



Warwick District Council – The Benefits Department

**POLICY STATEMENT**

Discretionary Housing Payment Scheme (DHP)

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## 1. LEGISLATION

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

**Regulations:** Discretionary Financial Assistance Regulations 2001.

## 2. BACKGROUND

In July 2001, a new scheme was introduced which granted all Local Authorities new powers to award a top up payment to the Housing and Council Tax Benefit statutory schemes.

**Following the abolition of Council Tax Benefit from April 2013, Discretionary Housing Payments (DHPs) can no longer be made towards council tax liability. A customer who is receiving Council Tax Support, with no rental liability (e.g. an owner occupier) is not eligible to apply for a DHP.**

The DHP scheme from April 2013 will now only cover shortfalls in housing costs. Every claimant who is entitled to the minimum amount of Housing Benefit or Universal Credit and who has a shortfall is entitled to make a claim for help. The purpose of the scheme is to provide additional funds to benefit recipients who are suffering from financial hardship and are unable to meet their housing costs.

Housing costs are not defined in the regulations and this gives Warwick District 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.
- Deposits.
- Other lump sum costs associated with a housing need such as removal costs.

**The main features of the scheme are:**

- 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 Secretary of State.
- The administration of the scheme is for the Benefits Department to determine.
- DHP's are not a payment of Housing Benefit or Universal Credit. However, the minimum amount of Housing Benefit or Universal Credit must be in payment in the benefit week that a DHP is awarded for.

**Shortfalls that DHP's can cover:**

- Rent officer restrictions such as Local Reference Rents (LRR), Single Room Rent (SRR) size criteria or when the Local Housing Allowance (LHA) does not meet the rent.
- Reductions in Housing Benefit or Universal Credit entitlement following changes to the LHA rates.
- Non-dependant deductions.
- Income tapers.
- Rent deposits and rent in advance: a DHP 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. Using a DHP for this purpose is appropriate where a Council does not operate a deposit guarantee scheme.
- On two homes: the regulations permit a person to have help through a DHP award with rent due on a property they have moved into when treated as temporarily absent from their home e.g. the claimant has moved due to domestic violence. If the customer is liable for the rent on both properties and in both cases there is a shortfall, a DHP could be awarded in respect of both properties subject to the weekly limit on each property.
- If the claimant is liable for payments on one dwelling but is having to pay rent on two, a weekly DHP could be made to assist with the temporary accommodation up to the level of the weekly eligible rent on the dwelling from which they are temporarily absent.
- Rent shortfalls to prevent a household becoming homeless whilst the Housing Department explores alternative options.

**In addition to the above DHPs can be used to provide support to customers 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 LHA restrictions to the shared room rate for those customers who have not reached 35 years.

**DHP's cannot be used for help with:**

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

Further guidance can be found in Appendix B of the Department for Work and Pensions Discretionary Housing Payments Good Practice Guide (April 2013.)

### **3. BENEFITS DEPARTMENT TEAM POLICY**

The purpose of this policy is to specify how Warwick District Council's Benefits Department will operate the scheme and to indicate some factors that will be considered when deciding if a DHP can be made. Each case will be treated strictly on its merits and all customers will be treated equally and fairly when the scheme is administered. The Benefits Department is committed to working with the local voluntary sector, social landlords and other interested parties within the district to maximise entitlement to all available state benefits and this will be reflected in the administration of the DHP scheme.

### **4. STATEMENT OF OBJECTIVES**

The Benefits Department will consider making a payment of a DHP to claimants who meet the qualifying criteria. Before making an award the authority must be satisfied that the customer is entitled to:

- Housing Benefit; or
- Universal Credit; and
- has a rental liability; and
- requires further financial assistance with housing costs.

This policy is not intended to define the specific situations of when we will or will not make a discretionary payment, to do so would make the policy too rigid 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.

The Benefits Department has built up expertise and local knowledge which enables the authority to profile their DHP budget to meet demand over the course of the year. Following welfare reform changes it is predicted that demand is going to significantly increase and therefore, the Council will need to continue to review its DHP fund.

