



South Hams  
District Council

## **Discretionary Housing Payment Policy**

## 1.0 Introduction

- 1.1 The Discretionary Housing Payments (DHP) scheme has been in operation since 2 July 2001 to provide additional help to tenants facing a shortfall in their Housing Benefit (HB) and housing costs, who are facing exceptional hardship such as debt issues and need further financial assistance for a period. Since 2015 this scheme includes help to tenants receiving Housing Costs within their Universal Credit (UC).
- 1.2 A DHP may be awarded where the local authority determines a HB or UC claimant requires further financial help towards their housing costs.
- 1.3 A DHP **can** be awarded to cover:
- Shortfalls between the rental liability and payment of HB or payment of UC.
  - A one off DHP to help towards removal costs.
  - A one off DHP to help with a rent deposit.
  - A one off DHP for rent in advance.
  - A one off DHP to cover rent arrears to prevent eviction.
- 1.4 Examples of when we may give temporary help via the DHP Fund are:
- Reductions in HB or UC because of the benefit cap.
  - Reductions in HB or UC for under-occupation in the social rented sector especially in the following cases:

a) Where disabled people are living in significantly adapted accommodation (including any adaptations made for disabled children); and

b) Foster carers, whose HB is reduced because of a bedroom being used by or kept free for foster children.

- Reductions in HB or UC because of Local Housing Allowance (LHA) restrictions.
- Rent officer restrictions such as local reference rent or shared accommodation rate.
- Where there are non-dependant deductions.

1.5 There are certain elements of a claimant's rent that the Housing Benefit and Universal Credit regulations exclude so they cannot be included as 'housing costs' for the purpose of a DHP.

Excluded elements are:

- Ineligible service charges (those specified in Schedule 1 of the Housing Benefit Regulations 2006).
- Charges for water sewerage and environment services (as defined and calculated under the Housing Benefit Regulations 2006).
- Increases in rent due to outstanding rent arrears.
- Reductions in benefit because of a DWP sanction.
- Any reduction in benefit because of non-attendance at a work-focused interview.
- A reduction caused by housing benefit or universal credit overpayment.
- For help towards Council Tax payments.

## **2.0 Funding**

2.1 Each financial year, South Hams District Council is given a set amount of funding from Central Government for DHPs. Once this money has been spent, there is no further funding available until the following budget year.

2.2 In England and Wales, local authorities can use their own funds to top up the Government contribution by an additional 150%. Once an authority's overall cash limit is met, no additional DHPs can be awarded in that budget year. Any unspent funds at the end of the financial year must be returned to Central Government.

## **3.0 Policy objectives**

3.1 This document specifies how South Hams District Council will apply the DHP scheme and indicates some factors that will be considered when deciding if a DHP can be made. Each application will be considered on its own merits, taking into consideration the guidelines detailed in this document. All applicants will be treated equally and fairly.

## **4.0 DHP Administration**

- 4.1 The Discretionary Finance Assistance Regulations 2001 provide the statutory basis for the award of DHP.
- 4.2 South Hams District Council is committed to collaborating with social landlords, the local voluntary sector, debt advice agencies and any other interested parties within the district to maximise publication of the scheme to assist as many residents as possible.
- 4.3 We will consider making a DHP to an applicant who meets the qualifying criteria, although this is subject to budget limitations.
- 4.4 Before making an award, we must be satisfied that the applicant is entitled to:
- Housing Benefit; or
  - The Housing Element of Universal Credit; and
  - Has a rental liability; and
  - Requires further financial assistance with housing costs.
- 4.5 South Hams District Council has set the following key objectives in assessing discretionary housing payments using the Department for Works and Pensions (DWP) Discretionary Housing Payments Good Practice Guide:
- Alleviating poverty.
  - Encouraging and sustaining people in, and into, employment.
  - Tenancy maintenance and homeless prevention.
  - Safeguarding residents in their own homes.
  - Helping those that are trying to help themselves.
  - Keeping families together.
  - Ensuring that domestic abuse victims who are trying to move to a place of safety are supported.
  - Supporting the vulnerable, including young children and the elderly in the local community.
  - Supporting young people in the transition to adult life.
- 4.6 Discretionary Housing payments should only be seen as short-term financial assistance. It is not and should not be considered as a way around any current or future entitlement restrictions set out within the legislation governing Housing Benefit and Universal Credit.

