

# **Discretionary Housing Payments (DHP)**

## **Policy**

**DRAFT**

## Contents

Introduction .....	3
Funding Breakdown .....	3
Background.....	4
Policy Objectives.....	4
Prevention of Homelessness .....	5
Claiming Discretionary Housing Payments .....	5
Period of Award .....	6
Backdating .....	6
Amount and Payment of Award .....	6
Factors Considered.....	7
Notification of Award .....	8
Changes of Circumstances.....	8
What DHPs Cannot Cover .....	8
Overpayments.....	9
Disputes.....	9
DHP Period of Award Matrix.....	10

## **Introduction**

The Discretionary Housing Payment (DHP) scheme is set using Discretionary Financial Assistance (DFA) regulations (S.I.2001/1167) as amended by the Council Tax Benefit Abolition (Consequential Provisions) Regulations 2013 (S.I. 2013/458), which came into force on 1 April 2013; and the Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), which came into force on 29 April 2013.

A DHP may be awarded when it is considered that a claimant requires further financial assistance towards housing costs, and is in receipt of either Housing Benefit (HB) or Universal Credit (UC) with housing costs towards rental liability.

This document sets out Birmingham City Council's (BCC) Discretionary Housing Payments policy for 2018/19. In response to the Government's continuing welfare reform program, the Council will offer support for those mainly affected by changes made to Local Housing Allowance rates, reductions in Housing Benefit entitlement due to the introduction of the size criteria in the social rented sector, the income limits of the Benefit Cap and the introduction of Full Service Universal Credit to the City. The policy also supports the Homelessness Reduction Act 2017 (HRA). The overall DHP policy will seek to support long term sustainable tenancies and reduce homelessness.

To help council's manage the impact of the Housing Benefit reforms, the overall Discretionary Housing Payment funding nationally is £153 million for 2018/2019. The funding has been allocated on the basis of each council's share of total anticipated losses experienced by Housing Benefit claimants as a result of the reforms.

The amount of funding for Discretionary Housing Payments will not fully compensate for the loss of benefit income to tenants in Birmingham. It is the Government's intention that tenants take positive action to improve their financial situation through finding work, increasing the hours they work and/or move to more suitable accommodation. Discretionary Housing Payments are short term financial assistance to 'bridge the gap' whilst people improve their personal situations.

## **Funding Breakdown**

The Government has allocated a DHP single budget. The budget allocation is made up of four categories: General Hardship, Removal of the Spare Room Subsidy, Benefit Cap, and Local Housing Allowance reforms. The spending of these categories is monitored and quarterly returns are submitted. Councils are advised of the DHP funding amounts annually.

## **Background**

Discretionary Housing Payments (DHP) are not payments of benefit. They are freestanding payments made at the Council's discretion. They are made in addition to Housing Benefit and/or Universal Credit and do not form part of it. The legislation gives Local Authorities broad discretion in awarding DHPs but it has to be remembered that ordinary principles of decision making must be followed to ensure that we are acting fairly, reasonable and consistently.

Payments of DHP should be used to alleviate the position of people experiencing severe hardship or financial difficulties.

The eligibility criteria for DHP awards require that people must be entitled to Housing Benefit or Universal Credit. They must have a shortfall between their HB entitlement and the eligible rent and must require extra help to meet their housing costs. The amount of any weekly award cannot take the full payment (HB+DHP) above the level of the eligible rent but one-off awards can be made which can exceed the weekly eligible rent.

## **Purpose**

The purpose of this policy is to set out how BCC will administer Discretionary Housing Payments. Following the introduction of the Government's welfare reforms, Discretionary Housing Payment funding enables us to continue to provide temporary financial assistance to citizens affected by those reforms and to also make long term awards for those with on-going needs.

Each case will be treated strictly on its merits and all citizens will be treated equally and fairly.

BCC is committed to working with the local voluntary sector, all landlords and other interested parties in Birmingham to maximise entitlement to all available state benefits. This will continue to be reflected in the administration of Discretionary Housing Payments.

## **Policy Objectives**

BCC will consider making a Discretionary Housing Payment to citizens who can demonstrate a need for further financial assistance with their housing costs. BCC will treat all applications on their individual merits and act fairly and equally in their decision making process. In conjunction with other Council policies and strategies, the Council will seek through the operation of this policy to:

- alleviate hardship and safeguard security of tenure;
- help with the prevention of immediate eviction;
- support vulnerable tenants in the community;
- help people through family crisis or difficult life events;

- prevent homelessness;
- reduce the need and use of temporary accommodation for homeless households;
- encourage and sustain Birmingham residents in employment;
- safeguard residents in their homes where possible;
- support moves to sustainable tenancies with rental deposits; and
- assist those who are in substantially adapted accommodation.

