

Discretionary Housing Payment Policy

The Discretionary Housing Payment (DHP) Scheme gives local authorities the power to award additional payments to housing benefit recipients to help with rent payments. The council receives an annual allocation from Central Government (the Department for Work and Pensions) to use for DHP and sets a maximum that can be spent. The maximum must not exceed 2.5 times the allocation from the Department for Work and Pensions.

Any person receiving benefit who needs further financial assistance to pay rent is eligible to apply for a DHP. But the limit on how much the council is able to spend on DHP means there are not enough funds to help everyone who applies.

Statement of objectives

In administering the DHP scheme the council will act in accordance with the relevant legislation (the Discretionary Financial Assistance Regulations 2001) and consider guidance the Department for Work and Pensions issues. Each individual claim will be considered on its own merits.

Through the DHP scheme the council will aim to:

- Support working households receiving partial benefit to stay in work;
- Reduce the number of vulnerable households who are made homeless;
- Prioritize support for vulnerable households who are under the care of the council's Adult Social Care and Children's Services; and
- Assist vulnerable households receiving reduced housing benefit as a result of welfare reforms.

This document sets out the administrative arrangements for dealing with DHP claims in Westminster and provides guidance on the factors the council looks at when deciding a claim for a DHP.

Ineligible housing costs

Although anyone who receives some housing benefit is eligible to claim DHP, a DHP cannot be awarded to meet service charges that are ineligible for housing benefit and cannot meet the difference between council tax support and the council tax charge. In addition, a DHP cannot be awarded to meet rent arrears for a period when there was no entitlement to housing benefit.

How a DHP claim is made

The council uses a claim form for DHP applications. The form collects information about income and expenses and asks questions about individual circumstances which is in addition to the information already collected under the housing benefit claims process. Applicants are required to provide statements for all bank and building society accounts held that cover three recent and consecutive months showing evidence of all income and expenditure. Applicants living in the private rented sector must also provide evidence of the rent being charged and the rental payments made.

Although a DHP claim is separate to the main benefit claim, it is still subject to the requirements that the applicant provides complete and accurate information, and reports changes to their circumstances. The claim form warns that court action can result from fraud which is the result of a deliberate failure to provide correct information and report changes.

The claim form can be obtained from our Benefit Reception Offices at 180 Vauxhall Bridge Road, SW1V 1ER and 101 Orchardson Street, NW8 8EA or by telephoning 0800 072 0042 or by download from the council's website.

Decisions and the review process

The Benefits Policy and Appeals Unit, a team of officers within the council's Finance Department, decide claims for DHP. The council endeavours to notify the decision on the DHP claim within ten working days of the date all the information needed in support of the claim is provided. When a DHP claim is successful the award is paid along with housing benefit.

If the claim is successful relevant changes that occur during the DHP award period must be reported to the council in a timely manner. The council will review the DHP award in light of any changes in circumstances that affect the main benefit award.

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 of the decision. A panel made up of Councillors will review the decision and make a recommendation to the Cabinet Member for Finance, Corporate and Customer Services who makes the decision. Review requests must be made in writing and sent direct to the Scrutiny and Committee Officer who supports the review panel. Additional bank and building society statements covering six recent and consecutive months are required in support of a review request. The Cabinet Member's decision is final and binding and can be challenged only by an application for a judicial review.

Length of DHP awards

DHP awards are only made for fixed periods. In general terms a DHP claim is more likely to be successful if it is in respect of a limited period and the council can't guarantee or sustain open-ended awards.

Overpayment of DHP

DHP overpayments can occur if a person's 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.

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.

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.

Fraud prevention

The council is committed to preventing benefit fraud and suspicions of fraud are referred to the Department for Work and Pensions Single Fraud Investigation Service (SFIS). A claim for DHP can only be made by a person who is in receipt of housing benefit and the DHP claim is subject to the same requirement as the claim for benefit. The requirements are that the individual provides information that is correct and complete and reports changes in circumstances which might affect the claim to the council. Officers dealing with DHP claims will scrutinize the details provided in connection with both the DHP and housing benefit claims for indications of fraud and refer any suspected cases of fraud to SFIS.

Publicity of the scheme

Every housing benefit decision notice includes information about the DHP scheme. Information about the scheme, the DHP policy and the DHP claim form are available on the council's website. 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 providers.

Review of the policy

The policy will be reviewed annually. Annual reviews will consider how effectively the policy objectives have been achieved and the impact on the demand for DHP any legislative changes to the housing benefit scheme and the introduction of universal credit may trigger.

How DHP claims are decided

The following sections of the policy set out the factors the council takes into account when deciding whether or not to award a DHP. Some of the factors will apply to all DHP claims but other factors will depend on the reason why a DHP is being sought.

However, the factors listed in the policy are only an indication of what the council considers when a DHP might be awarded. Meeting the conditions described is no guarantee that an award will be made if the amount of DHP is too high given the overall budget that is available. The policy also does not give a definitive list of factors. As payments are discretionary, there is no limit on the factors that can be taken into account and each individual claim is decided on its own merit.

