

Discretionary Housing Payments (DHP) Policy

Service Area: Customer Services, Revenues and

Benefits

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Version Control

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Approvals

Approved by	Date
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This policy may be subject to change. Any changes will be published to www.southderbyshire.gov.uk. Changes will be subject to approval by the Council's Strategic Director (Corporate Services) in their role as the Section 151 Officer.

Contents

Version Control		2
		2
1	Introduction	4
2	Objectives	4
3	What are Discretionary Housing Payments?	5
4	Eligibility criteria	5
5	How to apply for a DHP	6
6	What are housing costs?	7
7	Award criteria	7
8	Assessment of ability to meet the shortfall in rent	8
9	DHP for people moving into work	8
10	DHP where housing benefit is restricted	9
11	DHP for other housing costs	9
12	DHP awards in other circumstances	10
13	Non-awards	10
14	Decision	11
15	Payment	11
16	Period of awards	12
17	Award amounts	13
18	Assessing of claims	13
19	Cancellation and change of circumstances	14
20	Termination of a DHP award when moving to Universal Credit	14
21	Overpayments	15
22	Debtors	15
23	Notification	15
24	Disputes and appeals	16
25	Publicity	16
26	Financial control	17
Initia	al considerations	18

1 Introduction

The Child Support, Pensions and Social Security Act 2000 allows local authorities to make discretionary payments to customers who are entitled to housing benefit, the housing element of Universal Credit if they need additional help with their housing costs.

The regulations covering Discretionary Housing Payments (DHPs) are the Discretionary Financial Assistance Regulations 2001.

These are supported by the DHP Guidance Manual, updated From December 2017 to take account the latest information on Universal Credit and Council Tax Support, supported by the DHP Guidance Manual published by the DWP in December 2016.

Although the legislation gives very broad discretion, decisions must be made in accordance with ordinary principles about good decision making, i.e., administrative law.

In particular local authorities have a duty to act fairly, reasonably and consistently.

2 Objectives

The Council's vision is 'to make South Derbyshire a great place to live, visit and invest.'

This policy supports the Council's ambition to 'support and safeguard the most vulnerable' residents by:

- Helping to prevent homelessness and supporting the most vulnerable residents across the district.
- Helping customers secure more financially sustainable alternative accommodation more suitable for their needs.
- Helping customers through difficult events, particularly where there are circumstances outside of their control.
- Encouraging social inclusion by ensuring financially disadvantaged residents are able to afford to live in communities that provide support.
- Preventing homelessness thereby increasing the likelihood of residents gaining and remaining in employment.
- Providing guidance support in respect of elements of the welfare reform agenda particularly as the roll-out of Universal Credit completes.

3 What are Discretionary Housing Payments?

Discretionary Housing Payments (DHPs) provide customers with further financial assistance when the Council considers that help with housing costs is needed.

Generally, financial help is provided where the benefit a resident receives is less than the rent charged on a property as a result of Welfare Reform. However, each case is decided on its own merits.

Each year the government awards a sum of DHP funding to the Council. The Council can choose to top-up the total DHP funding it distributes up to 2.5x its government allocation.

Any council contribution above the government allocation is subject to approval by the Finance and Management Committee.

The specific conditions which must apply before a DHP can be awarded are:

4 Eligibility criteria

Applicants will only be eligible for a DHP if they require further financial assistance with housing costs and are entitled to:

- · Housing benefit, or
- Universal Credit (UC) that includes housing costs towards rental liability, and

An applicant receiving council tax support only, or who has not yet been awarded housing benefit or Universal Credit, is not eligible for a DHP.

Payment cannot be made where:

- Housing benefit or Universal Credit has been suspended.
- The applicant's need for additional help is as a result of sanctions to welfare benefits
- There is a shortfall between benefit awarded and rent due resulting from:
 - o support or service charges that are ineligible for housing benefit.
 - o shortfalls caused by overpayment recovery.
- Increases in rent for outstanding rent arrears.
- Ineligible service charges
- Shortfalls caused by HB or UC overpayment recovery
- The DHP budget for the financial year has been exceeded.

5 How to apply for a DHP

To apply for a discretionary housing payment, please fill in our <u>online application</u> form.

