

**Stockton on Tees Borough Council**

**Discretionary Housing Payment Scheme (DHP)**

**April 2013**



## 1. LEGISLATION

Primary Legislation: The Child Support, Pensions and Social Security Act 2000.

Regulations: Discretionary Financial Assistance Regulations 2001.

## 2. BACKGROUND

This policy applies to all applications for Discretionary Housing Payments. The Discretionary Housing Payment (DHP) scheme was introduced in July 2001 and is funded through an annual Department for Work & Pensions (DWP) cash limited grant. DHPs provide customers with further financial assistance, in addition to any welfare benefits, when a Local Authority (LA) considers that additional help with housing costs is required.

It is intended that when Universal Credit is introduced, claimants with housing costs will also be able to make a claim for DHP if they consider that they require further help, over and above that provided within the Universal Credit calculation.

Consequently every claimant who is entitled to housing benefit or Universal Credit and who has a shortfall is able to make a claim for additional help with housing costs through DHP.

For a DHP to be considered the claimant must be

- Entitled to housing Benefit or Universal Credit; and
- Have a rental liability; and
- Require further assistance with housing costs

Housing costs are not defined in the regulations and this gives the Council a broad discretion to interpret the term as they wish. In general, housing costs means rental liability. However, housing costs can be interpreted more widely to include:

- Rent in advance.
- Bonds or Rent Deposits.
- Other lump sum costs associated with a housing need such as removal costs.

The main features of the scheme are:

- The administration of the schemes is determined by the Benefits Service, working in collaboration with other SBC services.
- The scheme is of a discretionary nature; a claimant has no statutory right to payment.
- The total amount an Authority can pay out in any financial year is cash limited by the Secretary of State,
- Discretionary Housing Payments are not payments of Housing Benefit.
- At least the minimum amount of Housing Benefit must be in payment, or the claimant must be in receipt of Universal Credit and have a proven rent liability.

### WHAT CAN A DHP COVER?

Shortfalls that Discretionary Housing Payments can cover:

- Restrictions between the actual rent and the eligible rent for Housing Benefit purposes such as Local Reference Rents (LRR), Single Room Rent (SRR) size criteria or when the Local Housing Allowance (LHA) does not meet the rent charged
- Non-dependant deductions.
- Income tapers.

- Rent deposits and rent in advance: a Discretionary Housing Payment can be awarded for a rent deposit or rent in advance for a property that the claimant has yet to move into if they are already entitled to Housing Benefit or Universal Credit for their present home.
- Rent shortfalls to prevent a household becoming homeless whilst the alternative options are explored.

This list is not exhaustive

In addition to the above Discretionary Housing Payments can be used to provide support to claimants affected by some of the key welfare reforms including:

- Reductions in Housing Benefit or Universal Credit where the Benefit Cap has been applied.
- Reductions in Housing Benefit or Universal Credit for under-occupation in the social rented sector.
- Reductions in Housing Benefit or Universal Credit as a result of Local Housing Allowance restrictions to the shared room rate for those aged under 35, or reductions in LHA rates because of the changed method of setting those rates.

Discretionary Housing Payments cannot be used for help with:

- Ineligible service charges.
- Increases in rent due to arrears.
- Shortfalls in Council Tax Support.
- Certain sanctions and reductions in benefit.

### **AIM OF THIS POLICY**

The aim of the policy is to ensure that the funding is used in the most appropriate way to provide additional financial assistance to the most vulnerable customers, who without it are likely to experience financial hardship, increased levels of unmanageable debt, homelessness, or the inability to secure or retain the appropriate type of accommodation based on specific need. Each case will be treated strictly on its merits and all claimants will be treated equally and fairly when the scheme is administered. The Council is committed to working with the local voluntary sector, social landlords and other interested parties to maximise entitlement to all available state benefits and this will be reflected in the administration of the Discretionary Housing Payment scheme.

This policy is not intended to rigidly define the circumstances in which an award will be made. To do so would make the policy too inflexible and may prevent payments being made where there are exceptional or unusual circumstances. Payments are expected to be made to meet current needs rather than past debts.

