



Discretionary Housing Payment Policy

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1. Introduction

On 2 July 2001 the Discretionary Financial Assistance Regulations 2001 came into effect. These Regulations introduced the Discretionary Housing Payment (DHP) scheme.

From April 2017 powers over DHPs transferred to the Scottish Government, in order to ensure consistency and continuity guidance issued by the Department for Work and Pensions (DWP) remains in place.

The DHP scheme provides for local authorities to make discretionary awards to those tenants who face a shortfall between their Housing Benefit award and their rental liability and are having difficulty in meeting their housing costs.

The DHP scheme is available to assist council tenants, tenants of Registered Social Landlords, and tenants who are renting in the private sector.

This policy document provides a framework for outlining circumstances under which DHPs may be awarded by West Lothian Council. The examples given are not exhaustive and other circumstances will be considered.

2. Policy Aims and Objectives

In administering the DHP Fund, the council seeks to promote the following objectives:

- Prevention of homelessness;
- Alleviating poverty;
- Sustaining tenancies and safeguarding residents in their homes;
- Preventing hardship;
- Supporting vulnerable young people in the transition to adult life;
- Supporting young people to achieve good educational outcomes;
- Encouraging residents to seek and sustain employment;
- Keeping families together;
- Supporting domestic abuse victims who are trying to move to a place of safety;
- Supporting disabled people to remain in adapted properties

The council will ensure that, as far as possible, all customers are made aware of the availability of DHP and that all agencies supporting customers are made aware of the funding available and how it can be utilised to support their client group.

3. Features of the DHP scheme

The main features of the scheme are that:

- The scheme is purely discretionary, a customer does not have a statutory right to a payment;

- Awards will be made at the discretion of the council;
- Housing Benefit or the Housing Support element of Universal Credit must be in payment before a DHP payment can be awarded and there must be a shortfall between the Housing Benefit or Universal Credit (housing support) award and the contractual rent;
- The abolition of Council Tax Benefit from April 2013 means that household costs associated with Council Tax liability are no longer eligible for a DHP award.
- Unlike Housing Benefit, DHP is not a demand led social security benefit. It is a cash-limited fund.
- Given that DHP payments are made from a cash-limited fund they cannot, normally, offer long-term solutions to meeting housing costs. The main exception to this is for those affected by the size criteria restrictions in the social rented sector (see below).

4. The four different strands of DHP

DHP funding is currently allocated in four different strands:

The original temporary hardship scheme:

This funding allows the council to help people with non-welfare reform related matters, such as issues with non-dependent deductions, short term budgeting problems, or assisting people in the transition into work.

The Local Housing Allowance (LHA) welfare reforms:

This funding allows the council to help those who are renting in the private sector and have been affected by the changes to the Housing Benefit LHA scheme, including restricting the eligible rent for Housing Benefit from the median (50%ile) rent in the area for each size of accommodation to the 30%ile of rents in the area.

The Absolute Benefit Cap:

This funding allows the council to help those affected by the Absolute Benefit Cap. Under the Benefit Cap all relevant benefits that a customer receives are added together, by the DWP, who then inform local authorities where the aggregated amount of benefits exceeds the cap. At the moment the cap is set at £257.69 per week for single people, £384.62 for couples or families. Local Authorities are then obliged to deduct any excess from the claimant's Housing Benefit award.

Bedroom Tax mitigation

The Scottish Government has committed to fully mitigate the bedroom tax and expect that anyone affected who applies for a DHP will be awarded one. This means that the application and assessment procedures for this particular strand of DHP will be different from those of the other three DHP strands.

The application process

Regulation 3 of the Discretionary Financial Assistance Regulations 2001 requires that there must be an application for DHP before a local authority can consider making a payment, but this does not mean that there has to be a written application form.

The DHP Guidance Manual, incorporating their LA Good Practice Guide, published by the DWP in August 2019, makes this clear. The Guide states that local authorities can decide what

constitutes an application in each case, although, "...there must be something in each instance which triggers the application. This could be something as simple as a telephone call asking the claimant if they wish to apply for DHP".

The DWP Guidance states that the application does not need to come from the person entitled to Housing Benefit and in need of DHP, "... it is reasonable in the circumstances, an application can be accepted from someone acting on behalf of the HB or UC claimant. This could be an appointee or advocate, for example, if the person is vulnerable and requires support; or the claimant may request that someone acts on their behalf."

Where a claimant makes an application for Housing Benefit or Council Tax Reduction directly to the council this is also treated as an application for DHP. The declaration signed by the claimant states that "This is my claim for Discretionary Housing Payment should my Housing Benefit be reduced by under occupancy (bedroom tax) and I am a social sector tenant"

Where a claimant has applied for Universal Credit and during this application process indicates that the wish to claim council tax reduction, notification of this is sent to the council by The Department for Work and Pensions. We will treat this as an application for DHP an e-mail will be sent to the claimant which states "We will treat this as your claim for Discretionary Housing Payment should your Universal Credit housing cost element be reduced by under occupancy (bedroom tax) and you are a social sector tenant."

