

Revenues Service

Discretionary Housing Payment Scheme (DHP)

Policy Statement

31 March 2021

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AWARDING DISCRETIONARY HOUSING PAYMENTS (DHPs)

1. PRIMARY LEGISLATION

Section 69-70 of The Child Support, Pensions and Social Security Act 2000
The Human Rights Act 1998.

2. SECONDARY LEGISLATION

The Discretionary Financial Assistance Regulations 2001 (S1 001/ 1167) provide the legal framework for DHPs. Although the Department for Work and Pensions (DWP) provide guidance to Local Authorities (LAs) on how DHPs can be used, LAs have a large degree of discretion over the scheme and there are few regulatory restrictions.

The Welfare Reform Act 2012 (Consequential Amendments) Regulations 2013 made amendments to the Discretionary Financial Assistance Regulations 2001 to allow Universal Credit claimants who have a rental liability to have access to the Discretionary Housing Payments Scheme.

3. BACKGROUND

In July 2001 a new Discretionary Housing Payment (DHP) scheme gave Local Authorities the power to top up the Housing Benefit.

The DWP produced an updated Discretionary Housing Payments Guidance Manual in March 2018.

The guidance is updated to reflect amendments to the Discretionary Financial Assistance Regulations which ensure the scheme covers people affected by ongoing welfare reform.

In addition to the guidance, a good practice guide is included which offers advice to LAs on how DHPs can be used to provide support to customers affected by some of the key welfare reforms, including:

- Introduction of benefit cap;
- Introduction of size criteria in social rented sector;
- Reductions in local housing allowance

To assist claimants through the transitional period of these reforms the Government have committed to provide £870 million in DHP funding over a 5 year period.

The guidance also provides details on assurance and monitoring arrangements that LAs should follow regarding DHP expenditure.

The main features of the scheme are that:

- The scheme is purely discretionary; a claimant does not have a Statutory right to a payment.
- The amount that can be paid out by an Authority in any financial year is cash-limited by the Government. However, any unspent Discretionary Housing Payment funding will have to be returned to the Department for Work and Pensions.

The amount of money left from our government contribution must not be a factor in decision making; each case must be decided on its own merits.

The administration of the scheme is for the Revenues Service to determine.

Discretionary Housing Payments are not a payment of Housing Benefit. However, the minimum amount of Housing Benefit or Housing element in Universal Credit must be in payment in the benefit week that a DHP is awarded for.

Every year the Government allocates a fund to each local authority, but local authorities are allowed to spend up to 2½ times their individual allocations.

However, the extra money must be sourced from their own finances. Once an individual local authority's Discretionary Housing Payment budget has been spent, no more payments will be awarded until the next financial year.

THE REVENUES SERVICE POLICY

4. PURPOSE

The purpose of this policy is to specify how Test Valley Borough Council's Revenues Service will operate the scheme and to indicate some of the factors that will be considered when deciding if a Discretionary Housing Payment (DHP) can be made. Each case will be treated strictly on its own merits and all customers will be treated equally and fairly when the scheme is administered. All decisions will be reviewed in full by a manager within the Revenues Service. The Managers within the Revenues Service will carry out on-going monitoring of successful and unsuccessful claims to remove any potential for unlawful discrimination.

The Revenues Service is committed to working with the local voluntary sector, social landlords and other interested parties in the Borough to maximise entitlement to all available state benefits and this will be reflected in the administration of the DHP scheme.

The DHP scheme will cover shortfalls between rental liability and payment of Housing Benefit or housing costs towards rental liability in Universal Credit in exceptional circumstances. The Revenues Service will consider help with further housing costs and the Housing Options Service will provide Benefit

households support and advice regarding moving due to reductions in Housing Benefit or housing costs in Universal Credit entitlement. The Housing Options Service can provide a loan towards a deposit to secure a private rented property and can provide a loan for rent in advance for priority needs households.

Every claimant who is entitled to the minimum amount of Housing Benefit or housing costs in Universal Credit and who has a shortfall is entitled to make a claim for DHP financial assistance.