### **TARGETED SUPPORT**

Since its inception, DHP funding has been used primarily to make short term awards to ease transitions and to give claimants time to seek resolution of their difficulties. From April 2013 the government is providing extra funding to ease the introduction of the household benefit cap but also to meet *continuing* and unavoidable needs resulting from the application of size criteria in the social rented sector rather than catering for exceptions within the Housing Benefit scheme itself.

Many people have difficulty paying their rent. Among these are

- those whose benefit is restricted because their rent is considered too high;
- those whose benefit is restricted because their home is considered too large under the government's size criteria
- those whose benefit is reduced by deductions for non-dependants who may not contribute adequately to cover those deductions;
- those whose benefit is reduced by the taper for excess income;

- ☐ those who for all sorts of reasons have other calls on their income (additional expenses or outstanding debts) which they prioritise ahead of rent;
- ☐ those who have general difficulty managing the income they have, including those subject to the household benefit cap;
- ☐ those who are returning to work after a long period of unemployment who have difficulty in managing finances during the transition from benefit to a stable in-work income when the continuing level of net earnings is known and any Working Tax Credit entitlement is secured

☐ Any claimant who has a shortfall between the amount of housing benefit awarded and the rent charged is able to make a claim for DHP. ***Given the number of people who are or will be affected by current and forthcoming benefit changes, awarding Discretionary Housing Payments to meet all shortfalls is not a viable option. Careful consideration will be required to determine how best to target the funding within priority groups, whilst ensuring that each case is considered on its own individual merits.***

### **“FAST TRACK” APPLICATIONS**

When considering applications for discretionary housing payments it is usual to make a detailed assessment of the personal circumstances of the claimant and family including consideration of income and expenditure, the level of indebtedness etc. Support and advice is tailored to the individual, and a discretionary housing payment is just one tool utilised in order to resolve the underlying housing problems on a long term basis. With the welfare reform changes the type of problems presenting will change and this “in depth” approach will be too intensive or inappropriate in a number of circumstances. Equally there are other cases where it will be unreasonable, or not in the public interest to expect a claimant to move. It is therefore proposed to “fast track” applications for DHP in these cases to allow more intensive support to be focused on those cases where it is most needed.

### **SHORT TERM CASES**

The absence of transitional protection for the social sector under occupation reforms means that a number of tenants will be affected by benefit reductions for a short period of time until a predictable change in circumstances- usually a birthday, will mean that housing benefit will increase and the property is once more affordable. However, in the meantime the tenant will be faced with worry over how to pay the shortfall & may have to consider moving to smaller accommodation even though in a few months they would become entitled to the rate for an additional bedroom or become exempt from the changes altogether.

A DHP will be paid for up to one year in cases where:-

- The claimant or partner will reach the qualifying age for state pension credit on or before 31 March 2014 and will therefore be exempt from the underoccupation changes
- A child who is a member of the household reaches the age of 16 on or before 31 March 2014 and the number of bedrooms which would be allowed under the size criteria at that time would match the number of bedrooms in the property.
- A child who is a member of the household reaches the age of 10 on or before 31 March 2014 and the number of bedrooms which would be allowed under the size criteria at that time would match the number of bedrooms in the property.
- Additionally it is proposed that a DHP be paid where a member of the household is expecting a child before 30 November 2013 and the number of bedrooms which would be allowed under the size criteria at that time would match the number of bedrooms in the property.

In future years, and for private sector tenants fast track payments will be considered where a change of circumstances is expected in the short term and where the chargeable rent would become affordable at that time.

### **DISABLED PEOPLE LIVING IN SIGNIFICANTLY ADAPTED PROPERTIES**

A number of severely disabled people living in properties which have been significantly adapted to meet specific disablement needs will face unaffordable reductions in benefit entitlement under the underoccupation rules. It would be unreasonable to expect the claimant to move to alternative accommodation when significant amounts of public funding have been paid to adapt a property specifically for their needs. The adaptations may need to be carried out again in the new property, and further expenditure incurred to restore the old property to its original form.

Discretionary Housing Payments will be considered where:-

- the property is occupied by a person in receipt of the middle or higher rate of DLA or the Daily Living Component of Personal Independence Payment, or an Armed Forces Independence Payment *and* the property is significantly and structurally adapted in order to meet the disability needs of that person.