An applicant, or their appointee¹, can make an application for a DHP. The date of receipt of an application will be logged as the application date.

If a claim is made by another method (e.g., telephone or email), a record of the initial contact will be kept on the Council's benefits system and will considered as the date of claim. A DHP claim form will be sent to the customer within three-working days of the initial contact. The form must then be returned by the customer within one-month of the issue date, otherwise the claim will be closed.

If the Council requires any supplementary information to support a submitted application, the Council will request this from the applicant/their appointee in writing. The applicant will be asked to provide the information within two weeks from receipt of the letter. If necessary, the applicant may need to be interviewed to fully understand the needs of the applicant and their household. An income and expenditure assessment and bank statements may also be requested.

If the information is not provided by the applicant or their appointee, within one month, a decision will be made based on the evidence held.

If you cannot access the online form, please call our customer services team on 01283 595795. Our telephone lines are open Mondays, Tuesdays and Thursdays between 8.45am and 5pm, Wednesdays between 9.30am and 5pm and Fridays between 8.45am and 4.30pm. If you don't have access to a telephone, you can use the free telephone located at the Civic Offices.

All applicants have a duty to inform the Council if their circumstances change during the DHP assessment period (for example someone moves into or out of their property), as it may affect their entitlement to a DHP.

¹ Landlords cannot apply for a DHP on behalf of their tenants.



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6 What are housing costs?

Housing costs are not defined in the regulations, and this gives local authorities broad discretion to interpret the term as they wish.

For the purposes of this policy, housing costs are interpreted to include:

- Rent in advance.
- Deposits.
- Other lump sum costs associated with a housing need such as removal costs.
- In some cases rent arrears *
- * Rent arrears can only be considered where the arrears accrued over a period that a relevant award of housing benefit or UC housing element was payable. The award of housing benefit for the arrears period will be considered to avoid duplication of payment. Furthermore, arrears will only be considered if paying them off will ensure the resident is in a more sustainable position or can move to a more sustainable property.

7 Award criteria

In all instances consideration will be given to cases where there is:

- The prospect of imminent eviction.
- A risk of homelessness.
- A clear inability (of all household members) to pay, including any assets held (information to be taken from an income & expenses form completed by the applicant and validated by the Council).
- A period of time remaining on the tenancy agreement that is considered to restrict the applicant's ability to move.
- The accommodation meets the disability needs of a resident and unlikely to be able to find suitable alternative accommodation to match these needs (e.g., wet room, hoists, stairlifts etc)
- Evidence of action taken by applicant to prevent need for DHP, e.g., negotiating with landlord, seeking agency support, obtaining advice regarding managing finances, attempting to gain employment, including entering training programmes such as:
 - Prevocational courses (literacy, numeracy, ESOL).
 - Vocational courses (such as money management training).
- Considered to be an adverse impact of non-payment of DHP on vulnerable household members including:
 - The age of the applicant and the members of their household.
 - o If changing address is likely to affect children at a critical educational stage.
 - Any specialist support services provided by the County Council's Adult or Children Services.
 - Health or medical needs assisted by local services that are not available elsewhere.
 - How difficult it is to move to alternative accommodation elsewhere because of age or disability.
- Availability of funds.
- Any other relevant factors.



8 Assessment of ability to meet the shortfall in rent

Consideration of expenditure compared to income will be made in order to assess the ability to meet any shortfall and housing related expenses. All income sources will be looked at when considering a DHP, including incomes that are disregarded under normal social security rules. Examples include

- · Ability of non-dependant to make payment.
- Capital available to meet any shortfall.
- Personal independence Payments, Disability Living Allowance and Attendance Allowance.
- All incomes received such as maintenance payments.

Expenditure will be considered, and excessive or non-essential expenses will not be taken into account. Evidence of expenditure will be required where it is higher than typically expected. Examples of expenditure that may not be allowed, or only allowed in part include:

- Ability to reduce expenditure on debts by receiving debt advice and setting up repayment plans.
- Expenditure on items such as alcohol, cigarettes, TV subscriptions, entertainment will normally be considered non-essential.
- Ability to reduce the cost of expensive contracts such as those for expensive mobile phones.
- Any costs that are considered excessive, given the size of the property, the family composition, transport requirements.