The Revenues Service works closely with the Council's homelessness team, local voluntary organisations, social landlords and other interested parties to maximise entitlement to the scheme.

5. EQUALITY

Test Valley Borough Council is committed to the equality of opportunity and valuing diversity in both the provision of services and in its role as a major employer. Test Valley Borough Council believes that everyone has the right to be treated with dignity and respect. We are committed to the elimination of unfair and unlawful discrimination in all our policies, procedures and practices. We are determined to ensure that no member of the public, employee or job applicant receives less favourable treatment on the grounds of their age, child care or other caring responsibilities, disability, gender, HIV status, language, marital status, race, religion, sexuality, membership or non-membership of a trade union, or by any requirement which cannot be shown to be justifiable.

6. DATA PROTECTION

The Council will only process your information where it is lawful to do so. A copy of the DHP Privacy Notice can be viewed on the Council's website at www.testvalley.gov.uk

7. CRITERIA AND DECISIONS ON DHP

Customers will be asked to provide details of their weekly or monthly income and expenditure. The Revenues Service will then look at their net available income to determine how much of the shortfall they can then meet. Unlike Housing Benefit, which has income such as Child Benefit and child maintenance payments disregarded, all sources of income will be taken into account in determining eligibility for a Discretionary Housing Payment.

Before we make an award we must be satisfied that the customer:

- Is entitled to Housing Benefit or
- Universal Credit that includes housing costs towards rental liability, and requires further financial assistance with housing costs.

8. WHAT DO WE MEAN BY HOUSING COSTS?

Housing costs are not defined in the regulations and this gives LAs 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:

- arrears of rent
- Other lump sum costs associated with a housing need.

Please note that while the housing costs of the UC award notification may refer to support for mortgage interest payments, owner-occupiers are not eligible to receive DHPs.

Following the abolition of Council Tax Benefit from April 2013, DHPs can no longer be made towards Council Tax liability. However, any increased expenditure will be taken in to account when making a decision on a DHP claim.

The legislation gives LAs a very broad discretion; decisions must be made in accordance with ordinary principles about good decision making, i.e. administrative law. In particular, LAs have a duty to act fairly, reasonably and consistently.

9. STATEMENT OF OBJECTIVES

The Revenues Service will consider making a payment of DHP to all claimants who meet the qualifying criteria as specified in this policy. The Revenues Service will treat all applications on their individual merits, and will seek through this policy to:

- Alleviate poverty;
- Encourage and sustain people in employment;
- Help claimants through personal crises and difficult events;
- Help safeguard residents whose tenancies are threatened;
- Keep families together;
- Help those who are trying to help themselves;
- Support the vulnerable and the elderly in the local community;
- Support young people in the transition to adult life;
- Support young people leaving Local Authority care;
- Support foster carers and those between fostering;
- Support people with disabilities who has or need adaptations to their property or require a larger property than the HB regulations allow;
- Promote good educational outcomes for children and young people.

The Revenues Service considers the DHP scheme should be seen as either a short-term emergency fund or it could be an indefinite award until the claimants circumstances change. It is dependant on the customers needs but

it is not and should not be considered as a way around any current or future entitlement restrictions set out within the Housing Benefit or Universal Credit legislation.

10. CORPORATE PRIORITIES

Successful management and allocation of the DHP funding available contributes directly to one of the Council's main aims contained in the Corporate Plan:

11. IMPROVING ACCESS TO A DECENT HOME

DHP helps to maximise opportunities for people to live in local communities where they feel they belong and to sustain our progress in reducing and preventing homelessness in the Borough.

12. CRITERIA FOR AN AWARD

Before an award is made the LA must be satisfied that the claimant is entitled to:

- Housing Benefit (HB); or
- Universal Credit (UC) that includes housing costs; and
- has a rental liability; and
- requires further financial assistance with housing costs.

A customer who is receiving local Council Tax Support only or mortgage support in Universal Credit with no rental liability (e.g. an owner occupier) is not eligible to apply for a DHP.