## **5.0 Applying for a DHP**

- 5.1 We encourage customers to apply for a DHP by completing the application form on our website, however to ensure we do not disadvantage vulnerable residents we also accept the following methods of contact:
- Telephoning the Council

- Emailing the Council
- Writing to the Council

## **6.0 Supporting evidence.**

6.1 In all cases the applicant is required to provide the following evidence:

- Bank statements for three months prior to the application date.
- Tenancy agreement to confirm rent liability, rent in advance and deposits.
- Evidence of rent arrears, if applicable.
- Evidence of removal costs, if applicable.
- If applicable, evidence of any health issues reported in the application.

Other relevant evidence in support of the application.

## **7.0 Considerations when deciding on the award of a DHP.**

7.1 The following factors will be taken into consideration when deciding whether to award a DHP.

- The shortfall between HB **or** UC and the rent liability
- Any steps taken by the applicant to reduce their rental liability.
- Whether the applicant has already accessed or is engaging with assistance and budgeting and financial/debt management advice. A DHP may not be made until the applicant has accepted assistance from Homemaker or similar organisations, to enable them to manage their finances more effectively.
- Household income, including type and amount and expenditure, and including savings and capital.
- Household expenditure will be considered on a case-by-case basis.
- Non-essential items of expenditure including, but not limited to, alcohol, cigarettes, vapes, newspapers and magazines will not be taken into consideration when assessing the application.
- Income from disability-related benefits such as Disability Living Allowance and Personal Independence Payments are considered on a case-by-case basis, looking at the purpose of the benefits and whether the money from those benefits have been committed to other liabilities associated with disability.
- Unavoidable costs such as fares to work for people who have to move because of welfare reform.
- Regular debt payments.
- Exceptional circumstances (including ill health and disabilities).

- Where relevant the applicant must be able to demonstrate that they have been engaging with the Council's housing team and actively bidding on Devon Home Choice to move to more affordable accommodation.
- The possible impact on the Council of not making such an award, e.g. the pressure on priority homeless accommodation.
- The period that the applicant anticipates the DHP will be needed for; and
- Any other special circumstances brought to the attention of the Council.

## **8.0 The level of DHP award**

- 8.1 In cases where a DHP is awarded due to a rent shortfall between HB paid and rent due, the level of DHP awarded will not exceed the weekly or monthly eligible rent on the home. This includes the maximum amount of housing costs within UC towards a rental liability.
- 8.2 The UC award is made up of various elements such as personal, child and housing costs; however, the final award consists of one monthly payment. If the customer is in receipt of a housing element within their UC, then the maximum DHP we can pay is the shortfall between the UC housing element and the eligible rent.
- 8.3 For lump sum payments such as deposits or rent in advance the weekly limit does not apply.
- 8.4 An award of a DHP does not guarantee that a further award will be made at a later date even if the applicant's circumstances have not changed.

## **9.0 Length of payments**

- 9.1 There is no limit to the length of time over which a DHP may be made. A time-limited award may be appropriate when an impending change of circumstances will result in an increase in HB or UC. The start and end dates of an award are decided on a case-by-case basis.
- 9.2 In the case of long-term awards these can only be awarded for a financial year at a time. At the start of the budget year, we will review the applicant's circumstances at the same time as looking at renewing the award.

## **10.0 Backdating a DHP**

There are no restrictions on the length of backdating period (apart from any date prior to 2 July 2001).

- 10.1 A backdated DHP award can only be made for a period where the linked HB or UC is payable.
- 10.2 Examples of where we may consider a backdated DHP award where:

- An applicant is subject to a rent shortfall due to welfare reforms and has accrued rent arrears during the transition period between a reduction in benefit and moving into employment.
- An applicant has accrued rent arrears because of welfare reforms and the applicant wants to move to more affordable accommodation, but the landlord is preventing this due to rent arrears.

## **11.0 Notifying our decision.**

- 11.1 We aim to make a decision about awarding a DHP within 10 days of receiving all the required information and evidence.
- 11.2 We will tell all applicants the outcome of their application for DHP, by either email or letter whether successful or not, and let them know:
- The reason for the award.
  - The amount awarded.
  - The period of the award.
  - Any conditions associated with the payment.
  - Who will be paid the DHP.
  - The applicant's duty to report any change of circumstances.
  - Advice that we cannot guarantee any future applications for help will be successful, even if circumstances have not changed because DHP is cash limited and the threshold set by Government cannot be exceeded.
- 11.3 If the applicant is unsuccessful, a reason will be provided as well as details of the right to request a review.
- 11.4 Reason for refusal are not limited to, but will usually be for the following reasons:
- Other support/provision has been granted for the need/situation.
  - Eligibility criteria has not been met.
  - Exceptional need has not been evidenced.
  - Exceptional financial circumstances have not been evidenced.
  - The applicant has already received a DHP either as financial support through an ongoing DHP or a one-off payment, rent in advance or a rent deposit.