9 DHP for people moving into work

The Council will consider awarding a DHP to ease an applicant's transition into work, provided the applicant retains some housing benefit entitlement based on earnings and other income like tax credits.

In such circumstances, a DHP top up to housing benefit can help with the adjustment needed when an applicant has to start making regular rent payments.

The amount of the award will depend on household income and expenses and will not cover any rent cost that housing benefit did not meet before the move into work.

The period of the award will be the latest of either eight-weeks from the start of work if an extended payment is not applicable, or the date tax credit payment begins.

10 DHP where housing benefit is restricted

Housing benefit may be restricted because:

- The property is under occupied.
- The property is larger than the maximum of beds allowed under LHA rules.
- Rent is higher than average rents in the area.

When a DHP claim is made because housing benefit is restricted, consideration will be given to:

- The amount of the shortfall.
- · The total household income.
- Whether the rent charged is reasonable.
- The availability and suitability of cheaper accommodation either in the area or on a reasonable commuter route to the area.
- The length and the reasons for residency.
- The extent of any vulnerability the applicant or a member of their family has.
- Needs of the household in respect to suitability of accommodation, e.g. adapted for disability, additional space required because of disability.
- Needs of a foster child living with the household.
- Impacts of unforeseen change such as reduction to LHA rates.

11 DHP for other housing costs

Rent deposits

When a DHP application is made for a rent deposit, consideration will be given to:

- The likelihood of the applicant becoming homeless if a deposit isn't paid.
- Whether the move will improve the applicant's opportunities to find work.
- The amount of DHP payable if the applicant does not move.
- The health needs of any member of the household that could be helped through moving to more suitable accommodation.
- The ability of the household to meet the cost of the deposit in whole or in part.
- Whether the applicant is due to have a deposit returned on the property they are moving out of.
- Whether the applicant has previously received a DHP to cover a deposit from the Council.
- Whether the rent deposit will enable the applicant to move out of a less financially sustainable home and into a more financially sustainable home.

Payment of a DHP for a rent deposit may be made for a property in or out of the district, as long as the applicant is entitled to housing benefit in SDDC at the time of application.

There does not need to be a current shortfall between housing benefit and rent charged. Only one DHP for rent deposit will be paid in a two-year period.

Payment will usually be made direct to the landlord. If the deposit is not returned due to wilful damage of the property, a subsequent deposit will not be awarded.



Rent arrears and moving costs

Rent arrears can only be considered where the arrears accrued over a period that a relevant award of housing benefit or UC housing element was payable.

Arrears will only be considered if paying them off will ensure the resident is in a more sustainable position or can move to a more sustainable property.

When a DHP application is made by a resident occupying a property that is non-financially sustainable (for example due to a change in circumstances such as a child leaving home), and rent arrears exist that are preventing a move, the Council may consider awarding a more generous award if the resident has secured alternative accommodation that is financially sustainable.

The award of housing benefit for the arrears period will be considered to avoid duplication of payment.

Payments may include:

- Rent arrears (see section 5 for eligible rent arrears)
- Rent deposits (see section 12.1).
- Moving costs (maximum of £500 per application).

Moving costs will only be awarded where the resident does not have adequate funds to support a move, and non-provision of funds would result in the resident remaining in non-financially sustainable accommodation and incurring further rent arrears.

12 DHP awards in other circumstances

There are no restrictions as to the other circumstances where a DHP could potentially be awarded, as long as benefit is less than the eligible rent.

13 Non-awards

In some instances, the award of a DHP may not be appropriate.

This can include where the action(s) of the applicant has directly led to a shortfall between rent liability and housing benefit where:

- The applicant has sufficient capital to meet the shortfall for a period of up to six months to allow sufficient time to find suitable alternative accommodation.
- There is no evidence of any action taken by applicant to prevent the need for DHP, e.g., negotiating with landlord, approaching agencies for support, obtaining advice regarding managing finances, attempting to gain employment including entering training programmes, unless physical or mental incapacity prevents this.
- The applicant moved to a property knowing the rent is higher than the housing benefit payable. The exceptions would be fleeing domestic violence or severe health reasons.