13. WHAT TYPES OF SHORTFALLS CAN A DHP COVER?

The various types of shortfalls that a DHP can cover include, this is a guide and is not exhaustive:

- Reduction's in HB or UC (customer has a rental liability and is eligible for the housing element) where the benefit cap has been applied;
- Reduction's in HB or UC (customer has a rental liability and is eligible for the housing element) for under-occupation in the social rented sector;
- Reduction's in HB or UC (customer has a rental liability and is eligible for the housing element) as a result of local housing allowance restrictions;
- Rent shortfall to prevent a household becoming homeless whilst the housing authority explores alternative options;
- Rent officer restrictions such as local reference rent or shared room rate;
- Non-dependant deductions;
- Income tapers;

- Expenditure higher than income due to multiple debts (refer to other agencies eg. Citizens Advice Bureau for debt advice);
- Unaffordable rent (refer to homelessness team for further advice and assistance);
- Property is larger than current needs due to pregnancy;
- Medical condition making it difficult to move;
- Increases in essential work related expenditure such as increased fares to work if a customer has had to move because they could not afford to live in proximity to their work following a reduction in their LHA rates;
- Short term emergency, crisis in family etc;
- Tied into existing tenancy;
- Shortfall on original assessment of needs or benefit estimate;
- Rent paid for two homes (Housing Benefit regulations do allow payment on two homes in certain circumstances);
- Assist the customer to secure a tenancy or retain an existing tenancy;
- Any other policy change that limits the amount of HB payable, for example the removal of the family premium

14. WHAT A DHP CANNOT HELP WITH

There are certain elements of the rent that cannot be included in the housing costs for the purposes of a DHP because the regulations exclude them such as:

- Ineligible service charges (as specified in Schedule 1 of the Housing Benefit Regulations);
- Water, sewerage and environmental services (as defined and calculated under Housing Benefit provisions);
- Court costs and other increases in rent due to outstanding rent arrears;
- Shortfalls due to HB overpayment recovery;
- Claimant's who's HB has been reduced as a result of a Loss of Benefit (LOB) penalty will not be entitled to a DHP to make up the shortfall. Regulation 3(l) of the Discretionary Financial Assistance Regulations 2001 has been amended so that such a payment cannot be made to a claimant who is subject to a loss of benefit for a fraud offence;
- Rent deposits and rent in advance (the Council administers a separate Rent Deposit Loan Scheme);
- Following the abolition of Council Tax Benefit from April 2013, DHPs can no longer be made towards Council Tax liability.

15. SUSPENSIONS

Where a person's entitlement to Housing Benefit or any other benefit has been suspended, it is not appropriate to pay a DHP. The aim of the suspension provision is to act as a lever to ensure the claimant provides necessary information or evidence – paying a DHP could reduce the effectiveness of this provision.

16. FRAUD

The Revenues Service is committed to the fight against fraud. A claimant who tries to fraudulently claim a DHP by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968.

Where the Revenues Service suspects such a fraud may have occurred and the customer is in receipt of Housing Benefit, the matter will be referred to the Single Fraud Investigation Service for investigation and this may lead to the instigation of criminal proceedings.

17. PREVENTION OF HOMELESSNESS

Within Test Valley Borough Council, the Revenues Service and the Housing Options Team work closely together to promote the availability of DHPs. Procedures are in place for requests for DHPs to be made by the Housing Options Team on behalf of customers to help retain tenancies and help prevent homelessness.

18. CLAIMING A DHP

A claim for a Discretionary Housing Payment can be made using the Council's eform or an application form can be requested

Claims for Discretionary Housing Payments can be made at the same time as an application for Housing Benefit or Universal Credit or at any time thereafter. However, a Discretionary Housing Payment will not normally be backdated so it is important that claims are made as soon as possible.

The Revenues Service may request any (reasonable) evidence in support of an application for a Discretionary Housing Payment. The Revenues Service will make such requests in writing, by e-mail, by telephone or by a home visit. The claimant will be asked to provide the evidence within one month of such a request although this will be extended in appropriate circumstances.