In order to ensure full mitigation of the bedroom tax a monthly report from the council's Housing Benefit database will identify all those tenants affected by a shortfall in their Housing Benefit award as a result of the bedroom tax.

The assessment and decision-making process

Before making a DHP award, the local authority must be satisfied that the claimant is entitled to Housing Benefit or the housing cost element of universal Credit *and* requires further financial assistance with housing costs.

The DWP Guidance states, "There is no definition of the phrase 'further financial assistance' in law. It is up to you how you interpret it. However, in most cases a claimant will need to demonstrate that they are unable to meet housing costs from their available income or that they have a shortfall as a result of the welfare reforms".

Given the funds available to meet the shortfall in rent in full, there will be no need to prioritise those tenants most in need of assistance. In addition, given the clear guidance from DWP, that the requirement for further financial assistance is satisfied where the tenant can demonstrate that they are unable to meet housing costs from their available income or that they have a shortfall as a result of the welfare reforms there will be no need to gather information on the income and necessary expenditure for each claimant. For those affected by the bedroom tax, no further financial assessment will be required.

Following an application for DHP, as detailed above, a payment fully covering the shortfall will be made.

5. The administration of the three remaining strands of DHP

It is important to note that the funding provided to address the other three strands of DHP remains limited. These DHP awards still need to be prioritised for those most in need and, thus, the application and assessment process for these customers will remain unchanged, as detailed below.

Eligibility

In order to be considered for a DHP the applicant must:

- Be in receipt of Housing Benefit or Universal Credit (with Housing Support) and have a rental liability; and
- Have a shortfall between the amount of benefit being received and the amount of rent that is due to be paid; and
- Be having difficulty in meeting the shortfall in their rental liability; or
- Be having difficulty in meeting rent deposit or rent in advance payments.

How to apply for DHP

In West Lothian the DHP Fund is administered by the Anti Poverty Service.

To apply for a non-bedroom tax DHP award the customer can:

- Telephone **01506 280 000 (Option 2)**
- Use the online application form on the West Lothian Council website
- Use the downloadable application form on the West Lothian Council website
- Pick up a paper application form from the council's local offices

The Council may request any reasonable evidence in support of an application.

When DHP may be paid

DHP awards may be paid to eligible applicants in the following circumstances:

- Where there is a shortfall between the Housing Benefit award or housing cost element of Universal Credit and the rent liability and the tenant is experiencing temporary financial hardship or budgeting difficulties
- Where the customer's Housing Benefit award or housing cost element of Universal Credit has been restricted as a result of the Local Housing Allowance (LHA) welfare reforms and this has caused financial difficulties
- Where the customer's Housing Benefit award or housing cost element of Universal Credit has been restricted as a result of the introduction of the absolute benefit cap welfare reforms and this has caused financial difficulties
- Where the revised Local Housing Allowance Regulations, affecting those tenants renting in the private sector, which restrict the amount of housing benefit for single people under 35 to the single room rate in shared accommodation, are causing significant hardship, or where the tenant is actively seeking custody of a child and an extra bedroom is required for the child.
- DHP is generally awarded from the date of application to support customers with their ongoing need. However, customers are often in substantial rent arrears when an application is made. A backdated, or one-off payment of DHP, to reduce rent arrears will be considered for customers at risk of becoming homeless. In addition to this customer's will be offered a referral to the councils Advice Shop service in order to receive assistance with personal budgeting support, income maximisation and/ or other housing support to ensure they have the best chance of sustaining their tenancy.

This list is not exhaustive. It describes certain circumstances where a DHP award will be seriously considered, though there is no guarantee that an award will be made in any given case.

Other factors will be taken into account including:

- The applicant's income and necessary expenditure
- The extent to which an applicant might reduce certain outgoings
- The extent to which an applicant can be supported in arriving at a long-term solution to their rent shortfall

Payments of DHP can also be considered for a rent deposit or rent in advance for a property that an applicant plans to move to, provided the applicant is already entitled to Housing Benefit or Universal Credit, with a housing support element, at their present home. Help with removal costs may also be considered depending on the circumstances.

All decisions are subject to the level of budget available. The DHP fund in West Lothian will be managed to ensure that awards can be made throughout the year.

6. Engagement with customers

As a cash-limited fund, other than for those affected by the bedroom tax, it is recognised that DHP cannot normally offer long term solutions to rent shortfalls for most customers.

In most cases, the temporary award will be made to support the customer whilst other solutions are explored. This could include:

- Sign-posting to appropriate agencies to assist with personal budgeting;
- Income maximisation;
- Debt Advice where appropriate;
- Referring the customer to Acces2employment and other employability initiatives in order to support the transition into work wherever possible;
- Assisting the customer in negotiating with landlords in the private sector to reduce their rents, ending the rent shortfall, in exchange for paying DHP for a temporary period, and henceforth assisting the landlord in maintaining the tenancy by paying future Housing Benefit direct to the landlord.

The council does not view DHP as simply a "sticking plaster" that is used to temporarily postpone the inevitable. The council will seek to use DHP as one more tool to support the customer as they seek to address, where possible, the issues that they are facing.