## **Prevention of Homelessness**

DHP will be used to support the prevention of homelessness. By assisting people to maintain or move to affordable tenancies, it can be used to avoid a temporary problem into a homelessness crisis.

The Homelessness Reduction Act requires local housing authorities (LAs) to take reasonable steps to help prevent any eligible person who is at risk of homelessness from becoming homeless. This means where possible helping them to stay in their current accommodation. DHP will be used to support vulnerable tenants and families who are at risk of eviction and losing their home. DHP will only be awarded in these circumstances if there is a shortfall in Housing Benefit, and only paid up to the contractual rent.

## **Claiming Discretionary Housing Payments**

The regulations require that there must be a claim for Discretionary Housing Payments to the Council before the Local Authority can consider making an award.

A claim can be accepted from the person entitled to Housing Benefit, but can also be accepted from someone acting on behalf of the person concerned where it appears reasonable to do so in the circumstances.

The application form is available on the Council's website.

BCC may request any (reasonable) evidence in support of the application. Additionally an appointment may be offered in order to discuss the application in more detail. The eligibility criteria necessitates an income and expenditure assessment to be undertaken to consider the applicants full financial circumstances.

Applications may need to be supported by information from housing providers or other support workers to confirm that alternative housing options are not available or suitable, when appropriate.

Each claim will be considered individually based on the evidence provided to support the application. We will however expect to act with consistency whilst using our discretion to provide short term support to our most vulnerable citizens.

An application can be made in writing, by letter or email. Alternatively a verbal request can be made by a telephone call to the Benefits Service.

## **Period of Award**

The start and end dates of an award will be decided based on the individual merits of the application, the known facts and the evidence supplied. The matrix appended to this Policy provides some examples of the period for an award but is for guidance only.

DHP will mainly be paid in a short term award to give the citizen time to sort out their financial or housing situation, particularly if they are trying to secure alternative accommodation or trying to find employment. Details of the considerations given to the award period are provided in the 'DHP award period matrix' at the end of this policy document.

In exceptional circumstances an indefinite award until the circumstances change will be considered, particularly if a citizen is living in significantly adapted accommodation and it is considered unreasonable to expect the citizen to move house. Where appropriate, awards of DHP may be of a longer duration than usually expected.

An award can also be made to meet a one off housing need such as a deposit or rent in advance and removal costs, but only where the Council is satisfied that the:

- property is affordable for the citizen;
- citizen has a valid reason to move: and
- deposit and rent in advance is reasonable and will support sustainable tenancies.

## **Backdating**

When deciding on the period of a backdated DHP award, each application will be considered on its own merits.

Although there is no restriction on the length of the period of backdating a DHP, it will usually be made in respect of the immediate need rather than a past period. When considering a backdate award of DHP for more than 1 month the applicant will need to demonstrate that there is good cause and exceptional circumstances as to why the DHP was not requested at the time.

Regulations require that the DHP award can only be considered for the relevant period that is linked to the HB or UC award payable.

Backdate awards will be considered where there is a real threat of eviction and risk of homelessness.

## **Amount and Payment of Award**

The amount awarded will be based on the individual merits of the case and the overall budget available. However, where the award is to meet a shortfall, the level of

Discretionary Housing Payment must not exceed the weekly or monthly eligible rent for the customer's home (as specified in Regulation 12(1) of the Housing Benefit Regulations 2006 and Schedule 4 of the Universal Credit Regulations).

For lump sum payments, such as deposits or rent in advance, this limit does not apply.

A decision will be made on the most appropriate person to pay (this could include an appointee or landlord), and the method and timing of payments, based upon the particular circumstances of each case. In most cases, payment with Housing Benefit will be the most convenient payment method.

A DHP can be awarded as a weekly ongoing basis or as a lump sum payment in respect of removal costs.

Short term and partial shortfall awards will be made to give the tenant time to organise financial circumstances or find alternative accommodation.

Decisions on the level and duration of an award will take into account past awards, value and length of time for the previous awards, and what is affordable within the allocated budget. Awards will also consider any efforts tenants are making to help secure an affordable and sustainable tenancy in the future.