Significant and structural adaptations would include extensions or through floor lifts but would not include level entry showers, ramps, grabrails or stairlifts. Applications from tenants in other adapted properties will be considered as “other applications” rather than through the fast track route.

Applications will also be considered from disabled people in adapted private rented accommodation, but consideration will be given to the reasonableness of the rent charged.

### FOSTER CARERS

Foster children are not included in the housing benefit assessment but neither is the income from fostering allowances- which are intended to help towards the costs of caring for the child. A recent legislative change means that one additional bedroom can be awarded under the size criteria for foster parents who have been approved for fostering or have had a foster child or children placed within the last 12 months. However a number of foster parents have more than one room available for foster children and may require DHP to cover the cost of the additional room. If discretionary housing payments were not made it is unlikely that social sector residents could afford to become, or remain as foster carers. Where necessary and appropriate DHP payments will be made to both local authority and private foster carers under “fast track” rules. Applications will also be considered from foster carers in private rented accommodation, but consideration will be given to the reasonableness of the rent charged. Similar rules apply in respect of prospective adoptive parents.

### **OTHER APPLICATIONS**

Awards of DHP will focus on enabling people to secure or retain and pay for appropriate and sustainable accommodation through temporary difficulties or in anomalous circumstances not addressed by the benefit system. This is in order to reduce the risk of homelessness and help support the stability of families and communities. DHP's should not seek to undermine the purpose and nature of the Housing Benefit scheme, nor support irresponsible behaviour, nor can they assist in situations so common that a consistent approach to such payments would involve expenditure above the maximum permissible.

It is expected that payments would be made in unusual or extreme circumstances where additional help will have a significant effect in alleviating hardship, reducing the risk of homelessness or alleviating difficulties that may be experienced in the transition from long term benefit dependence into work, for example:

- Circumstances unusual or exceptional among customers in that tenure;
- Costs that are beyond their control and do not arise through the actions or failures of others;
- Housing choices which are forced on or required by the customer because of urgency, care needs or significant health requirements;
- Extreme and temporary situations which make it difficult to move in the short term or where decisions had to be made in an emergency;

- □ Imminent loss of the home where meeting some or all of the current shortfall between the benefit and eligible rent will prevent the customer from becoming homeless.
- to mitigate or delay the most severe effects of the household benefit cap where families are co-operating with agencies and other solutions are not practical in the short term.

Many will seek to be regarded as priority cases, and it is unlikely that all will be able to be assisted. In particular it is recognised that difficulties are faced by absent parents who regularly look after children normally living with the other parent or who hope to make such arrangements. The benefit system does not provide for this situation, and in particular the size criteria requirements do not provide for these children. Unfortunately it is a common situation. DHP’s will therefore only rarely be able to assist mainly where existing arrangements are threatened by difficulties that are likely to be short-lived.

**KEY CRITERIA FOR DETERMINING DHP APPLICATIONS**

It is therefore proposed that the key criteria for targeting DHP support are that the claim falls within one of the priority groups detailed in the table below:-

Priority Group	Cases
<b>Disabled People and Vulnerable Adults</b>	<ul style="list-style-type: none"> <li>• Couples who cannot share a bedroom because of disability</li> <li>• Families requiring an extra room because of disability – for medical procedures, storage of equipment etc</li> <li>• Families with disabled children who require an overnight carer</li> <li>• Adaptations (other than significant adaptations) have been made to the property for a disabled person</li> <li>• Disabled or frail elderly people who need accommodation close to carers and support networks</li> </ul>
<b>Safeguarding Children</b>	<ul style="list-style-type: none"> <li>• People going through the approval process to become foster carers/ adoptive parents who need to demonstrate that there is a bedroom available</li> <li>• Kinship Carers</li> <li>• Families with a child temporarily in care but where the child is expected to return home</li> <li>• Families where there are child protection concerns</li> </ul>
<b>Emergency Circumstances</b>	Where a person has had to relocate urgently because of emergency circumstances such as fleeing violence, witness protection or family emergency,
<b>Families affected by the benefit cap</b>	For a temporary period until a managed transition can be made where the family is taking steps to deal with the issue.
<b>Exceptional Circumstances</b>	Other cases where not making a discretionary payment would have an exceptionally detrimental effect upon the health or wellbeing of the family or individual.