If the claimant is unable to or does not provide the required evidence, the Revenues Service will still consider the application and will in any event take into account any other available evidence including that held on the Housing Benefit claim.

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

19. AWARDING A DHP

In deciding whether to award a Discretionary Housing Payment, the Revenues Service will take into account:

- The shortfall between the weekly Housing Benefit (the Housing element of Universal Credit) and the weekly liability;
- Any steps taken by the claimant to reduce their rental liability;
- The financial and medical circumstances of the claimant, their partner and any dependants and any other occupants of the claimant's home;
- The income and expenditure of the claimant, their partner and any dependants or other occupants of the claimant's home;
- Any savings or capital that might be held by the claimant or their family;
- The level of indebtedness of the claimant and their family;
- The exceptional nature of the claimant and their family's circumstances;
- The possible impact on the Council of not making such an award, e.g. the need to prevent homelessness;
- Any other special circumstances brought to the attention of the Revenues Service.

The Revenues Service will decide how much to award based on the individual circumstances. This may be an amount below the difference between the liability and the payment of Housing Benefit. 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.

20. PERIOD OF AWARD

The Benefit Service will consider each claim on its own merits and a short term payment or longer term payment may be considered depending on the circumstances around the financial hardship. It is not and should not be considered as a way around any current or future entitlement restrictions set out within the Housing Benefit legislation.

In all cases, the Revenues Service will decide the length of time for which a Discretionary Housing Payment (DHP) will be awarded on the basis of the evidence supplied and the facts known.

The start date of an award will normally be:

- the Monday after the written claim for a DHP is received or initial request made to the Revenues Service; or
- the date on which entitlement to Housing Benefit or Universal Credit commenced (providing the application for DHP is received within one calendar month of the claim being decided whichever is the earliest or the most appropriate. The Revenues Service cannot award a DHP for any period outside an existing Housing Benefit or Universal Credit period.
- The minimum period for which the Revenues Service will award a DHP is one week;

- The Revenues Service will determine the appropriate length of an award and will generally not make a DHP for more than 6 months;
- The Revenues Service will consider an award of DHP for a period exceeding 6 months in exceptional circumstances;
- The Revenues Service may require the customer to make a new application if another period of DHP is requested beyond that already awarded;
- The Revenues Service will consider any reasonable request for backdating an award of a DHP but such consideration will usually be limited to the current financial year.

The level of a DHP In the case of a shortfall will be the level of Housing Benefit plus the DHP and must not exceed:

- The weekly eligible rent on their home.

Eligible rent means all the payments specified in Regulation 12(1) of the Housing Benefit Regulations 2006 or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 except those specified in Regulation 12(3)(b)(i) to (iii) of those regulations, i.e. deductions in respect of certain specified service charges.

Following the introduction of Universal Credit (UC), LAs will have to consider claims from customers who are not receiving HB. Customers receiving UC will receive a housing element cost within their Universal Credit payment. We will decide the amount of DHP to award in respect of the shortfall between the eligible gross rent and the housing element. This must not exceed the weekly eligible rent.

21. BACKDATING A DISCRETIONARY HOUSING PAYMENT

The Revenues Service will look at each claim on its own merits when deciding whether or not to backdate a DHP. Unlike Housing Benefit there are no rules on backdating, but the Revenues Service will act consistently. DHPs can only be considered for a period where the linked Housing Benefit or Universal Credit is payable.

22. LUMP SUM PAYMENT

For lump sum payments the weekly limit does not apply. An amount will be awarded based on the size of family. Receipts or Invoices will be required as evidence for lump sum amount or will be checked independently with the Housing association or landlord.

23. CHANGES OF CIRCUMSTANCES

The claimant has a duty to notify the Revenues Service of any change in circumstances.

The Revenues Service will need to revise an award of a Discretionary Housing Payment where the claimant's circumstances have materially changed.

