sup> [Welsh Government Press Release](#), 28 January 2014

increased by around 260 per cent compared to the same period a year earlier in 15 Welsh local authorities.<sup>60</sup>

In the event of an exemption not being approved, the Ministers called for an increase in DHP funding.<sup>61</sup>

A [debate on the Housing Benefit changes in Wales](#) took place in Westminster Hall on 1 May 2014. The then Minister, Steve Webb, responded to concerns raised about the level of DHP funding:

On the role of discretionary housing payments, several speakers, including the hon. Members for Newport East (Jessica Morden), for Llanelli (Nia Griffith) and for Swansea East (Mrs James), mentioned the pressures in their area on the DHP budget. Let us go through the facts, because people might be thinking, "This is terrible. The Government have been withholding funds for local authorities." Let me make it clear what has happened.

At the start of 2013/14, the figure for DHPs in Wales was £6.9 million; at the start of 2014-15, it was £7.9 million. All of us accept that those are substantial sums of money. We did not leave it at that, however, and one of the themes of the debate is whether we are monitoring and listening and then refining the policy. We listened in two important areas.

We first listened to the position of Welsh and Scottish—mainly—local authorities. We accepted the point also made by my hon. Friends the Members for Ceredigion (Mr Williams) and for Montgomeryshire (Glyn Davies) and others that remote rural areas have particular issues. We therefore allocated additional funding. In Wales, that was £143,000 to Ceredigion, £449,000 to Gwynedd and £387,000 to Powys. Interestingly, my hon. Friend the Member for Montgomeryshire said what a good job Powys had done as a local authority—I pay tribute to it—and one of the reasons it could do so is because the Government had recognised the additional pressures on remote rural areas and come up with the funding. He can therefore report back to the House that it was not largely an issue in his area, because we had monitored what was happening, responded and dealt with it.

We did not leave matters there. We had a national or GB-wide allocation and a remote rural areas allocation, but there might still be acute local circumstances requiring still more funding, so we came up with an additional £20 million pot and invited bids for funding from it. Three Welsh local authorities applied and were given money: Cardiff, Conwy and Caerphilly. No other local authority in Wales asked us for a penny. We cannot simultaneously say that there is unmet need in Newport, Swansea and other areas, and that local authorities are having to turn needy people away, when those authorities did not ask us for the money to top up their DHP budget to such an extent that central Government had unspent additional DHP pot still available for local authorities to claim.

What are those authorities doing? I have no reason to doubt the hon. Members who spoke, but if it is the case that they have constituents for whom the impact of the change has been inappropriate, harsh or unfair—many words have been used—what were their local authorities doing not drawing down the additional money that was available and that was not contingent

<sup>60</sup> [Ministers call for exemptions for disabled tenants with adapted homes](#), 9 April 2014

<sup>61</sup> [Welsh Ministers' letter to Lord Freud on disabled tenants living in adapted housing](#), 9 April 2014

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on matched funding? We did not say to local authorities, “Ask us for more money—but only if you put more in”; we simply said, “Do you need more money?”, and only three Welsh local authorities asked for it.<sup>62</sup>

The Assembly’s Public Accounts Committee published [Responding to Welfare Reform in Wales](#) (July 2015). This report referred to a strategic framework for the use of DHPs which had been agreed by 20 of the 22 Welsh local authorities.<sup>63</sup> The Committee was not persuaded that the framework had received sufficient scrutiny and that consultation with stakeholders and tenants had been adequate. The Committee’s recommendations in respect of DHPs are reproduced below:

The Committee recommends that the Welsh Government exercises greater influence to ensure a consistent approach to the use of discretionary housing payments across Wales.

The Committee recommends that the Welsh Government monitors and publishes the uptake of discretionary housing payments in Wales, including how local authorities and social landlords inform tenants of the availability of payments and the information provided to unsuccessful applicants.

The Committee recommends that the Welsh Government requires all local authorities and housing associations to publicise discretionary housing payments, including the associated eligibility criteria. They should also ensure that disability-related benefits are not used in income calculations, and explain why they have not made use of Discretionary Housing Payments where appropriate.<sup>64</sup>

The Committee also recommended “a cost/benefit analysis of mitigating the full impact of the removal of the spare room subsidy through discretionary housing payments, as the Scottish Government chose to do.”

The Minister, Lesley Griffiths, [responded to the Committee’s findings](#) on 25 August 2015. On the mitigation question the response said:

Our research has considered the likely impacts in Wales of mitigating the impact of the Housing Benefit size criteria and also provides an indication of the costs and benefits which may materialise if the Welsh Government mitigated the full impact of the policy via increased discretionary housing payments. However the opportunity cost of diverting funding into a recurrent commitment of some £20m per year outweighed the estimated benefits. The Welsh Government had already entered an annual commitment of a similar magnitude on Council Tax Reduction (benefitting 307,000 households at the end of *2014/15*) and with budgets decreasing, we would have had to cease or reduce other programmes which had a longer term, preventative value, such as action to prevent homelessness, in order to mitigate the impact of the Housing Benefit size criteria.<sup>65</sup>

The Committee engaged in [further correspondence](#) with the Minister in November 2015.

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<sup>62</sup> HC Deb 1 May 2014 cc351-352WH

<sup>63</sup> [Responding to Welfare Reform in Wales](#), July 2015, para 102

<sup>64</sup> *Ibid.*, paras 107-109

<sup>65</sup> [Welsh Government response to Responding to Welfare Reform in Wales](#), August 2015

## 6. Northern Ireland

Welfare reform was delayed in Northern Ireland as the [Welfare Reform \(Northern Ireland\) Bill 2012](#) failed to make progress. This prompted the UK Government to introduce the *Welfare Reform (Northern Ireland) Act 2015* to provide for the implementation of welfare reform measures. More information can be found in Library Briefing Paper 07389: [A Fresh Start: the Stormont Agreement and Implementation Plan and the Northern Ireland \(Welfare Reform\) Bill 2015-16 \[Bill 99\]](#).

The under-occupation measure came into force in Northern Ireland on 20 February 2017. The Department for Communities (DfC) is mitigating the impact of the deduction for social housing tenants up to March 2020. A review will take place in 2018/19.

Currently in Northern Ireland, DHPs are only available to claimants living in the private rented sector. Information can be found on the [Northern Ireland Housing Executive's website](#).<sup>66</sup>

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<sup>66</sup> Accessed on 5 May 2017

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