In addition the following criteria will also apply:-

- **The claimant cannot afford to meet the shortfall between benefit and rent.**  
An assessment of income and outgoings will be carried out for all but “fast track” DHP applications, and assistance provided only where the claimant has insufficient income to meet all or part of the shortfall. Applicants will be signposted to agencies to assist with dealing with debt, money management, work preparation, smoking cessation etc. If there is insufficient income solely because of debt, it is unlikely that additional support will be provided. Income from disability benefits and other income normally disregarded for benefit purposes will be taken into account but expenditure related to that income- such as disability related expenditure will also be taken into account.

and

- **The claimant is unable to take action to improve his/ her situation or is taking all reasonable steps to do so.**

In order to qualify for a DHP payment applicants will be expected to engage with support providers, not commit themselves to further unaffordable debt etc.

and

- **It is unreasonable to expect the claimant/ family to move,**

This will take into account personal circumstances and may include factors such as

- Additional bedrooms are required over and above the size criteria requirements
- Local support networks
- Critical points in children's education
- Short term support requirement, until circumstances change
- 

or

- **the DHP application would assist the claimant to move to more suitable accommodation**

These will usually be lump sum applications to assist with a bond or rent in advance etc to facilitate a move

The Benefits Service will consider making a Discretionary Housing Payment to all claimants who meet the qualifying criteria set out in this policy. All applications will be treated on their individual merits.

## **CLAIMING A DHP**

A claim for a Discretionary Housing Payment may be made:-

- In writing. The Council has produced an application pro-forma to assist claimants provide information to support a request.
- By telephone to the number published for that purpose
- By e-mail to the e-mail address published for that purpose

The Council may request any reasonable evidence in support of an application for a Discretionary Housing Payment. The claimant will be asked to provide the evidence within one month of such a request, although this will be extended in appropriate circumstances. Sufficient evidence will need to be obtained to enable the decision maker to compare income against expenses to identify where there is a shortfall.

The Council reserves the right to verify any information or evidence provided by the claimant in appropriate circumstances.

## **PERIOD OF AWARD**

The start date of an award will normally be:

i. The Monday after the written claim form for a Discretionary Housing Payment is received or initial request made;

or

ii. The date on which entitlement to Housing Benefit or Universal Credit commenced whichever is the most appropriate.

A DHP cannot be awarded for any period outside an existing Housing Benefit or Universal Credit period granted under the Housing Benefit or Universal Credit statutory schemes.



## **BACKDATING A DISCRETIONARY HOUSING PAYMENT**

Unlike Housing Benefit or Universal Credit, there are no rules on backdating, but the Council will act consistently. Any reasonable request for backdating an award of a Discretionary Housing Payment will be considered but such consideration will usually be limited to the current financial year.

## **7. AWARDING A DISCRETIONARY HOUSING PAYMENT**

In deciding whether to award a Discretionary Housing Payment for cases other than “Fast Track” claims the following will be taken into account:

- All applications will be subject to an assessment of income and expenditure to determine whether the claimant can afford to make up the difference between the housing benefit (or Universal Credit) and rental liability. This assessment will take into account all income available to the claimant including income normally disregarded in the assessment of housing benefit.
- Any steps taken by the claimant to reduce expenditure, for example by trying to negotiate a reduction in gross rent.
- The impact of Central Government’s Welfare Reforms.
- Compliance with reasonable requests to engage with others to improve circumstances. This means that workless households, who do not already participate in any pathway to work programmes, may be signposted to sources of help to become work ready and those who would benefit financially from seeking cheaper or smaller housing may be asked to show the steps they have taken to do so. Those who are signposted for debt advice may be asked to show that they have kept appointments and are complying with payment plans.
- The financial and medical circumstances of the claimant and all members of the claimant’s household
- Any savings or capital available to the claimant and all the members of the claimant’s household
- The level of debt owed by the claimant and all of the claimant’s household
- Any exceptional circumstances of the claimant and all of the claimant’s household
- The amount available in the Discretionary Housing Payment fund at the time of the application
- The possible impact of not making an award (for example pressure on provision of accommodation for the homeless)
- Any other special circumstances

When awarding a Discretionary Housing Payment to assist with securing a new tenancy, the following factors will be considered:-

- The authority will include information about the legal obligations for landlords to protect any deposit paid in a Government approved tenancy deposit protection scheme. Compliance with this requirement will help reduce the need for future help with deposits.
- Establishing if the customer is due to have a deposit in respect of their exiting tenancy returned to them.
- Making payment to the landlord rather than the customer.

