



**CANNOCK COUNCIL**

**HOUSING BENEFIT**

**DISCRETIONARY HOUSING PAYMENTS POLICY**

**December 2018**

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## Legislative Provision

The legislation governing Discretionary Housing Payments is;

- Child Support, Pensions and Social Security Act 2000
- Discretionary Financial Assistance Regulations, 2001 (as amended)
- Discretionary Housing Payments (Grants) Order 2001 (as amended)

This policy is also informed by guidance issued from time to time by the Department for Works and Pensions.

## Abbreviations

A number of abbreviations are used throughout this policy document

- DHP means Discretionary Housing Payments
- DWP means Department for Works and Pensions
- HB means Housing Benefit
- LCTR means Local Council Tax Reduction
- UC means Universal Credit

Throughout this document the expression 'Housing Support' is used to mean either Housing Benefit or the Housing Cost element assessed within a Universal Credit claim.

## What are Discretionary Housing Payments?

A DHP may be awarded if the Council considers that a claimant requires further financial assistance towards housing costs and is entitled to either HB or UC with housing costs towards rental liability.

Each application is assessed on its merits and taking into consideration the claimant's financial circumstances. In most cases, however, a claimant will need to demonstrate that they are unable to meet housing costs from their available income or that they have a shortfall in rent as a result of the welfare reforms.

## Background

On the 2<sup>nd</sup> July 2001 the Government introduced the DHP scheme.

The scheme gave Local Authorities the power to make additional payments to customers who were already in receipt of Housing and / or Council Tax Benefit but who were, in the Local Authority's view, in danger of losing their home because they were unable to meet the shortfall between their benefit entitlement and full rent and / or council tax.

On the 1<sup>st</sup> April 2013, as part of the Government Benefit Welfare Changes, the national Council Tax Benefit scheme was abolished and District and Councils were required to create a Local Council Tax Reduction scheme.

This meant that from 1<sup>st</sup> April 2013 DHP could only relate to HB and that any additional support in relation to Council Tax must be provided separately by the Authority.

From April 2017, the DWP increased the total amount of funding available to allow authorities to award DHP to those customers in receipt of UC instead of HB or in the case of customers in Supported Housing, in addition to HB.

This document therefore relates to DHP for both HB and UC customers who have a liability to pay rent.

The main features of the scheme are as follows:

- DHP are not payments of benefit.
- DHP are made purely at the discretion of the Council. Customers do not have a statutory right to a payment.
- The amount that can be paid by an Authority in a financial year is cash-limited by the Government.
- The maximum DHP that can be awarded to a claimant in any week is the amount by which the applicant's rental liability exceeds their benefit award.
- The minimum amount of Housing Benefit must be in payment in any benefit week that a Discretionary Housing Payment is awarded for.
- The administration of the scheme, undertaken within the Local Taxation and Benefits Service.

## **Purpose and Objectives**

The purpose of this policy is to outline the scheme and how it will be operated.

Each case will be treated strictly on its merits and all customers will be treated equally, fairly and in accordance with the authority's equality and diversity policies.

The Council is committed to working with the local voluntary sector, social landlords, housing and health advice agencies, and other interested parties to maximise entitlement to all available state benefits and make proper use of the DHP scheme to:

- Alleviate poverty
- Sustain tenancies and prevent homelessness
- Keep families together
- Support the vulnerable in the local community
- Encourage and sustain people in employment
- Safeguard residents in their own homes
- Help those who are trying to help themselves
- Help customers through personal and difficult events
- Support young people in the transition to adult life
- Support care leavers
- Promote good educational outcomes for children and young people

The Council considers that the DHP scheme should primarily be seen as a short term or emergency fund only. The Council will consider providing in longer term support in certain circumstances. These circumstances include, but are not restricted, to circumstances whereby the maximum amount of benefit payable is restricted by legislation and:

- The property has been specially adapted to meet the needs of a disabled occupant.
- The tenant is registered for a transfer and has asked to be downsized to accommodation where the under occupancy charge will not apply and the tenant is proactively looking for appropriate accommodation
- There would be a serious detrimental effect on the health of someone living in the property if it became necessary to move address (and this is supported by a Doctor or Health Care professional)
- A spare room is needed to store vital medical equipment (must be supported by a Doctor or Health Care professional)
- A tenant under the age of 35, is adversely treated within the Local Housing Allowance scheme.
- The applicant is taking reasonable steps to help to prevent or relieve their homelessness and is actively engaged with the Housing Options Team.