## **Factors Considered**

In deciding whether to award a Discretionary Housing Payment, officers will take into account any of the following factors which may be relevant:

- The impact of welfare reforms (Benefits Cap, Social Sector Size Criteria, and reduction in Local Housing Allowance rates).
- The shortfall between Housing Benefit/UC Housing costs and the rental liability (net of any ineligible charges).
- The steps taken by the customer to reduce their rental liability;
- Any unavoidable overlap of rental liability on two homes.
- The financial, medical or social needs and circumstances of citizens, their partner and any other persons in the household.
- Any savings or capital held by the citizen or family members.
- The level of indebtedness of the customer and family.
- Any exceptional circumstances of the customer or family members.
- The probable consequences of rent arrears for the customer or family members, especially if any of them are vulnerable by reason of age, sickness or disability.
- Action taken by the landlord to put the tenancy at risk.
- The amount available in the Discretionary Housing Payment budget or within the limits of the permitted total.

- The possible impact on the Council of not making an award, e.g. the pressure on priority homeless accommodation.
- The cost and availability of suitable alternative accommodation within the city.
- The cost of moving prohibiting the customer from moving to suitable affordable accommodation.
- Any reason why a household cannot move immediately for reasons such as health, education, child protection or domestic abuse.
- Any other special circumstances brought to the officer's attention

DHPs can cover the following, but are not limited to:

- Reductions in Housing Benefit or Universal Credit where the Benefit Cap has been applied;
- Reductions in Housing Benefit or Universal Credit due to the Social Sector Size Criteria;
- Reductions in Housing Benefit or Universal Credit as a result of Local Housing Allowance restrictions;
- Rent Officer Restrictions, such as Local Reference Rent or shared accommodation rate;
- Non-dependant deductions in Housing Benefit or housing cost contributions in Universal Credit; and
- The shortfall between benefit and contractual rent in order to prevent a household becoming homeless whilst alternative accommodation is sought.

### **Notification of Award**

Notification will be made in writing when making the Discretionary Housing Payment decision. This notification will include the reasons for the decision that was made; the amount (if any) awarded; the period of the award; how, when and to whom the payments (if any) will be made and the requirement to report any relevant change in their circumstances.

### **Changes of Circumstances**

Recipients of Discretionary Housing Payments remain under a general requirement within the Housing Benefit legislation to inform the Benefit Service of changes in their circumstances that might affect their claim for Housing Benefit. Similarly where the customer is in receipt of Universal Credit and a Discretionary Housing Payment, the customer has a duty to keep the department administering Discretionary Housing Payments updated with their circumstances. A revision may be made to an award where the citizen's circumstances have changed.

### **What DHPs Cannot Cover**

These are the elements of a person's rent, and shortfalls in benefit that cannot be met by a DHP under the legislation:

- Ineligible charges/service charges that are not eligible for HB.
- Increases in rent due to outstanding rent arrears.
- Sanctions and reductions in benefit.
- Benefit suspensions.
- Rent, when the person is getting council tax support but not HB or help with housing costs in UC.
- Shortfalls caused by HB overpayment recovery.

### **Overpayments**

The Council will consider recovery of a DHP if it is decided that the award has been overpaid as a result of:

- a misrepresentation or failure to disclose a material fact by the claimant; or
- an error was made when the application was determined

A DHP cannot be recovered from ongoing HB or UC, and there are no provisions to recover from other prescribed benefits.

### **Disputes**

Discretionary Housing Payments are not payments of Housing Benefit and are not subject to the statutory appeals process.

If a citizen (or person acting on their behalf) disagrees with a decision, he or she must write to the Council, giving reasons why they disagree with the decision that has been made. A senior officer (other than the original decision maker) will look at the decision again and notify the citizen in writing of the outcome of their review and the reasons.

In exceptional circumstances (and if it appears that the interests of natural justice would not be served by the usual procedure, or if the citizen still disagrees with the outcome of an internal review), officers will consider whether to submit an appeal to the Head of Service for consideration. This decision will be final and binding and may only be challenged by a complaint to the Local Government Ombudsman if there is an allegation of maladministration.