- Where it appears that the applicant is applying for DHP because they have multiple debts. In such a case DHP will only be awarded once the applicant has attended a meeting with a debt advice professional. Help will be given with making this appointment.
- A payment should be made from a more appropriate source such as the Homelessness Prevention Fund.
- Rent in advance is not deemed to be the most effective use of the limited funds available.

14 Decision

A decision will be made within 10-working days of receipt of all relevant information.

A decision will be made using the criteria detailed in this policy. An evaluation sheet will be used to help make the decision.

Awards of DHPs are at the Council's discretion. All decisions will be recorded on the Council's benefits system.

The applicant will be advised of the outcome in writing which will set out the reason for the decision.

Where funds available have been exhausted, no further awards will be paid and where applicable, applicants will be advised that this is the reason their application has been refused. These cases may be reviewed once funds become available (e.g., if an ongoing award terminates earlier than expected).

15 Payment

The DHP will be paid alongside any housing benefit entitlement.

If benefit is paid to the landlord, then DHP will be paid in the same way.

16 Period of awards

The DHP award start date will normally begin from:

- The Monday following the date the application is received, or,
- The date benefit entitlement began if the application is received within one-month of the date the applicant was notified that their benefit had been decided, or,
- The effective date of change to benefit following a change of circumstances, if the application is received within 1 month of the applicant being notified of the decision relating to the change of circumstances.

Where a customer can show good grounds for the award to start from an earlier date, a request for backdated DHP may be made.

To be eligible for a backdated period, or for rent arrears for a past period, the customer must have been in receipt of Housing Benefit or the Universal Credit housing element for that past period.

An application for backdating must be in writing and must give reasons to show 'good cause' for not making a DHP application within the above time limits.

In this regard 'good cause' will have the same meaning as under the benefit regulations rules, which must be shown for the whole of the backdated period.

There is no limit on the period a backdated DHP can be awarded for, but the applicant must have received minimum housing benefit for all of the period backdating is awarded for.

A DHP will be made for a limited period within each financial year. The customer will be notified of the period of award. Some awards may be reduced in stages, to allow the customer to adjust their expenditure over time, in order to be able to meet their rental commitments at the end of the award period.

The end date of the DHP period will depend on the individual circumstances of each application.

The issues to be considered are as follows:

- The expected duration of the applicant's circumstances.
- Tenancy end date.
- Expected date of change of circumstances.
- Amount of fund available.

17 Award amounts

A DHP does not have to cover the whole of a shortfall.

The standard maximum DHP is the amount of shortfall between the eligible rent and the entitlement to housing benefit, or amount of other housing costs if a lump sum is awarded (e.g. rent deposit, rent arrears or moving costs).

It is not for:

- Ineligible service charges as defined by Schedule 1 Housing benefit regulations e.g. water, sewerage, environmental charges.
- Additional help required as a result of sanctions to welfare benefits (such as applicants not meeting the conditions of their entitlement, such as not applying for jobs, attending medical reviews etc).
- To cover sanctions and reductions in benefits as a result of sanctions to welfare benefits (such as not meeting the conditions of entitlement, such as not applying for jobs, attending medical reviews etc).).

The amount awarded does not have to cover the full shortfall in rent. Consideration is given as to how much is needed to ease the applicant's financial situation and how much is reasonable.

18 Assessing of claims

Those making the decision on awards of DHP will be notified regularly as the amount of DHP budget remaining to ensure the fund is not over allocated and is evenly distributed throughout the financial year.

If a customer makes a claim for a past period (backdating) and has continuous good cause for their failure to make a claim earlier, their claim in respect of that period will be treated as being made on:

- The first day from which they had continuous good cause; or,
- The day six-months before the date of the claim for backdating if the customer is of working age, three-months for customers of pension age (which ever fell later).

If the DHP claim is received within 1 calendar month of any entitlement to housing benefit or council tax benefit being issued, the DHP will start from the same date as the entitlement date on the benefit award letter.

A DHP may be paid as a one-off lump sum if this will reduce the customer's outgoings in the long-term so that they can make up the shortfall in the rent themselves. Equally, a DHP (subject to eligibility criteria) may be paid as a one-off lump sum if doing so will enable the applicant to move to a more financially sustainable home.

