

Appendix 2

Discretionary Housing Payment Policy

1. Introduction

- 1.1 Discretionary Housing Payments (DHP) can be made to anyone receiving either housing benefit or the housing element of Universal Credit (UC) that has a shortfall between their benefit and their rent. An award can be made when the council decides extra financial assistance with rent should be granted.
- 1.2 In administering DHP the council has to act in accordance with the relevant legislation (the Discretionary Financial Assistance Regulations 2001) and has to take account of guidance the Department for Work and Pensions (DWP) issues.
- 1.3 The policy sets out how DHP claims are decided and the factors the council considers when deciding whether to grant or refuse an award.

2. The DHP budget

- 2.1 Government sets an annual limit called the “permitted total” the council is able to spend on DHP. Government contributes 40% of the permitted total and the council can supplement the government contribution from its own funds. The council reviews annually any additional money it puts into the scheme.
- 2.2 Resources for DHP are limited and all claims are therefore dependant on the available budget.

3. Objectives of the policy

- 3.1 The DHP scheme aims to:
 - Support households moving into work either for the first time or after a break of at least one year.
 - Help people, particularly those at risk of homelessness and affected by welfare reform, to pay their rent while a longer term solution is found.
 - Support the most vulnerable households with circumstances that result in them having fewer housing choices.

4. General principles applied to deciding all DHP claims

- 4.1 This Section sets out factors taken into account when making decisions on all claims for DHP. How the amount and duration of a DHP award is decided is also included in this Section, along with guidance on repeat claims. Section 5 of the policy deals with additional factors that apply when DHP is sought for a particular reason. However, for all DHP claims the factors listed in this policy are only an indication of what the council takes into account and the policy also does not give a definitive list of factors. As awards are discretionary, there is no limit on the factors

that can be taken into account and each individual claim is decided on merit.

4.2 ***Factors considered for all claims***

When deciding claims, the council will take into account the following:

- The extent to which the applicant is facing the risk of being made homeless.
- The negative impact refusing DHP could have on any children living in the applicant's household.
- The negative impact refusing DHP could have on any disabled members of the applicant's household.
- The negative impact refusing DHP could have on any household members who have reached state pension age.
- With the exception of disability living allowance and personal independence payments, all the income and savings the applicant has and the extent to which income and savings can reasonably be used to pay rent.
- The income of other household members such as non-dependants (it may be reasonable for a non-dependant to contribute more towards rent than the amount of the non-dependant deduction determined by regulations).

4.3 ***The amount of the award***

In the overall approach to a DHP claim it is expected that housing costs should be prioritised within a household budget. Most applicants will therefore be expected to make a contribution towards the shortfall between their benefit and their rent unless there are exceptional circumstances. So, in the main, awards are unlikely to cover the full shortfall. The amount of each contribution will be decided on a case by case basis and household expenditure may need to be adjusted in order to meet the contribution towards the shortfall.

4.4 ***Duration of awards***

DHP awards are only made for fixed periods and they are not intended as a long term solution. In the majority of cases the DHP award will be made in order to give time for the applicant to change their circumstances which might be:

- Finding alternative cheaper accommodation
- Finding work
- Budgeting towards paying more rent

4.5 When making the award the council will set out the actions it is reasonable to expect the applicant to take to avoid needing a DHP long term. Depending on the individual circumstances of each case, the DHP will be awarded for up to 52 weeks to allow time for the actions necessary. The most common period will be 26 weeks as it is considered this is a reasonable period to allow for the completion of actions necessary to avoid long-term reliance on DHP. In addition it is reasonable in the majority of cases to review an applicant's circumstances after 26 weeks.

4.6 ***Support from other council services***

Support to implement the actions that need to be taken will be available from council services where needed, such as the Housing Options Service, CityWest Homes, Westminster Employment Service, Adult Social Care and Children's Services. .