The Benefits Department will see through the operation of this policy to:

- Alleviate poverty.
- Encourage and sustain the Authorities residents in employment.
- Help those who are trying to help themselves.
- Keep families together.
- Prevent child poverty.
- Support the vulnerable in the local community.
- Help customers through a personal crisis / difficult event.
- Support households that are returning to work after a period of unemployment and provide assistance in the managing of their finances during the transition from coming off benefit and receiving wages and securing Working Tax Credit entitlement.
- Support those who are in affordable housing but at risk of becoming homeless due to being unable to meet their full rent liability due to severe financial difficulties from the effects of the current economic climate.

## **5. CLAIMING A DHP**

A claim for a DHP must be made in writing and signed by the claimant.

On request or in appropriate circumstances, the Benefits Department will issue the claimant with a DHP application form, informing them that the form needs to be returned within one month of its issue. The claimant will be required to return the form to the Benefits Department within one month of its issue and will be encouraged to include any relevant supporting evidence.

The Benefits Department may request any reasonable evidence in support of an application for a DHP, and all requests will be made in writing. 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.

If the claimant is unable to or does not provide the required evidence, the Benefits Department will still consider the application and will in any event take into account any other available evidence including that held on the Housing Benefit file. The department reserves the right to verify any information or evidence provided by the claimant in appropriate circumstances.

## **6. PERIOD OF AWARD**

The Benefits Department considers that the DHP scheme should be seen as a short term fund to assist financial hardship. It is not and should not be considered as a way around any current or future entitlement reductions set out within the Housing Benefit legislation. In all cases, the Benefits Department will decide the length of time for which a DHP will be awarded on the basis of the evidence supplied and the facts known.

### **The start date of an award will normally be:**

- i. The Monday after the written claim form for a DHP is received or initial request made to the Benefits Department; or
- ii. The date on which entitlement to Housing Benefit or Universal Credit commenced (providing the DHP application form is received within one calendar month of the claim for Housing Benefit or Universal Credit being decided), whichever is the most appropriate.

The Benefits Department cannot award a DHP for any period outside an existing Housing Benefit or Universal Credit period granted under the Housing Benefit or Universal Credit statutory schemes.

- The minimum period for which the Benefits Department will award a DHP is one week.
- The Benefits Department will usually award a DHP for not less than 13 weeks.
- The Benefits Department will not normally award a DHP for a period exceeding 26 weeks.
- The Benefits Department will consider any reasonable request for backdating an award of a DHP but such consideration will usually be limited to the current financial year.

### **Backdating a DHP**

The Benefits Department will look at each claim on its own merits when deciding whether or not to backdate a DHP. Unlike Housing Benefit or Universal Credit, there are no rules on backdating, but the Benefits Department will act consistently.

## **7. AWARDING A DHP**

All applications will be considered by the Benefits Team Leader in the first instance. Decisions are restricted to one person so that the fund can be closely monitored and to ensure that there is consistency in the decision making process.

Essentially the Council will compare the household income and expenditure to see whether the customer is in need of further financial assistance to meet their housing costs. Each decision reached is "discretionary" and is not governed by strict regulations, although the Council will ensure that all decisions made are impartial and reasonable.

Please note that the regulations regarding the treatment of income in Housing Benefit and Universal Credit claims do not apply in the DHP decision making process. Therefore, we may decide to count income into a DHP calculation that might have been disregarded in the Housing Benefit or Universal Credit assessment e.g. Child Benefit and Maintenance Payments.

Similarly we can use our discretion when determining if the expenses are reasonable. Any decisions made about a person's expenditure will be done on an individual basis and may require some additional clarification by the Council.