The maximum period for which a DHP will be awarded is the lesser of the period during which the circumstances giving rise to the claim are expected to change or one year. At the end of this period a new application will usually need to be made.

A claimant receiving a DHP must notify the Council of any change of circumstances which may be relevant to their DHP application or award.

Shorter awards may be appropriate in some circumstances, for example if the claimant is required to undertake or commit to specific action as a condition of the award.

The Council will consider extending DHP beyond one year, without a new application, where the claimant or a member of the household is disabled and / or the property has been adapted. In these instances the award may be extended to the following year.

All renewals, reclaims or extensions of DHPs must be considered in the context of the funding available to the Council.

## **Administration of the Discretionary Housing Payment Scheme.**

The scheme will be administered within the Benefit Service

Applications for DHP can be made in writing, on a designated claim form or by completing an on line form. For some specific groups, who may receive long term support (see purpose and objectives) it will not be necessary for a DHP application to be completed. The award for those groups will be based upon their meeting set criteria, for example evidence that the property has been adapted or compliance with the allocations policy. The awarding officer must be satisfied that the claimant is aware of their responsibilities to provide accurate information, to report changes in circumstances and to re-pay any overpaid DHP.

Specific client groups will also be targeted to ensure that the take up of the fund is as wide as possible. Groups may include claimants who are disabled or who have disabled children in the property, large families and other vulnerable groups.

A person claiming a DHP shall provide the Council with sufficient information as deemed reasonable by the Council.

The effective date of any award will be determined by the assessing officer and will usually be the Monday following the date the application was received. However this may be varied depending on the circumstances of the claim.

A principle of DHP is that it is paid to address an immediate need. Awards will usually therefore be made from the time of the claim. Legislation does allow the backdating of awards, provided Housing Support was in payment during the period covered by the DHP. The Council will backdate an award of DHP, where legislation allows, where sufficient budget is available and where it is satisfied that the claimant is justified in not having claimed sooner.

Awards of DHP will be authorised by the Benefit and Compliance Manager, or the Principal Benefit Officers.

The written notification will include the amount of DHP to be made and the period for which the payment will be made.

DHP will usually be made to the claimant but may be made to other parties (such as a landlord or representative) where it is considered reasonable to do so.

Feedback or other information regarding a DHP claim or award will be given to a landlord or other third party, only when the consent of the claimant has been given.

Customers who wish to dispute the decision are entitled to request a review of the determination. Written notice of the outcome of the review will be issued as soon as is reasonably practicable and generally within 10 working days.

Customers, who continue to be dissatisfied with a DHP determination, following a review, have recourse to the Council's Official Complaints procedure. There is no right of appeal to the Tribunal Service.

Should a claimant or his/her representative provide false or misleading information in respect of a claim for DHP, or fail to notify the Benefit Service of a relevant change of circumstances in a timely manner, the Council may take such action as it deems appropriate, in accordance with its counter fraud policies.

The Council will not exceed the total of the permitted amount set by the DWP, and any budget made available by the council, in any given year. It is therefore feasible that claims may be rejected on the grounds that the Council has fully utilised its budgetary provision.

The Benefit and Compliance Manager will be responsible for the day to day management of the DHP budget with overall responsibility being the responsibility of the Local Taxation and Benefits Manager.

## **Qualifying Criteria**

The expectation is that DHPs will be awarded in unusual or extreme circumstances where additional help will have a significant effect in reducing the risk of homelessness,

alleviating hardship, or alleviating difficulties that may be experienced in the transition from long term benefit dependence into work.