4.7 ***Repeat claims***

Repeat claims will be considered where more time is needed to successfully complete the actions needed to avoid having to rely on DHP. Repeat claims are

only likely to be agreed where the council's recommended actions have been followed.

4.8 ***Long-term DHP awards***

In exceptional circumstances the council may make a longer-term commitment to assist an applicant with DHP. Where this is the case the DHP will be for a period of up to 52 weeks with repeat claims then made only so the council can determine if there are any relevant changes to the applicant's circumstances.

4.9 ***Ineligible housing costs***

A DHP cannot be awarded to meet service charges that are ineligible for welfare benefits and cannot assist with council tax payments. In addition, a DHP cannot be awarded to meet rent arrears for a period when there was no entitlement to either housing benefit or UC housing element.

5. How different types of DHP claims are decided

5.1 ***Claims from working households***

Some working people receive partial housing benefit or the partial housing element of UC based on their earnings and other income. In these circumstances, DHP may be awarded to those moving into work for the first time or following a break of at least one year. The award will be a "one off" to help with the transition to receiving a lower rate of benefit. (It should be noted, however, that some entitlement to housing benefit or the UC housing element is needed in order to be eligible for DHP).

5.2 The DHP awarded will match the financial support for rent received immediately before employment started for an initial period of three months. For the next three months the DHP will taper off so extra financial support for rent reduces in stages. (The DHP for the first three months will be adjusted to take account of any extended payment of housing benefit. Any extended payment potentially meets the rent in full for the first 4 weeks of employment meaning a DHP is not required.)

5.3 Repeat awards will generally not be agreed as the DHP is to help assist with the transition into work and cannot support people where their employment is not financially sustainable in the longer term.

5.4 The council will also consider awarding DHP to applicants established in employment if there are exceptional circumstances making it difficult for the applicant to meet the shortfall between housing benefit or UC and rent from income they receive. The council will consider the applicant's previous track record of rent payment to decide if the inability to pay the required contribution towards rent is likely to be temporary in order to ensure long-term reliance on DHP is avoided.

5.5 ***Claims from those affected by the Local Housing Allowance (LHA) restrictions***

LHA was introduced in 2008 and involved the introduction of set rates to calculate the maximum housing benefit any new applicants could receive in the private rented sector. These rates were set in line with average market rents. LHA was changed in 2011 and the reforms included restrictions and an overall cap on LHA

rates. The gap between market private rents and LHA levels is particularly wide in Westminster.

- 5.6 Relatively few applications from those affected by the LHA restrictions are expected as the LHA restrictions have been in place since April 2011. Consequently it is reasonable to expect that most claimants affected at the point of change will have already made alternative arrangements. It is unlikely that claims will be agreed where applicants have taken on a new tenancy that they could not afford. New claims made will be considered taking account the factors listed in paragraph 4.2 of the policy.
- 5.7 Where claims are agreed the length of the award will be sufficient to enable applicants to find alternative cheaper accommodation and support may be available from the council's Housing Options Service to do this. Repeat awards will generally only be agreed where the applicant has particularly challenging circumstances which would mean they may need longer to look for alternative housing.
- 5.8 Repeat claims may also be agreed where it is unreasonable to expect a household to move to alternative housing in view of their health or social needs which may include:
- Households where at least one member has a severe health condition or disability (including a severe mental health condition) that is long-term and requires intensive and specialised medical treatment or aftercare that is either (a) only available in Westminster or (b) where a transfer of care would create serious risk to their safety or the sustainability of the treatment or care
 - Households where at least one member is receiving support through a commissioned care package or package of health care options provided in Westminster, where a transfer of care would create serious risk to their safety or the sustainability of the care
 - Households where at least one of the children has a Statement of Special Educational Needs or an Education, Health and Care Plan, is receiving education or educational support in Westminster and where it is demonstrated that a placement elsewhere would be seriously detrimental to their well-being
 - Households with a child where Family Services has demonstrated serious concerns about the child and is working with them intensively
 - Households whose circumstances come under one of the council's protocol arrangements between Housing and Family or Adult's services or where there is a recommendation through a joint assessment with Adult's or Family services
 - Households which include a registered Westminster City Council approved foster carer who is fostering a Westminster looked after child
 - Households which (a) include a Westminster City Council approved person who is caring for a Westminster looked after child, (b) include a Westminster child that is subject to a Westminster Special Guardianship Order or (c) have a private fostering arrangement with a carer resident in Westminster where they have notified the council