In deciding whether to award a DHP, the Benefits Department will take into account:

- The shortfall between Housing Benefit or Universal Credit and the rental liability.
- Any steps taken by the claimant to reduce their rental liability.
- The medical circumstance of the claimant; their partner and any dependants and any other occupants of the same household. Disability related benefits are intended to be used to help pay for the extra costs of disability; and as such money might already be committed to other liability such a Motability schemes, provision of care etc.
- 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's circumstances.
- The amount available in the DHP budget at the time of the application.
- The possible impact on the Council of not making such an award, e.g. pressure on priority homeless accommodation.
- Any other special circumstances brought to the attention of the Benefits Department.

When awarding a DHP to assist the customer with securing a new tenancy, the authority will consider the following:

- 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.

The Benefits Department will decide how much to award based on all of the customer's circumstances. This may be an amount below the difference between the liability and the payment of Housing Benefit or Universal Credit. An award of a DHP does not guarantee that a further award will be made at a later date, even if the claimant's circumstances have not changed.



Given the number of people who are or will be affected by current and forthcoming changes, awarding DHPs to meet all shortfalls is not going to be 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.

- Families with children at a critical point in their education.
- Young people leaving local authority care.
- Foster carers, including those between placements: foster children are not included in the Housing Benefit assessment but neither is the income from foster allowances; as the Government values the work done by foster carers. Whilst some carers may be able to make up the shortfall using some of their allowance, or by other means, some thought should be given to supporting foster carers who are deemed to be under-occupying their accommodation because they have rooms occupied by foster children, or being kept available for future placements. The Council should bear in mind that foster carers should not be financially penalised because of their foster caring role.
- People going through the approval process to become foster carers who may need to show that they have a spare room to be approved. If a DHP was awarded on this basis, it would be up to the claimant to inform the Benefits Department of a change of circumstances if, for example, they were not subsequently approved.
- Families with kinship care arrangements. Children who go into the care of family and friends are often extremely vulnerable and will usually benefit from the stability of remaining in a familiar area and continuing to attend their local school.
- Families with a child temporarily in care but who is expected to return home. What constitutes temporary will be at the authority's discretion.
- Families with a social services intervention, for example highly dependent adults, children at risk or involvement in a family intervention project.
- People who have had to flee domestic violence or have moved because of the threat of violence in another area.
- Where someone in the household is expecting a baby (including those currently in shared accommodation or subject to an under-occupation reduction).
- Ex-homeless people being supported to settle in the community.
- People with health or medical problems who need access to local medical services or support that might not be available elsewhere.
- People with disabilities who need, or have had, significant adaptations made to their property, or where they are living in a property particularly suited to their needs.
- Where the claimant or someone in the household has a disability which requires them to have a larger property than would usually be the case for the size of their household due to, for example, a medical condition or where a child has a particular disability that might mean they are unable to share a bedroom.

- People with disabilities who receive informal care and support in their current neighbourhood from family and friends which would not be available in a new area. In this respect the authority may also consider families who have a child with a disability who rely heavily on local support networks.
- Households with disabled children who require an overnight carer.
- The elderly who have lived in the area for a long period of time and would find it difficult to establish support networks in a new area.
- People who need to live near their jobs because they work unsocial hours or split shifts; or where moving home may mean living in an area where public transport would be inadequate to enable them to sustain their current job.

## **8. CHANGES IN CIRCUMSTANCES**

The Benefits Department will need to revise an award of a DHP where the claimant's circumstances have materially changed.

## **9. METHOD OF PAYMENT**

The Benefits Department 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 Benefits Department will pay an award of DHP by the most appropriate means available in each case. Payment will normally be made by:

- Electronic transfer (e.g. BACS).
- Crediting the claimant's rent account if renting from the Council.
- Cheque in exceptional circumstances.

Currently, payment frequency is normally be made in line with how the customer's Housing Benefit is paid. When Universal Credit is introduced, the Local Authority will decide on the appropriate frequency.