A decision will be made on the amount and length of the award. This may be an amount below the difference between the liability and the payment of Housing Benefit or Universal Credit. An

award of a Discretionary Housing Payment does not guarantee that a further award will be made at a later date, even if the claimant's circumstances have not changed.

## **CHANGES IN CIRCUMSTANCES**

An award of a Discretionary Housing Payment will be revised where the claimant's circumstances have materially changed.

## **METHOD OF PAYMENT**

The Council will decide the most appropriate person to pay based upon the circumstances of each case. This could include paying:

- The claimant.
- Their partner.
- An appointee.
- Their landlord (or an agent of the landlord).
- Any third party to whom it might be most appropriate to make payment.

The Council will pay an award of Discretionary Housing Payment by the most appropriate means available in each case.

- By electronic transfer (e.g. BACS).
- By a crossed-cheque

Payment frequency will normally be made in line with the housing benefit payment.

## **NOTIFICATION**

Once a decision is made, the claimant will be notified in writing.

Where the application is unsuccessful, the notification will include:

- The reason for the decision
- The right to ask for a review, although there is no actual right of appeal

Where the application is successful, the notification will include:

- The weekly amount of the award
- The period of the award
- Whether it will be paid in arrears or in advance
- The payment method, date of payment and the payee
- The need to report change in circumstances

## **THE RIGHT OF REVIEW**

Discretionary Housing Payments are not payments of Housing Benefit and are not subject to any statutory appeals mechanism. Councils are expected to set up an appropriate review process.

Any request for a review will be subject to the following policy:

- The claimant (or the claimant's appointee /agent) who disagrees with a decision about a Discretionary Housing Payment may dispute the decision
- Disputes will be considered where they are received by the Benefits Service in writing within one calendar month of the written decision being issued to the claimant
- Disputes will be considered by Officers not involved in the first decision and the outcome notified in writing
- Where it is considered more appropriate the customer will be offered an explanation by telephone, interview or in writing in order to resolve the matter. If no resolution is found, reconsideration by Officers not involved in the first decision will take place
- Unless a change in circumstances has occurred, the reviewing Officer may not recommend a reduction in a previously notified award

## **REFUSED DISCRETIONARY HOUSING PAYMENTS**

Where a request for payments has been refused, it is not expected that repeat requests will be considered unless the customer can demonstrate that their situation has worsened significantly or a substantial period of time has elapsed.

## **OVERPAID DISCRETIONARY HOUSING PAYMENTS**

The Benefits Service will seek to recover any Discretionary Housing Payment found to be overpaid. The method of recovery will generally be by invoice. Generally any overpayments caused by official error will be treated as not recoverable. Overpayments will be notified in writing and have a right of review. Where a DHP is awarded for a period and housing benefit is subsequently increased for that same period the amount of any overpaid DHP will be offset against any retrospective payment of HB.

## **PUBLICITY**

The scheme will be publicised and we will work with all interested parties to achieve this. Discretionary Housing Payments will continue to be promoted through leaflets, the Council's website and appropriate letters. Staff are trained and knowledgeable and will advise those who are considered to be in financial difficulty of the availability of these payments.

## **FRAUD**

The Benefits Service is committed to prevention and detection of fraud. Where false statements or false evidence is used to obtain payment by way of the Discretionary Housing Payment Scheme then an offence may have been committed. Where fraud is suspected, the matter will be investigated appropriately and this may lead to criminal proceedings being instigated. The Benefits Service has a duty to protect public funds we handle, and so may use information given to prevent and detect fraud and may give some information to other organisations where the law allows.

## **MONITORING**

Careful scrutiny and financial management of the Discretionary Housing Payment Fund will ensure that funds are available throughout the year to support DHP claimants where appropriate.