

Chesterfield Borough Council Discretionary Housing Payments Policy and Procedure Document

1. Policy Statement

The Council supports the aims of the Discretionary Housing Payment (DHP) Scheme, originally introduced on 2 July 2001, which is to relieve financial hardship associated with excessive housing costs.

The objective of this policy is to -

- help claimants through difficult personal events;
- offer temporary respite by granting additional financial assistance with housing costs;
- prevent homelessness;
- support vulnerable people in the transition to independent living;
- encourage and sustain people in employment.

The procedures that are to be followed in the administration of this scheme are outlined later in this document.

We pro - actively promote the DHP scheme by working in partnership with Community, Voluntary and Statutory organisations and by making guidance and claim forms available to the wider community in the Customer Service Centre and via the Council website. Staff identify potential cases and issue information leaflets with Housing Benefit notifications in appropriate cases.

Applications for a DHP can be considered when a customer is entitled to Housing Benefit or Universal Credit and there is a shortfall between the customer's Housing Benefit and contractual rent (less all ineligible service charges).

The customer must also demonstrate that further financial assistance is needed in order to meet housing costs. For the purpose of this scheme, housing costs are not defined and local authorities have a broad discretion as to interpretation. In general, housing costs means rental liability. More widely, housing costs includes:-

- rent in advance;
- deposits; and
- other lump sum costs associated with a housing need such as removal costs,

not already claimed by way of grants or discretionary funds available elsewhere.

For lump sum payments such as deposits, there is no weekly eligible rent limit because Regulation 4 of the Discretionary Financial Assistance Regulations 2001 only applies where the award is calculated as a weekly sum.

The Council, when making a decision on the award of a DHP has complete discretion. It decides whether or not an award will be made, and to whom, the amount and for how long a DHP is awarded.

Regulation 3 of the Discretionary Financial Assistance Regulations 2001 identify payments which do not qualify for a DHP.

When considering whether it is appropriate to award a DHP, the Council takes into consideration a wide variety of circumstances, some of which are listed below as a guide for customers and advisers. This list is not exhaustive.

- Is there any genuine risk of eviction if help with housing costs is not provided?
- What other outgoings does the customer have which make it harder for them to meet their housing costs?
- What assets does the customer have which might be used to help with their housing costs?
- Does the customer have access to other funds, including state benefits, as yet unclaimed?
- Does the customer have disregarded income that might be used?
- Is it possible for the customer to negotiate a rent reduction with the landlord?
- Could the customer relocate to alternative accommodation that would incur lower housing costs?
- Does the customer or a family member suffer from health problems that make it essential for them to remain in their current accommodation, and would it be detrimental to their condition if they were to move to other accommodation? Are there additional costs associated with any illness?
- Is the hardship having particular effects on individuals within the family, for instance young children?
- Are non-dependants living in the household contributing financially?
- Is the claimant likely to be able to sustain the tenancy in the longer term?
- Is there a risk of the customer being declared statutorily homeless if a payment is not made?
- Is the shortfall between Housing Benefit or Universal Credit and housing costs attributable wholly or in part to Welfare Reforms, such as a 'benefit cap' or the 'under occupancy' provisions for the social rented sector?

The Council reserves the right, when awarding a DHP, to advise customers to seek alternative accommodation if it feels that the current accommodation is inappropriate for their needs.

When considering the circumstances of the customer it is essential that we obtain a breakdown of the customer's financial situation. A personal budget sheet is incorporated within the claim form, for this purpose.

The Council maintains that it is reasonable to look into a customer's spending pattern to establish if any hardship can be minimised, but recognises that the customer should not be expected to reduce expenditure on essentials, such as food and fuel unless expenditure in these areas is unreasonably high.

It may be reasonable to expect the customer to reduce expenditure on non-essential items, such as mobile phones, cable television, cigarettes, entertainment and leisure activities. However, the personal circumstances of the customer will be considered when determining if this expenditure is non-essential. The 'Wednesbury' test of unreasonableness will apply.

In the event of a surge of claims, priority will be given to those claimants known to be at risk of eviction for rent arrears.

The Government determines, annually, the level of the contribution it will make towards the total spending on DHPs. The Council can not spend more than a permitted amount on this activity. All decisions on the award of DHPs are made on this basis. Revised figures are notified at the start of each financial year. When awarding a DHP, the Council informs customers that the DHP scheme is cash limited and that future payments of DHPs are not to be relied upon. The Council will maintain effective monitoring systems to ensure that there is no overspend of the permitted amount.