## **10. NOTIFICATION**

The Benefits Department will inform the claimant of the outcome of their application within 14 days of receipt of all of the information being received. Where the application is unsuccessful, the Benefits Department will set out the reasons why this decision was made and explain the right of review. Where the application is successful, the Benefits Department will advise:

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

Where customers have been identified as struggling to manage their financial affairs, they will be referred to the Coventry and Warwickshire Co-operative Development Agency, who work in partnership with Warwick District Council. This is a free and confidential service providing budgeting advice and a bill paying service as well as providing access to other financial services, they can also assist claimants with the opening of a basic bank account. The claimant will also be signposted to independent advice e.g. Citizens Advice Bureau and a National Debt Helpline.

Where customers are experiencing a shortfall in their housing costs due to restrictions implemented as part of the welfare reform and associated with their accommodation, their details will be passed the authority's Housing Advice Department. They will be able to provide further advice and possibly be able to help the customer find a more suitable place to live or assist the customer in keeping their current home.

If a customer is renting their home from the Council and has been awarded a DHP, their details will be forwarded to Warwick District Council's Housing Department, who may be able to help further in providing assistance with their housing needs.

## **11. REFUSED DHP**

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.

## **12. THE RIGHT TO SEEK A REVIEW**

DHPs are not payments of Housing Benefit or Universal Credit and therefore are not subject to the statutory appeals mechanism.

The Benefits Department will operate the following process for dealing with a decision 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) who disagrees with a DHP decision may dispute the decision. A request must be delivered in writing to the Benefits and Fraud Manager within one calendar month of the written decision about the DHP being issued to the claimant.
- The Benefits and Fraud Manager will then review the decision and all of the evidence held and will make a decision as soon as feasible.
- Where the Benefits and Fraud Manager makes the decision not to revise the original decision, she will notify the claimant of their decision in writing, setting out the reasons for her decision.
- This decision is final and binding and may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman if there is an allegation of maladministration.
- In exceptional circumstances the above time period may be extended.

## **13. OVERPAID DHPS**

DHPs can be recovered if the authority decides that the payment has been made as a result of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise. A DHP is also recoverable if it was paid as a result of an error made when the claim was determined.

The Benefits Department cannot recover DHPs from ongoing Housing Benefit or Universal Credit entitlement. Therefore, the only method of recovery if a DHP is overpaid is to request repayment of the debt from the customer by invoice.

## **14. PUBLICITY**

The Benefits Department will continue to publicise the scheme and will work with all interested parties to achieve this. DHPs will continue to be promoted through leaflets, the Council's website and all benefit letters. Staff are trained and knowledgeable and will advise those who are considered to be in financial difficulty of the availability of these payments.

## **15. FRAUD**

The Benefits Department is committed to the fight against fraud in all its forms. A claimant who tried 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 Benefits Department suspects that such a fraud may have occurred, the matter will be investigated as appropriate and this may lead to criminal proceedings being instigated.

## **16. MONEY SPENT AND MONITORING**

The Government provides a contribution to the Local Authority each year and the Authority can add an additional 2.5 times the Government contribution to the fund. This is the permitted amount that can be spent on discretionary payments. Once the overall cash limit has been met, no further DHPs can be awarded, any funds paid out above this limit will have resulted in breaking the law.

The legislation which specifies the overall limit on expenditure is Article 7 of The Discretionary Housing Payment (Grants) Order 2001.

The Department of Work and Pensions (DWP) have announced that their contributions to the DHP fund will be increased to assist with the welfare reform changes. As a result of this increased funding DWP are required to monitor how DHPs are being used to support customers affected. Warwick District Council will be required to provide a broad breakdown of their expenditure. Following a successful application for DHPs, the authority should record the main reason for the award, as detailed below:

- i. To support customer affected by benefit cap.
- ii. To support customer affected by social sector size criteria.
- iii. To support customer affected by LHA reforms.
- iv. Any other reason (covers original funding).

The Council will normally set the annual DHP budget in line with the allocated level of spend from the DWP which attracts subsidy. The Council will consider increasing this budget in the light of economic circumstances and evidence on demand.