General principles that apply to all claims

In deciding the claim the council takes into account the income and savings the applicant has. It is reasonable to expect housing costs to be prioritized within a household budget and the council will expect most DHP applicants to make some contribution towards the shortfall between housing benefit and the rent.

As a result any DHP awarded will not, except in exceptional cases, meet the shortfall between housing benefit and rent in full. The amount each successful applicant is expected to contribute towards the shortfall will be decided based on the information provided in each individual case and is likely to involve an expectation that expenditure on non-essential items will have to be reduced.

Assessing how much the applicant can pay towards rent means considering some income and savings that are not included in the housing benefit calculation. This will be done in a way that reflects the reasons for any additional benefits being awarded.

We will also take into account the income of other household members such as non-dependants and may decide it is reasonable to expect a non-dependant to contribute more than the amount of the non-dependant deduction determined by the Housing Benefit Regulations.

When assessing income the council will not, however, take into account any disability living allowance or personal independence payment the applicant or a member of their household receives.

DHP to support working households

DHP awards can support working households to sustain their employment at a time when rents are high by providing extra financial assistance with rental payments for a temporary period.

When a person earning too much to qualify for maximum benefit applies for a DHP because they are having difficulty paying the shortfall between benefit and the full rent, we will consider the following:

- Expenses like travel costs that are the result of going to work.
- Proximity of more affordable alternative accommodation elsewhere in Westminster or with reasonable commuter access into Westminster.
- Regular debt repayments.
- Reasonable childcare costs that are above the amount that is ignored from the income used to decide housing benefit.
- Any other factors affecting the capacity to make regular rent payments of the required amount.

The purpose of a DHP award will be to support work by giving extra help with rent payments for a short period. Successful applicants will be expected to take the steps needed to increase the amount they can pay towards rent in the medium term in order to avoid reliance on DHP as an on-going solution.

As well as offering assistance to working households who have run into difficulties with rent payments, the council will consider awarding a DHP to top-up housing benefit for a person who has started work after a period of unemployment. The DHP eases the transition into work by helping with the adjustment needed when a person has to start making regular rent payments. But a DHP can only be considered if there is some housing benefit entitlement based on earnings.

A DHP for a person starting work will normally be made for three months. The amount of the award depends on the expenses listed on the DHP claim form and a DHP will not cover any rent cost that housing benefit did not meet before the move into work.

DHP for local housing allowance (LHA) restrictions

LHA sets the maximum rent housing benefit meets for new claims in the private rented sector made after March 2008. The LHA is set based on the local rental market and the size of property the household needs. LHA was reformed from April 2011 and the reforms included a restriction on LHA rates in areas such as Westminster where market rents are high.

As LHA restrictions have applied since April 2011, it is reasonable to expect that most claimants affected at the point of change will have made alternative arrangements and those changing address should take LHA rates into account before agreeing new tenancy agreements.

The council recognises, however, that there will continue to be a limited number of households with complicated and challenging circumstances that make moving

home difficult. Further DHP awards to assist with LHA restrictions will therefore be considered in exceptional cases. Factors taken into account include:

- a) The length and the reasons for residency both in the current home and in Westminster;
- b) The extent of any vulnerability the applicant or a member of their family has;
- c) The amount of the shortfall between the rent charged and the maximum rent used to decide housing benefit; and
- d) Any representations from the Housing Options Service, Westminster's Adult Social Care and Children's Services on why the household should be supported to remain in the current home.

Many factors can affect vulnerability and we cannot specify the circumstances when a person will be treated as vulnerable.

The following factors will, however, always be taken into account:

- The age of the applicant and the members of their household.
- Whether changing address is likely to affect children at a critical stage in their education.
- Any specialist support services provided by Children's Services and Adult Social Care or under the council's public health responsibilities.
- Health or medical needs assisted by local services that are not available elsewhere.
- Adaptations that have been made to the current home because of disabilities.
- How difficult it is to move to alternative accommodation elsewhere because of age or disability.
- Whether moving home would make it difficult to retain current employment.

In addition the council will also consider whether the landlord has reduced the rent and take into account any information the Housing Options Service provides in relation to the factors listed above. Information from the Housing Options Service is important in order to judge whether supporting the household to remain in a private sector tenancy is the best outcome for the council in terms of dealing with any homeless application that is likely to arise if DHP was refused.

The duration of any DHP award made will be decided based on the particular circumstances of the case but always bearing in mind a DHP is a temporary solution. The DHP award could be to allow the applicant more time to find suitable alternative accommodation elsewhere, or to tie in with a future event such as the end of the school year or the tenancy ending.

DHP for rent restrictions because of 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 principle that apply to all claims*).

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 in either the medium or long term.