- Households where at least one person can demonstrate that (a) they have a longstanding arrangement (or if the arrangement has started more recently, that it is likely to be longstanding) to provide high levels of care and support to another person in Westminster who is not part of the resident household and the cared for person would be likely to require statutory health and social support if the care ceased and (b) that they would be unable to commute to fulfil their caring duties

5.9 *Claims from those affected by the Benefit Cap*

The Benefit Cap limits the overall amount of welfare benefits households of working age can receive. It applies if neither the applicant nor their partner is employed with enough hours to qualify for either working tax credit or UC. When a person's housing benefit is less than the eligible rent because of the Benefit Cap, the council will firstly look at whether the person has enough income or capital to afford the shortfall (see *General principles applied to deciding all DHP claims*).

- 5.10 In cases where a person is unable to meet the entire shortfall the Benefit Cap produces, the council will award a DHP for a limited period to support claimants in their efforts to move into work as soon as practicable.
- 5.11 Where obtaining employment with sufficient hours is unrealistic, a DHP will be made to allow other options such as claiming an exempting welfare benefit or moving to more affordable alternative accommodation to be considered. Before deciding that it is reasonable to expect an applicant affected by the Benefit Cap to move to more affordable accommodation, the factors listed in paragraph 5.8 will be taken into account. If any of the factors listed in paragraph 5.8 apply a longer-term DHP is likely to be agreed.
- 5.12 When a household affected by the Benefit Cap is living in temporary accommodation or receiving support from Children's Services or Adult Social Care, the council will take into account the representations from Housing Options and the relevant council services when deciding the amount and duration of the DHP award.
- 5.13 *Claims from those affected by the social sector size criteria***
- From April 2013, housing benefit was reformed to restrict the rent used to calculate entitlement for a tenant in the social rented sector who is treated as having one or more spare bedrooms. When a person affected by this change applies for DHP the council will firstly look at whether the person has enough income or capital to afford the shortfall (see *General principles applied to deciding all DHP claims*).
- 5.14 If they do not have the means to pay the shortfall, the council will then consider the individual circumstances that could make moving to a smaller home impractical. When deciding if there are reasonable barriers preventing a move to a smaller home, the following will be considered:
- Any significant adaptations that have been made to the property to cater for the needs of a disabled member of the household
 - Any health conditions, whether temporary or permanent, that make moving home exceptionally difficult
 - The reasons for allocating the current home with the number of bedrooms

- it has at the outset of the tenancy
- Any threat of domestic violence that could increase as a result of a change of address
- Whether an extra bedroom is needed for a permanent resident who is temporarily absent for a longer period than the period allowed under benefit regulations
- Any other special circumstances that result in the need for an additional bedroom.

Applicants' landlords may need to verify the above information and can make representations to support applicants' claims.

- 5.15 When none of the barriers to moving listed above apply, the council will consider awarding a DHP to either reduce or clear rent arrears that are preventing a change of address to accommodation with less bedrooms from taking place.
- 5.16 ***DHP awards in other circumstances***
In addition households where there is a shortfall between benefit and rent for a reason not listed above are eligible to apply for DHP to receive financial assistance with meeting the shortfall.
- 5.17 DHP in other circumstances will be considered if reduced benefit entitlement is placing the applicant at risk of being made homeless or there are exceptional circumstances.