Payment will be made by BACS, by credit to a rent account or direct to the landlord. Payments are usually made at the same time as housing benefit payments, except in cases where there is a lump sum award.

When deciding who the DHP will be paid to, consideration will be given to who received the housing benefit payments, the level of the arrears and any other relevant information on the application form. Where rent arrears exist, there is the facility to pay the landlord direct under housing benefit provisions.

19 Cancellation and change of circumstances

A DHP award can be cancelled or amended if:

- The applicant has a change of circumstance that affects their DHP.
- DHP has been awarded based on information that was wrong, or that the authority was not aware of (this can be fraudulent or not).
- An error was made when the award was decided, and payment was made based on this
 error.
- The entitlement to benefit changes. The benefit may have been increased so that the
 total combined payment of DHP and benefit is more than the rent (e.g., an increase in
 the rent officer's decision, in this case the DHP will need to be reduced).

The cancellation or amendment may be from the start of entitlement or from a later date, depending on the reasons for cancellation.

DHP can also be suspended if a question has arisen over the entitlement to the award.

All recipients have a duty to inform the local authority of any change of circumstance that may affect their ongoing entitlement to a DHP.

20 Termination of a DHP award when moving to Universal Credit

When a case is naturally migrated to UC following a change in circumstances, the DHP award will be terminated.

The date of termination will be the end of the two-week transitional period, in line with the end of the housing benefit award, or when the end of the two-week transitional period would fall, in the case of rent-free weeks.

The customer is able to make a new application based on their new circumstances when their UC is payable.

21 Overpayments

Overpayments of DHP will be recovered if they occur as a result of:

- A misrepresentation or failure to disclose a material fact by the applicant (fraudulent or otherwise).
- An error was made when the application was determined.
- The award had been superseded by an award of housing benefit or Universal Credit housing element.

If the overpayment is recoverable, a decision will be made on whom to recover the overpayment from. This can be the applicant, or the landlord or the person the DHP was paid to.

DHP may be transferred to the Council tenant's rent account if a credit is available on the account. However, this must be agreed with the relevant housing officer prior to transfer.

Where the recoverable DHP overpayment cannot be recovered from a housing benefit award, an invoice will be issued.

The Council will pursue recovery of DHP overpayments caused by misrepresentation/failure to disclose if it is economical to do so, which may include enforcement action if the debtor fails to make an arrangement to repay the debt.

If the overpayment is not recoverable, or the Council chooses not to recover it because it would be uneconomical or unreasonable to do so, then it will be recommended for write off.

All recipients have a duty to inform the local authority of any change of circumstance that may affect their ongoing entitlement to a DHP.

22 Debtors

DHP overpayments will be identified as such in the debtors system. Separate invoices will be used for DHP overpayments where appropriate.

23 Notification

All applicants will be notified in writing of the decision and reason for the decision as soon as is reasonably practicable.

The letter will include:

- The period the award of DHP is for (start and end dates) eligible applications only.
- The amount of the award eligible applications only.
- Reasons why the claim was successful (or not if DHP is not awarded).

Landlords will also receive a notification if a DHP is awarded and is to be paid direct.

If no award is made a refusal letter will be sent.



24 Disputes and appeals

If the customer disagrees with the Council's decision, they may request a review in writing giving the reasons.

The applicant must make their request within one month of the original decision. Late requests will only be considered if the applicant has good reason for the delay.

The Benefits Subsidy & Compliance Manager will review all appeals. Unlike housing benefit appeals, DHP appeals do not go to the Tribunal Service.

Disputes will be dealt with by 10 working days of receipt of the dispute. The applicant will be notified in writing of the decision and the reasons for the decision will be given.

In the event of a dispute as to interpretation of this guidance, the Discretionary Housing Benefits Payments Guidance manual shall be the final reference document.

25 Publicity

DHPs are:

- Promoted by the Councils contact centre when liaising with potentially eligible customers.
- Promoted by other teams including revenues, benefits and housing when liaising with potentially eligible customers.
- · Publicised on the Council's website
- Promoted by partner agencies including the CAB, CVS and other voluntary agencies, including the County Council.

Welfare advice and adult care teams are made aware of this guidance to raise awareness of DHPs, so the funds can be directed to those most in need locally.