**DHP Period of Award Matrix – for guidance only (each case will be considered on its own merits) – assumes DWP funding for DHPs is in place.**

<b>Discretionary Housing Payment Priority Groups</b>	<b>Evidence Required</b>	<b>Scheme</b>	<b>Short Term/Long Term</b>	<b>Review</b>
<b>Adapted Properties</b> - Citizens who have had their property significantly adapted to meet their disability needs	<ul style="list-style-type: none"> <li>• an award the Council Tax disability relief</li> <li>• medical evidence</li> <li>• supporting letter from support worker/social worker</li> </ul>	Social Sector Size Criteria	Long Term – 52 Weeks	As long as the disability remains the same, review annually
<b>Local Housing Allowance</b> - Support Local Housing Allowance tenants to secure a move to more affordable tenancy rent deposits rent in advance or removal costs	<ul style="list-style-type: none"> <li>• income and Expenditure form</li> <li>• new tenancy details</li> <li>• landlord letter</li> </ul>	Local Housing Allowance	One off lump sum payment	N/A
<b>Benefit Cap</b> – Citizens subject to the Benefit Cap	Income and expenditure form	Benefit Cap	Short Term From 13 at full amount Consideration of a further 13 weeks at reduced amount in exceptional circumstance	First time DHP awards for Benefit Cap for 6 months (3 at full and 3 reduced) 3 months reduced DHP only where previous BENCAP DHP has been awarded.
<b>Social Sector Size Criteria (SSSC)</b> – Citizens subject to the social Sector Size Criteria with no special circumstances	<ul style="list-style-type: none"> <li>• Income and expenditure form</li> <li>• Registration to move to smaller accommodation</li> <li>• Registration with wise move</li> <li>• Support letters from Housing officers for Landlord offer to</li> </ul>	SSSC	Short Term Maximum 13 weeks	1 award for 3 months. Signpost to HOC and landlord offer to move to smaller accommodation. Further 3 month awards to be considered if evidence

<b>Discretionary Housing Payment Priority Groups</b>	<b>Evidence Required</b>	<b>Scheme</b>	<b>Short Term/Long Term</b>	<b>Review</b>
	move.			supports looking for smaller accommodation.
<b>Extra bedroom</b> - citizens requiring an additional bedroom to meet the disability needs for a dependent child	<ul style="list-style-type: none"> <li>• income and expenditure</li> <li>• supporting medical evidence</li> </ul>	SSSC	Long Term	As long as the dependants disability remains the same, review annually
<b>Foster Carers</b> – affected by the SSSC due foster children numbers changing.	Foster carer registration	SSSC	Long Term	As long as foster status remains, review annually
<b>Medical Equipment</b> – Extra bedroom needed to store medical equipment	<ul style="list-style-type: none"> <li>• income and expenditure</li> <li>• supporting medical evidence</li> </ul>	SSSC	Long Term	As long as medical status remains, review annually
<b>Under 35's</b> – In privately rented accommodation	Income and expenditure	Other	Short Term 26 weeks maximum 13 weeks and consideration of a further 13 weeks if demonstrated seeking suitable alternative accommodation	26 weeks maximum
<b>Expectant Mothers</b> – over 16 weeks, who cannot be expected to see alternative accommodation	<ul style="list-style-type: none"> <li>• income and expenditure</li> <li>• supporting medical evidence</li> </ul>		From 13 weeks to 30 weeks if there is a risk to health or either mother or baby	30 weeks maximum
<b>Customers within 12 months of pension age</b> –	Income and expenditure	SSSC	Long Term/short term one off period until	Maximum of 12 months

Discretionary Housing Payment Priority Groups	Evidence Required	Scheme	Short Term/Long Term	Review
where work is not a realistic option			pension age	
<b>Hardship</b> - Citizens affected by hardship due to welfare reform, low income, debt	Income and expenditure	Other	Short term 13 to 26 weeks support to change household circumstances or income.	26 weeks maximum and 2 awards  Signpost to Debt advice/CAB Housing Options Centre – to downsize and seek alternative accommodation
<b>Threat of Eviction –</b> Citizens who are at risk of losing their property through eviction	<ul style="list-style-type: none"> <li>• referral from landlord</li> <li>• eviction panel referral</li> <li>• eviction line</li> </ul>	Other	Discretionary Nil – if there has been a previous award to prevent eviction and homelessness	At the discretion of a senior manager who has looked at all the factors surrounding the eviction
<b>Moving may be unreasonable –</b> suffering a serious medical condition – child at a critical point in their education	<ul style="list-style-type: none"> <li>• income and expenditure</li> <li>• medical evidence</li> <li>• letter from the school/education</li> </ul>	Other	One off	3 month – maximum of 12 months
<b>Multiple awards –</b> if there has been consecutive awards or more than 3 awards in a 2 year period DHP will not be agreed	<ul style="list-style-type: none"> <li>• signposting to Suitable alternative accommodation</li> <li>• tenant to take responsibility</li> <li>• no rely on DHP</li> <li>• payment arrangement</li> </ul>		Nil – unless demonstrated that they are continuing to improve their situation, then a further 13 weeks may be agreed	

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