## **12.0 Reviews and decisions**

- 12.1 Applicants have no statutory right of appeal against DHP decisions because DHPs are not payments of benefit.
- 12.2 If an applicant disagrees with a DHP decision, they must either write to the Council or email us on [benefits@swdevon.gov.uk](mailto:benefits@swdevon.gov.uk) giving their reasons.

- 12.3 All reviews will always be undertaken by someone other than the original officer to ensure a fair review to mitigate the risk of legal challenge or allegation of maladministration.
- 12.3 If an application has been reviewed and the resident is still not happy with the outcome they can seek a Judicial Review.

### **13.0 Complaints**

- 13.1 The Corporate Complaints process provides the Council with an opportunity to investigate and, where appropriate, provide a remedy in circumstances where the Council is alleged to have been guilty of maladministration resulting in injustice and where there is no other reasonable avenue to the complaint to appeal or seek redress.
- 13.2 It is important to note, however, that the complaints system cannot entertain objections against the merits of a decision which has been properly taken and which the complainant does not agree with.
- 13.3 If the complainant remains dissatisfied after the Council has investigated the complaint, the complainant may refer their complaint to the Local Government and Social Care Ombudsman who is independent of the Council.

### **14.0 Reporting changes in circumstances**

- 14.1 The applicant must notify the Council if their circumstances change after a DHP is awarded. This is made clear to the applicant in both the application form and award notice, if successful. A change must be reported as soon as possible and no later than one month from the change occurring.
- 14.2 Applicants must directly report all changes that may be relevant, to the Benefits team, even if they have been reported to other Council services or departments.
- 14.3 The Council reserves the right to amend a DHP award at any time if the applicant's circumstances have changed, which either increases or reduces their HB or UC entitlement. Awards of DHP may also be revised when there is no change to the amount of HB or UC.

### **15.0 Recovery of a discretionary housing payment**

- 15.1 The Council will make every effort to minimise overpayments of DHPs, however in certain circumstances this cannot be avoided.
- 15.2 The Council will consider recovering a DHP if it is found the award has been overpaid because of:
- A misrepresentation or failure to disclose a material fact; or
  - An error was made when the application was determined.



- 15.3 A written explanation of how the overpayment occurred, the period to which it relates, and the amount will be issued to the applicant.
- 15.4 Generally, the Council will not seek to recover an overpayment caused by official error unless the applicant caused or contributed to the error or was aware that they were receiving a payment to which they were not entitled.
- 15.5 We cannot recover overpaid DHPs from ongoing Housing Benefit because they are not benefit awards. We can recover DHP overpayments by issuing an invoice to the person to whom the DHP payment was made.
- 15.6 South Hams District Council is committed to fighting fraud and therefore we will always aim to investigate any DHP applications which are suspected of being fraudulent. Submitting a fraudulent claim for DHP is a criminal offence and offenders may be prosecuted.

## **15.0 Publicity**

- 15.1 We will raise awareness of DHPs in a wide variety of ways including:
- On the Council's website.
  - In letters advising customers about their Housing Benefit awards.
  - When customers contact us about their claim.
  - By working collaboratively with our Housing Team.
  - By making landlords aware of the scheme.
  - By involving key voluntary sector organisations such as Homemaker and Citizens Advice.

## **16.0 Data Protection**

- 16.1 Along with details of personal circumstances a personal income and expenditure form will be collected, and evidence of this could be required so that the assessment to entitlement can be made. This data will be stored and used in line with the Council's Data Protection Policy and the Administration of Benefits and Hardship Payments Privacy notice.

## **17.0 Policy Review**

- 17.1 The policy will be reviewed annually by officers to ensure that it remains valid, effective and relevant. If any significant policy amendments are required, the policy will be brought back to the Executive committee for consideration.

## **18.0 Further guidance**

18.1 Further guidance on the administration of discretionary housing payments can be found in the Department for Works and Pensions 'Discretionary Housing Payments Good Practice Guide'.