Whilst every claim for DHP will be considered on its individual merits, by the officers responsible for administering the scheme, we will typically use the scheme to address shortfalls or hardship caused by:<sup>1</sup>

- The specific needs of a disabled or vulnerable occupant
- A legislative restriction on the maximum amount of benefit payable
- Adverse affects of Welfare Reforms
- The effect of the tapers within Housing Benefit and Universal Credit.<sup>2</sup>
- Increases in essential work related expenditure such as increased fares to work if a customer had had to move because they could not afford to live in proximity to their work following a reduction in their LHA rates
- Social Sector size criteria.
- Waiting times during which UC or other state benefits are not paid.
- A landlord's reasonable requirement for rent to be paid in advance at the start of a tenancy.
- A landlord's reasonable requirement to receive a deposit before allowing a tenancy to commence.

DHP will **not** be used to:<sup>3</sup>

- Pay a service charge which is not eligible to be paid by HB.
- Pay or reduce rent arrears that are not eligible for HB.
- Pay or reduce rent arrears that accrued during a period when the circumstances giving rise to the DHP did not apply.
- Pay or reduce an overpayment of HB.
- Offset a reduction in benefit payable due to other benefit sanctions.
- Offset HB that has been suspended.
- Offset the effect of a Non Dependant Deduction, unless the circumstances of both the claimant and the non-dependant are such that a DHP is justified.

Where a DHP is overpaid as a result of a change in the claimant's circumstances, meaning that they no longer meet the criteria upon which the payment was assessed, the Benefit Service will seek to recover the overpayment, in line with its policies and relevant legislation.

## **Prioritising Claims**

All applications received will firstly be prioritised by circumstances. Applications where the customer is:

- Affected by a legislative restriction (s) on the maximum amount of benefit payable (including a targeted approach to those affected)
- a person with whom dependant children reside

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<sup>1</sup> The list is not intended to be exhaustive.

<sup>2</sup> The taper is the rate at which HB or UC Housing Element is reduced, as income increases

<sup>3</sup> The list is not intended to be exhaustive.

- a person who is pregnant
- a person who is vulnerable as a result of old age, mental illness or physical disability

## **Assessing Entitlement**

Every application for DHP will be determined according to the individual merits of that claim and the specific circumstances of the claimant. DHP claims tend to fall into one of the following types, and the manner for assessing each of those types of claims is described below.

### **Shortfall of Income over Expenditure**

The fundamental principle underlying DHP awards is that they are temporary in nature and provide a mechanism by which the claimant can address the underlying cause of their problems in order to be able to support his/her ongoing commitments.

In establishing whether the claimant is suffering hardship, the assessing officer will have regard to the nature and amount of stated outgoings. In determining whether the stated level of outgoings are reasonable, the Council may have regard to guidance issued from time to time by the Citizens Advice or other organisations.

The Council will also expect the claimant's current problematic circumstances to be demonstrably short term. To that end, applicants claiming DHP by virtue of hardship under this section will be expected to demonstrate that they are doing all that they reasonably can to resolve their situation by one or more of the following, with a reasonable expectation of a positive outcome;

- Actively seeking employment.
- Engaging as appropriate with any help and support available to the claimant to increase the prospects of obtaining employment.
- Claiming all benefits to which they are entitled.
- Having committed to undertake Personal Budgeting Support to help them manage their ongoing finances.
- Engaging with the relevant Council team or other agency to address ongoing issues.
- Receiving help or support from professional or voluntary organisations to address severe debt problems.
- Receiving appropriate support care or treatment to address health issues, where this is the cause of or contributor to the hardship.

### **Short Term Hardship**

Some situations are short term by their nature and so no commitment to Personal Budgeting Support or other assistance will be necessary in order for a DHP to be paid.

### **Known or Predicted Changes to Income**

Where it can reasonably be established that the claimants circumstances will change, in the near future, such that a DHP will not be needed, it may not be necessary for the claimant to demonstrate commitment to budgeting support. Such changes would



include but not be restricted to commencement of employment, or entitlement to state benefits.