7. DHP cannot cover:

The DWP does not allow DHP to be used to cover:

- Ineligible service charges (i.e. charges which cannot be covered by Housing Benefit such as heating charges, meal charges, and support costs, even where these charges are included in the rent);
- Increases in rent due to rent arrears;
- Rent payments where Housing Benefit has been suspended;

- Reductions in Housing Benefit due to the recovery of overpayments;
- Reductions in any benefit as a result of Job Seekers/Child Support/ Universal Credit sanctions, or sanctions following certain benefit related fraud offences.

8. Level and Period of Award

Under the council's Scheme of Delegation to Officers, the Head of Finance and Property Services is responsible for deciding if a DHP award is to be made, and the amount and period of any award, taking account of the guidance issued by the Scottish Government.

DHP award based on temporary hardship or budgeting difficulties might be made for up to 13 or 26 weeks, or such other period as is appropriate.

A customer can make a further application for DHP but there is no guarantee that a further award will be made. Each application will be judged on its own merits, and will be subject to funds being available. The extent to which a customer has engaged in trying to take action in relation to any issues they face will also be taken into account in considering any repeat application.

In the case of payment of a rent shortfall the amount of DHP will not exceed the weekly eligible rent.

In the case of lump sum payments, for example to pay a rent deposit, no period will apply but due regard will be given to the DHP funding available.

9. Payment of DHP

Payment may be made to:

- the applicant;
- their agent or appointee;
- their landlord,
- or directly into their rent account.

In most cases the payment method will be in line with the method of payment for Housing Benefit and will be either credited to a bank account or credited to the customer's rent account. For customers receiving Universal Credit, the Council's preferred payment method will be by direct credit to a bank account.

Payment of DHP will stop if an applicant fails to disclose a material fact, or obtained the funds under false pretences, or the payment was made in error.

Applicants are required to notify the council's Benefit team of any change in their circumstances. The level and period of award of DHP will be reviewed if there is a change in the circumstances of the claimant, and payments may be amended, reduced, or stopped.

10. Notification of DHP decisions

The customer will be notified of the outcome of their application within one calendar month of receipt of their application.

Where the application is successful, the customer will be notified of:

- The weekly amount of DHP awarded;
- The period of the award;
- How, when, and to whom the award will be paid;
- The requirement to report any change in circumstances;
- Advice on any further support available.

Where the application is unsuccessful the customer will be notified of:

- The reasons for the decision
- Provided with advice on any further support available

Applicants will be given the right to request a review of the decision.

11. The Right of Review

DHP is not a state benefit and is not subject to any statutory appeal procedure.

However, all councils are expected to set up an appropriate review process.

A customer can ask for a review of a DHP decision. This may be made in writing or electronically within one month of the date of the decision. Any requests out-with one month will only be considered where there are mitigating factors that have led to a delay in the appeal being made.

Disputes will be dealt with by a Senior Section Leader not involved in the original decision, who will give a full written explanation of the decision and the next steps in the dispute process where a decision cannot be changed.

The customer will be notified of the DHP reconsideration decision within ten working days of receipt of all information in respect of the review.

Where a customer is still dissatisfied they can request a further review of the decision. This may be made in writing or electronically within one month of the date of the reconsideration decision.

The decision will be reviewed by the Benefit Assessment and Development Manager. Their decision will be final and binding and may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman.

12. Recovery of Overpaid DHP

Where an overpayment of DHP has been made, the council will consider recovery on a case by case basis.

In making decisions on recovering overpayments the council will have due regard to any special circumstances that may affect the decision to recover, including the amount to be recovered and the rate of recovery.

An overpayment of DHP cannot be recovered by deduction from ongoing Housing Benefit.

An overpaid DHP can be recovered from an ongoing award of DHP.

An overpaid DHP can be recovered by invoice from the person to whom the award was made. A letter will be sent to the person due to repay the invoice detailing the reason for the overpayment and the options available if they disagree with the overpayment decision.

13. Monitoring Arrangements

The DHP decision maker, when making a decision to award DHP, will record the following information about the award:

- Whether the applicant has been affected by one of the key welfare reforms: the Benefit Cap; the Social Sector Size Criteria; the Local Housing Allowance reforms, or a combination of the welfare reforms;
- The total amount paid to the claimant;
- The intended outcome of the award, for example, to help with short term rental costs until the claimant secures alternative accommodation or to help with ongoing rental costs for a disabled person in adapted accommodation.

A monthly report detailing the level of DHP applications received, the decisions made, and the level of DHP committed for the financial year will be forwarded to the Revenues Manager for monitoring purposes, and to ensure that the statutory funding limit is not exceeded.

The report will form part of the Council's monthly budget monitoring and monitoring information will also be included in quarterly reports to the Partnership and Resources Policy Development and Scrutiny Panel.

14. Policy Review

The Council's DHP policy will be reviewed annually or sooner if appropriate, by the Head of Finance and Estates. The Head of Finance and Property Services is authorised to make minor or administrative changes to the policy. Any proposed significant changes will be reported to the Council Executive for approval.

Head of Finance and Property Services