6. Making a claim

- 6.1 A claim form can be obtained:
- from the Benefit Reception Office at 180 Vauxhall Bridge Road, SW1V 1ER
 - from the Benefit Reception Office at and 101 Orchardson Street, NW8 8EA
 - by telephoning 0800 072 0042
 - by download from the council's website.
- 6.2 The form collects information about income and expenses and asks questions about individual circumstances. All applicants making a new claim are required to provide statements for every bank, building society and post office account held that cover three recent and consecutive months showing all transactions. In addition, applicants living in the private rented sector must provide evidence of the rent being charged and the rental payments made; applicants in employment must provide a copy of a recent payslip; and applicants receiving UC housing element must provide a UC award notice showing current entitlement.
- 6.3 Claims are decided by the Benefits Policy and Appeals Unit. Decisions are made in line with this policy and the council aims to notify applicants of the outcome of their claim within ten working days of receiving all the information needed.
- 6.4 All successful applicants need to report any relevant changes in their circumstances so their claim can be reviewed.

7. Monitoring and review

- 7.1 Records will be maintained showing the primary reason for each DHP claim. The Senior Benefits Policy Officer will check 10 per cent of agreed claims to ensure the evidence requirements are met, the decision made is in accordance to the council's policy and the purpose of the DHP award is clearly explained to the applicant. When undertaking checking the Senior Benefits Policy Officer will ensure a proportion of DHP awards for every reason type are checked.
- 7.2 In addition, the Senior Benefits Policy Officer will check and approve on-going DHP awards to tenants in the private rented sector that exceed £100 per week and lump sum awards for all tenure types that exceed £2,000. The Senior Benefits Policy Officer will undertake this check before the DHP award is notified and payment issued.
- 7.3 If the claim is refused, the decision letter will give detailed reasons for the refusal and explain the applicant's right to request a review. In response to an application for review, a panel made up of Councillors will reconsider the officer decision and make a recommendation to the Cabinet Member for Finance, Corporate and Customer Services who is the decision maker for review applications. Review applications must be made in writing and sent direct to the Scrutiny and Committee Officer who supports the review panel. Additional bank, building society and post office statements covering six recent and consecutive months are required in support of a review panel request. The Cabinet Member's decision is final and can be challenged only by an application for judicial review.

8. Fraud prevention and DHP overpayments

- 8.1 A DHP claim is subject to the requirements the applicant provides complete and accurate information, and reports changes to their circumstances. The claim form warns court action can result from fraud which is the result of a deliberate failure to provide correct information and report changes.
- 8.2 The council is committed to preventing benefit fraud and suspicions of fraud are referred to the DWP Fraud and Error Service (FES). Officers will scrutinize the details provided in connection with DHP claims for indications of fraud and refer any suspicious cases to FES.
- 8.3 DHP overpayments can occur if circumstances change before the end of the award and there is a delay in the council being informed of the change or the council fails to act on information received promptly.
- 8.4 Where following the change the amount of the DHP award is reduced, the council will recover the DHP overpayment by offsetting it against future awards. When the applicant is no longer eligible to receive a DHP as a result of the change in circumstances, the council will seek to recover the overpayment by issuing an invoice.
- 8.5 The council will consider each DHP overpayment on its own merits to decide if pursuing recovery is appropriate. We will consider the amount of the debt, the cost

of recovery action, hardship recovery may cause and any other relevant factors.

9. Publicising the scheme

- 9.1 Information about the scheme, the DHP policy and the DHP claim form are available on the council's website. In addition, housing benefit decision notices include information about the DHP scheme. Officers responsible for administering the DHP scheme will liaise with interested parties both internally and externally to raise awareness of the DHP scheme. Interested parties internally include the Housing Options Service, Children's Services, Adult Social Care and externally Citizens Advice Bureaux, Law Centres, Age Concern, other advice agencies and registered housing associations.

10. Review of the policy

- 10.1 The policy will be reviewed as required. Any review will consider how effectively the policy objectives have been achieved and the impact on the demand for DHP any legislative changes to welfare benefits may trigger.