### **Rent-in-Advance.**

By its nature the requirement to pay rent in advance at the start of a tenancy is a one-off payment and so no evidence of Personal Budgeting Support or other assistance will be required.

The Council will need to be satisfied that the claimant does not have the means to meet the payment.

The Council will need to be satisfied that the requirement to make the advanced payment is an ordinary requirement of the particular landlord and that neither the landlord nor tenant are seeking to take undue advantage of this DHP provision.

Where rent is payable monthly, the DHP will not exceed one month's rent. In other circumstances the DHP will not exceed four weeks' rent.

### **Key Deposit Schemes.**

By its nature the requirement to pay a deposit to a landlord, to mitigate potential breaches of tenancy conditions, is a one off payment and so no evidence of Personal Budgeting Support or other assistance will be required.

The Council will need to be satisfied that the claimant does not have the means to meet the payment.

The Council will need to be satisfied that the requirement to pay a deposit is an ordinary requirement of the particular landlord and that neither the landlord nor tenant are seeking to take undue advantage of this DHP provision.

Where rent is payable monthly, the DHP will not exceed one month's rent. In other circumstances the DHP will not exceed four week's rent.

The Council will pay either a rent in advance, or a deposit in respect of a particular tenancy, not both.

### **Social Sector Size Criteria – Awaiting Transfer.**

For tenants affected by the Social Sector Size Criteria, DHP will be made where the tenant has registered for a transfer and requested a move to accommodation where the Under Occupancy charge will not be relevant, and is waiting to be offered suitable accommodation.

Whilst timescales here are largely outside of the tenant's control, the situation is by its nature relatively short term and so no evidence of Personal Budgeting Support or other

assistance will be required provided that the tenant is actively searching for appropriate accommodation, by applying for properties that are suitable.

The payment will be withdrawn if the tenant rejects two offers of suitable accommodation, withdraws the request for rehousing or otherwise fails to comply with requirements of the Council's Allocations Policy.

### **Social Sector Size Criteria – Imminent Household Changes.**

For tenants affected by the Social Sector Size Criteria, DHP may be made where;

- Housing Support is restricted by the Size Criteria but that restriction will soon be lifted because the claimant (and their partner, if they have one) will reach the age at which they will be able to claim Pension Credit
- Housing Support is restricted by the Size Criteria but that restriction will soon be lifted as one or more of their children will reach an age when they are not expected to share a bedroom
- An occupant is pregnant and the household will no longer be subject to the restriction when the baby is born

### **Private Tenants – Imminent Household Changes.**

For tenants in private rented accommodation DHP may be made where;

- Housing Support will soon be increased as one or more of their children will reach an age when they are not expected to share a bedroom.
- An occupant is pregnant and the household Housing Support will increase when the baby is born.

### **Longer Term DHPs**

In limited circumstances and subject to available funding, the Council will pay DHPs for more than one year. These circumstances include but are not restricted to the following.

#### **Social Sector Size Criteria – Adapted Property.**

The property has been significantly adapted to cater for the disabled needs of someone in the household and it would not be reasonable to expect the tenant to move having regard to the space required by the disabled resident and the cost of making adaptations to another property.

#### **Social Sector Size Criteria – Medical Needs.**

A spare room is required to store vital medical equipment and it is likely to have a serious detrimental effect on the health of someone in the household should it become necessary to move to an alternative property where the Under Occupation charge would not be applied.

## **Removal Costs**

Should a claimant be committed to moving accommodation in order to address their hardship, DHP could be used to assist with the cost of removal in certain circumstances.

The Council will need to be satisfied that;

- Housing Support is being paid at the previous address
- Housing Support will be available at the new address
- The move is being undertaken to address hardship or compliance with rent size criteria restriction
- The claimant cannot afford to pay the removal cost.