24. METHOD OF PAYMENT

The Revenues Service 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); or
- Any third party to whom it might be most appropriate to make payment.

The Revenues Service will pay an award of Discretionary Housing Payment by electronic transfer (e.g. BACS)

Payment frequency will normally be made in line with how the Housing Benefit or Universal Credit is paid.

25. NOTIFICATION

The Revenues Service will inform the claimant of the outcome of their application within 14 days of receipt or as soon as practically possible. Where the application is unsuccessful, the Revenues Service will set out the reasons why this decision was made and explain the right of review. Where the application is successful, the Revenues Service will advise:

- the weekly amount of DHP awarded,
- the period of the award,
- how, when and to whom the award will be paid, and
- the requirement to report a change in circumstances

26. REFUSED DHP

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

27. THE RIGHT TO SEEK A REVIEW / APPEAL

DHPs are not payments of Housing Benefit or Universal Credit and are therefore not subject to the statutory appeals mechanism. All Councils are expected to set up an appropriate review process.

The Revenues Service will operate the following policy for dealing with appeals about a refusal to award a DHP, a decision to award a reduced amount of DHP, a decision not to backdate a DHP or a decision that there has been an overpayment of a DHP.

- A claimant (or their appointee or agent) who disagrees with a DHP decision may dispute the decision. A request must be delivered in writing to the Revenues Service within one calendar month of the written decision about the DHP being issued to the claimant. Where appropriate, Officers from the Revenues Service will explain the DHP decision to the claimant by telephone, at interview or in writing and will seek to resolve the matter.
- Where agreement cannot be reached, a manager will consider the case. The manager will review all the evidence held and will make a decision within 14 days of referral or as soon as practicable.
- Should the manager make the decision not to revise the original decision, they will notify the claimant of their decision in writing, setting out the reasons for their decision.
- In exceptional circumstances the above time periods may be extended. In deciding whether to extend, they will take into account the financial difficulties in making an award for a previous financial year.
- This will be the final decision made on the case and any further challenges must be made through the judicial review process. In cases of alleged maladministration by the council, the claimant must follow the council's complaints process before contacting the Local Government Ombudsman.

This will ensure fair and consistent decisions.

28. OVERPAID DHPs

The Revenues Service will seek to recover any DHP found to be overpaid if payment is made as a result of misrepresentation or failure to disclose a material fact, fraudulently or otherwise.

29. RECOVERY FROM ONGOING HB

The Revenues Service cannot recover DHP's from on-going HB. Normally recovery will involve issuing an invoice to the claimant or the person to whom the award was paid. This is done by raising an invoice with Finance.

30. PUBLICITY

The Revenues Service will continue to publicise the scheme and will work with all interested parties including the Council's Homelessness Team in order to achieve this. A copy of the policy statement will be made available at request and is posted on the Test Valley Borough Council Website. We will target vulnerable groups who may be under claiming DHP fund. We aim to do this by working with agencies that specialise in supporting these groups such as single people under the age of 35, pensioners, disabled persons, homeless young people and couples with or without children and those affected by the changes introduced by the Welfare Reform. Meanwhile we will continue to promote the DHP scheme, through the Council's website, housing providers, private landlords, advice agencies and other appropriate sources.

The Revenues Service will publicise the scheme and will work with all interested parties to achieve this.

31. VALUE OF THE FUND

The Revenues Service will keep a record of payments made and monitor the existing expenditure against the amount available in the fund. Additional funds may be set aside to allow spending over the DHP fund allocated by DWP; however expenditure must not exceed the overall limit set for the Authority.

For 2021/22 the initial level of the fund for Test Valley Borough Council is as follows, we assume this equals to approximately 70% of the annual funding:

Government Contribution	£114,005
Overall limit	£285,012

Managers in the Revenues Service will closely monitor the spending of the DHP budget and liaise with the Council's Homelessness Team, giving regular updates on the value of fund remaining.

32. MONITORING AND REVIEW

The policy will be reviewed annually, or sooner if appropriate, to take account of operational changes and/or changes in legislation.