Additional publicity, such as press releases and promotion via social media may also be carried out to encourage take up of the funding.

26 Financial control

The Benefits Subsidy & Compliance Manager will control expenditure.

On no account is the Council's grant allocation to be exceeded without prior approval of the Section 151 Officer, if considered appropriate to do so.

Appendix.1

Qualifying criteria

Initial considerations

- DHP's are a short-term temporary solution. They are not intended to be, nor should they be considered to be, a way round current or future entitlement restrictions set out with the housing benefit tax benefit legislation. Likewise, the Homelessness Prevention Fund is not intended to be a substitute for making a payment which is quite clearly a DHP.
- DHP will not be awarded where a customer moves to a property knowing the rent is higher than the LHA or is higher that their previous property. The exceptions would be fleeing domestic violence or severe health reasons.
- In cases where the customer is applying for DHP because they have multiple debts, DHP will only be awarded once the customer has attended a meeting with a debt advice professional. Help will be given with making this appointment.

Rent arrears

- Where there appears to be a genuine risk of imminent eviction if the shortfall is not met, advice should be sought from the Housing Team and agreement reached on what help, if any, can be given. It may be that financial assistance from the Homelessness Prevention Fund is more appropriate.
- Is it reasonable to expect the customer to know that housing benefit would be restricted before they took on the tenancy i.e., did they check LHA rates or has housing benefit ever being restricted on a previous claim?
- Has the customer found cheaper accommodation? Advice should be sought from the
 Housing Team, Registered Social Landlord or private landlord, and agreement reached
 on what help can be given, if any, with rent arrears, rent deposit, rent in advance,
 removals, furniture etc, and by whom (DHP or Homelessness Prevention).
- Can a rent reduction be negotiated with the landlord? Advice should be sought from the Housing and or Homelessness Prevention Team.

Income and capital

- Is any of the disregarded income to meet specific needs i.e. if mobility component of DLA is in payment how much is actually spent on running a car, taxi fares etc.
- Are there non dependants in the household who could provide (extra) help with the rent?
- Does the customer or partner have any capital (including any disregarded income or capital, and if so, how much?

Exceptional circumstances

- Would the customer age or health make it difficult for them to secure cheaper accommodation? Is it unreasonable for the customer to move to cheaper, alternative accommodation due to their exceptional health problems?
- Has the property any adaptations (e.g., stair lift, walk-in shower) and are they still needed by the customer, member of their family?
- Is it unreasonable for the customer to make up the shortfall due to exceptional financial hardship?
- Is it unreasonable for the customer to make up the shortfall due to the particular impact it would have on family members, especially dependent children?
- Has the customer recently experienced an event such as a fire, burglary or other crisis
 for which they were not insured, and this threatens their ability to make payments of rent
 and/or council tax?

There may be other circumstances where a payment of DHP is appropriate. Full details should be obtained from the customer.

Appendix.2

DHP Rent Arrears Top-Up budget

In 2022/2023, the Council set aside a budget of £30,000 to support residents who are eligible for a DHP, and who have firm plans in place to more into a more financially sustainable property but are unable to move due to rent arrears that cannot be covered by a DHP according to regulations.

These rent arrears may have been accrued during a period they were not claiming housing benefit or the housing element of Universal Credit that they would have been entitled to, or for another reason.

In such circumstances, the DHP team can choose to top up the payment the resident will receive with further funds from the DHP rent arrears top-up budget, with no maximum limit.

The top-up pot will also offer the team the opportunity to offer financial support to residents who will struggle to physically move to their new home due to a lack of funds, and as such will have to remain in financially unsustainable accommodation accruing further arrears.

In order to claim the funds, the residents will be required to go through the DHP process and be awarded some funds via DHP. Further to this they will also need to provide evidence of their new tenancy (for example a rental agreement or emails from the new landlord), and evidence of costs of moving (for example a quote).

Where residents do not have new accommodation lined up (including evidence of the new tenancy), they will not be eligible for funds top-up funds and will only be awarded the DHP funds.

The funding will be in place until it runs out and the spend of the funding can extend beyond 2022/2023 financial year without further approval from committee.

Any appeals will be handled through the DHP appeals process.