## **Other Circumstances.**

Other circumstances, in which a DHP may be considered include but are not restricted to:

- A child is temporarily in care, but is expected to return home or join the household shortly
- The claimant or household member is fleeing domestic abuse or other abuse
- The claimant is the victim of a major incident e.g. fire, flooding, storm damage etc

## **Paying DHPs**

The Council will decide whether the DHP should be paid to the tenant, the landlord or a third party. In making such a decision the council will have regard to the manner in which Housing Support is being paid. For example, where the tenant has arrears of rent or appears unlikely to pay the rent, the payment would usually be paid to the landlord.

Rent-in-advance and deposits will usually be paid to the landlord.

DHP payments can be paid weekly or monthly to meet rental liability and will usually be paid to coincide with the payment of Housing Support.

## **Local Council Tax Reduction (LCTR) Scheme**

The Council's LCTR scheme is reviewed annually. Within the scheme exists a mechanism and a budget for funding discretionary payments, over and above the ordinary rate of LCTR, where the Council Tax payer demonstrates exceptional hardship or other exceptional circumstances.

Whilst the discretionary LCTR payments are managed outside of the DHP Policy, any claim for DHP on the grounds of an ongoing shortfall of income versus expenditure will be treated as a claim for a discretionary LCTR payment with similar criteria being used in the assessment.

## Publicity

The Council will publicise the Scheme and will work with all interested parties to ensure that resources are targeted at the areas of greatest need.

The publicity that the Council will typically undertake includes;<sup>4</sup>

- The availability of the scheme will be clearly shown on benefit notification letters.
- All appropriate Council staff will receive awareness training
- Awareness training will be delivered to appropriate partners and stakeholders.
- Discretionary Housing Payment information leaflets will be made available at Council Offices.
- The Authority will use Benefit claim information to pro-actively identify potential cases and invite applications from customers.
- The Authority will work closely with critical stakeholders to include those agencies in the distribution of the fund.

## Financial Implications

The amount of Discretionary Housing Payment that a Council can make, is determined each year by the Department for Works and Pensions and notified to the Council shortly before the start of the financial year.

The permitted total is made up of two elements:

**The Government contribution**, is that amount which will be funded entirely by the Department for Work and Pensions. This amount is allocated annually by Department for Work and Pensions and is set at the mid-point between the Authority's government allocation and its total Discretionary Housing Payment spend for the most recent year for which the Department for Works and Pensions has available data.

**The Authority's contribution.** This is the amount by which the Council can "top-up" the Discretionary Housing Payment budget. This will equate to 1.5 times the government contribution.

The permitted total will equate to 2.5 times the Government contribution.

In the event that the government allocation from the Department for Work and Pensions is not spent, the unspent allocation is returned to the Department for Work and Pensions.

## Management Information

Discretionary Housing Payments (Grants) Order 2001 requires the council to exercise proper financial control of the Discretionary Housing Payment budget, as well as prescribing the manner in which the council will be reimbursed for the government contribution. The effective use of the budget will therefore be monitored closely and reported, to stakeholders and partners as appropriate.

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<sup>4</sup> The list is not intended to be exhaustive.

The officers responsible for managing the budget will have therefore regularly review information relating to such issues as:<sup>5</sup>

- The amount of Discretionary Housing Payment made to date.
- Any Discretionary Housing Payments committed, but not yet issued.
- The amount of any overpayments of Discretionary Housing Payments recovered.
- The amount of the budget remaining.
- The number of outstanding claims for Discretionary Housing Payments.
- Any available information as to the number of claims that may be expected to be made before end of the financial year.
- Effectiveness of Discretionary Housing Payments in assisting the claimant to achieve the expected outcome.
- Any available information as to the reasons for Discretionary Housing Payments, thereby helping to identify priorities and inform future take up activity.

## **Review of the Policy**

This policy will be reviewed periodically, and updated in line with changes to Council priorities, legislation, best practice and the budget available.

Operational changes which do not impact on Council Priorities or involve additional cost to the Council will be made by the Council's Chief Financial Officer, in consultation with the Leader of the Council.

More significant changes will be reported to Cabinet.

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<sup>5</sup> The list is not intended to be exhaustive.