The Council recognises that the scheme is subject to internal and external audit, and will ensure that there are clear systems in place to facilitate such processes.

Discretionary Housing Payments and the Under Occupation of Social Housing

In addition to the general guidance above, more detailed criteria have been drawn up for dealing with DHP claims associated with the provisions of the Welfare Reform Act 2012 relating to the under occupation of social housing. Details can be found in appendix 1, and these may change to reflect trends and demand.

There will also be close liaison with colleagues in Community Housing to ensure that claimants receive advice about alternative housing options.

2. Discretionary Housing Payment Scheme: Administrative Procedures

Claiming a Discretionary Housing Payment

In order to be considered for a DHP a customer must be entitled to Housing Benefit or Universal Credit for the duration of the period that they are wishing to claim a DHP. A DHP claim will only be considered once a decision has been made on a customer's Housing Benefit or Universal Credit entitlement.

DHPs can only be awarded to cover housing costs. This means eligible rent and other related housing costs. A DHP cannot be awarded for the following:

- Ineligible service charges;
- Charges for water, sewerage and environmental services;
- Increases in rent due to outstanding rent arrears;
- Council Tax Liability;
- Any reduction in benefit as a result of a sanction (as defined in the Discretionary Financial Assistance Regulations);
- Housing costs where the customer is getting Council Tax Support but not Housing Benefit or help with housing costs in Universal Credit, and;
- Shortfalls caused by Housing Benefit overpayment recovery.

A written claim for a DHP is required from a customer or someone acting on their behalf. This can be by using the claim form provided or by letter. Use of our claim form is encouraged because it invites the customer to state the details of their circumstances. It also contains a budget sheet allowing them to indicate weekly expenses.

Decision Making

Each claim is considered on its own merits. However, previous decisions made in similar circumstances may influence decision making, to ensure fairness.

We try to make a decision within 14 days of receipt of a complete claim. Customers will receive written confirmation of the outcome of their application for a DHP within 7 days of a decision being made. It will show the amount and duration of any award, the reasons for the decision and their right to request a review of the decision.

Payment of Discretionary Housing Payments

Payment is usually made along with Housing Benefit. It normally starts from the Monday following the day we get the claim form. Discretionary Housing Payments in respect of weekly housing costs are paid for at least a week.

Amount and duration of a Discretionary Housing Payment

Awards will usually be made for a period of 13 weeks unless the individual circumstances of a case require a differing period.

Customers will be given an opportunity to reclaim at the end of the period of award. If, at the time of the initial award, it is felt that the accommodation is inappropriate, the customer will be advised to look for alternative ways of alleviating the hardship, for example, moving to cheaper accommodation.

Customers will also receive advice about further additional benefit entitlement and help with claims is available.

Referral for help with debt management is also offered.

In exceptional circumstances, an award may be backdated provided there is also payment of Housing Benefit or Universal Credit in respect of the backdated period.

Following the introduction of Universal Credit, DHP's will be payable to people who are receiving Universal Credit. Universal Credit does not identify a specific amount towards housing costs and the DHP can therefore be any amount up to the weekly eligible rent.

Reviewing a DHP decision

Although there are no formal rights of appeal on DHP decisions, customers will be given the opportunity to have a decision on their claim reviewed by senior Council administrators.

Third parties, such as landlords, will not be given the right of review on decisions other than one where it has been decided to recover an overpayment from them.

Requests for review must be made in writing, although verbal requests will be accepted in certain circumstances e.g. where there are language/literacy problems. Any request for review, either written or verbal, must be received within one calendar month of the decision being notified to the customer. The Reviewing Officer may extend this period if there are special reasons for doing so. The customer may be asked to provide additional information in support of the request for review.

The review may involve an oral hearing which will take place within 6 weeks of the request, or as soon as practicable after that.

The review decision will be confirmed in writing within 7 days of a decision.

No further right of appeal exists.

Changes of circumstance and overpayments

Customers will be advised of their duty to notify the Council of any changes in their circumstances that may affect their entitlement to a DHP. These will normally be the changes that affect their entitlement to Housing Benefit or

Council Tax Benefit at the address for which the DHP is claimed. They will also be advised that the Council will seek to recover any overpayment of DHP that they receive.

Where an overpayment of a DHP is identified recovery will be sought from the person to whom it was paid. DHP overpayments cannot be recovered from ongoing payments of housing benefit.