When deciding if there are reasonable barriers preventing a move to a smaller home, we will consider the following:

- 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.
- Is an extra bedroom needed for a permanent resident who is temporarily absent for a longer period than the period allowed in housing benefit regulations?
- Is the requirement for a DHP for a fixed period, for example until a child is old enough to qualify for their own room under the size criteria?
- Is the requirement for a DHP expected to be short term because the tenant is making every reasonable effort to move to a smaller home?
- Any other special circumstances that result in the need for an additional bedroom.

As well as considering all the information the applicant provides on the DHP claim form, the council will take into account representations from the landlord in support of the DHP claim. In particular we will need the landlord to verify that significant adaptations have been made in cases where that is the reason for the DHP claim.

In addition, when a short term DHP is requested until a change of address, we will need the landlord to confirm that a tenant is engaging with the process necessary to move to a smaller home. Normally awards made to a tenant seeking to move to smaller accommodation will be deferred until the change of address is confirmed. If a move to suitable smaller accommodation is taking time to arrange, the council will consider making retrospective DHP awards at regular intervals to prevent rent arrears accruing.

DHP for tenants affected by the Benefit Cap

The Benefit Cap limits the overall amount of welfare benefits non-working households can receive. The Benefit Cap, however, does not apply to pensioners and some disabled people. For Westminster the Benefit Cap was introduced in September 2013. 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 principle that apply to all claims*).

In cases where a person is unable to meet the entire shortfall the Benefit Cap produces, the council will consider awarding DHP for a limited period to support

claimants in their efforts to move into work as soon as practicable. Moving into work is vital because a household working enough hours to be eligible to claim working tax credit is exempt from the Benefit Cap. Where moving into work in the foreseeable future is unrealistic, a DHP will be made to allow other options such as moving to more affordable accommodation elsewhere to be explored.

A DHP to support a household affected by the Benefit Cap will normally be made for six months. But a new claim can be made if the Benefit Cap continues to apply and the council will consider making an award for a further six months. When deciding claims for a further award the council will consider the actions being taken to avoid becoming dependant on a DHP in the long-term. This will involve taking into account the efforts being made to either find work or move to alternative accommodation.

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.

DHP for deposits and rent in advance

A DHP is potentially available to cover a deposit and rent in advance for new accommodation the applicant is moving to. The council will consider meeting a deposit and rent in advance where a person is moving from a property with a high rent to affordable accommodation elsewhere because housing benefit for the current home is restricted or it is temporary (including hostel) accommodation. As well as deposits and rent in advance, a DHP can potentially meet a security payment the Housing Options Service makes to obtain a tenancy at an affordable rent for a household moving from high cost accommodation.

Where the prospective new home is outside Westminster, the decision to award the DHP must be made whilst the applicant is still entitled to housing benefit for the old home.

To decide claims for a DHP to meet deposit or rent in advance the following factors will be taken into account

- The rent charged for the new home and whether it is affordable.
- The amount of the deposit and rent in advance needed to secure the tenancy.
- The applicant's ability to meet the deposit and rent in advance from either the return of the deposit for the current home or savings.

When a claim is successful, the DHP will normally be made direct to the landlord by bank credit transfer. The council will, however, also consider making the DHP direct to organisations it works with to provide housing assistance to clients affected by welfare reform. This would be considered when the partner organisation has paid the deposit and rent in advance on the applicant's behalf because prompt payment was needed to secure the new tenancy.

A DHP claim for a deposit and rent in advance must be supported by:

- a) the tenancy agreement for the new home setting out the amount of the deposit and the liability to pay rent in advance; and
- b) bank account details for the landlord or organisation that will receive the DHP.

Although the decision to award a DHP to cover deposit and rent in advance for a new property outside Westminster must be made whilst the applicant is still entitled to housing benefit for the old home, the council may defer payment of the DHP until the applicant has completed the move into the new property.

DHP awards in other circumstances

The above sections set out the main circumstances that lead to a claim for DHP being made. There are, however, no restrictions as to the other circumstances where a DHP could potentially be awarded as long as housing benefit is less than the eligible rent.

Some of the other circumstances when a person can apply for a DHP and factors the council will consider are set out below:

| Reason for DHP claim | What the council considers |
|--|---|
| Housing benefit is less than the full rent because of a non-dependant deduction. | The reasons why the non-dependant is unable to make a financial contribution towards rent and the steps being proposed to change the situation. |
| A claimant moving home who does not qualify for housing benefit on two homes when there is an unavoidable tenancy overlap. | The reasons why the move did not take place on the date the tenancy for the new home started. |
| Housing benefit is less than the rent because of income other than earnings. | Extra household expenses because of illness or disability and regular debt repayments. |
| Rent restrictions for claimants receiving benefit under the pre-LHA rules. | The same factors given in the section on the policy on DHP for LHA restrictions |
| Increases to registered and housing association rents that were not reported to the council on time. | The reasons why the increase was not reported at the correct time. |