



Discretionary Housing Payment Policy 2019 - 20

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1. Introduction

- 1.1 Discretionary Housing Payments (DHPs) are awarded by the Council to provide financial assistance (outside of the Housing Benefit and Universal Credit Regulations) to help customers meet their housing costs.
- 1.2 The regulations covering DHP's are contained in the Discretionary Financial Assistance Regulations 2001; amendments include the Welfare Reform Act 2012 (Consequential Amendments) Regulations 2013, Council tax Benefit abolition (consequential amendments) regulations 2013 and the Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018
- 1.3 In addition, the Secretary of State has also released Discretionary Housing Payments Guidance Manual Including Local Authority Good Practice Guide March 2018
- 1.4 Blackburn with Darwen Borough Council has taken the above into consideration when developing the DHP policy.
- 1.5 DHPs can play an important role in sustaining tenancies, preventing homelessness and, where needed, enabling customers to move into more affordable accommodation.
- 1.6 DHPs may cover all or part of a shortfall in a customer's eligible rent or provide the deposit or other assistance a tenant may need in order to secure or sustain a tenancy. DHPs may be awarded as a one-off payment and/or as an ongoing series of payments.
- 1.7 To qualify for a DHP, the customer must have a rent liability, require further financial assistance with their housing costs and be in receipt of Housing Benefit or Universal Credit Housing Costs element.

2. Amount of funding available

- 2.1 The Department for Work and Pensions (DWP) provide grants each financial year to Local Authorities for DHP purposes.
- 2.2 The Council needs to consider how to allocate this limited DHP budget in a way that is not only fair, but also supports those that are in most need of assistance.
- 2.3 LAs can use their own funds to top up their government contribution by an additional 150% in England and Wales, and by any amount in Scotland. Once the Local Authority has met its overall cash limit it cannot make any further awards in that financial year. If the Local Authority does award above this limit, it is breaking

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

- 2.4 Any unspent DHP funding from the government contribution will be returned to DWP at the end of the financial year.

3. The DHP scheme

- 3.1 Welfare reform is aimed at encouraging people to move into work, increase their hours and / or move to more affordable accommodation.

- 3.2. Although it is hoped that many people will be able to address and resolve their difficulties without the need for a DHP, the Council recognises that DHPs have an important role to play in providing customers with short term assistance to ease transitions and allow households time to find a way to resolve their difficulties.

- 3.3 The overriding principles of the DHP scheme in Blackburn with Darwen are as follows:

- All customers will be treated fairly;
- All DHP applications will be assessed on their individual merits;
- All of the options available to the customer (including, for example, reducing household expenditure, maximising income, securing employment and/or moving to alternative, less expensive accommodation) will be taken into account when the Council assesses the merits of each application, and;
- In order to be awarded a DHP, customers must be able to show that their circumstances are exceptional.

4.

4.1 Objectives of this DHP policy

The Council will consider making a DHP award to applicants who meet the qualifying criteria. Assessing all applications on their individual merits will include considering the extent to which the financial assistance requested will meet the Council's objectives of –

- Encouraging and sustaining people in employment;
- Sustaining tenancies and preventing homelessness;
- Safeguarding residents in their own home;
- Helping customers who are trying to help themselves;
- Keeping families together;
- Supporting victims of domestic violence to move to a place of safety;
- Supporting the vulnerable and elderly in the local community;
- Helping customers through personal and difficult events;
- Supporting young people in the transition to adult life, and;
- Support for households affected by welfare reform.

- 4.2 DHPs are not generally intended to be used as a long term solution to the

customer's financial difficulties. Instead, they should be used to provide short term assistance to ease transitions and allow households time to find a way of resolving their difficulties.

- 4.3 All applications will be assessed on their individual merits however, when considering all applications the Council will take into account not just the cash limitations of what remains in the DHP budget, but also the extent to which a DHP can help a customer to overcome temporary difficulties and if possible, enable them to secure paid employment and / or move to alternative accommodation that they can afford.

- 4.4 The expectation is that DHP's will be awarded in unusual or extreme circumstances where additional help with the current rent will have a significant effect in alleviating hardship, reducing the risk of homelessness, keeping families together or alleviating difficulties that may be experienced in the transition from long term benefit dependency into work.

5. Examples of the shortfalls that DHP may/may not cover

- 5.1 Blackburn with Darwen Borough Council is not required to spend its overall grant allocation in any particular way, and so is able to use discretion. The types of shortfall that a DHP may cover include the following:

- a shortfall between the Housing Benefit or Universal Credit and the rent payable;
- reductions in Housing Benefit or Universal Credit, resulting from the application of the Benefit Cap;
- reductions in Housing Benefit or Universal Credit, resulting from the under-occupation of social rented housing, Reductions in Housing Benefit or Universal Credit, resulting from Local Housing Allowance restrictions, including the Shared Accommodation Rate;
- rent officer restrictions such as local reference rent or shared accommodation rate;
- non-dependant deductions in HB, or housing cost contributions in UC;
- income taper reduction;
- Customers with foster children;
- Customers who have recently become unemployed;
- To secure tenancies and avoid eviction / homelessness, and;
- Providing assistance with arrears which prevent someone from moving to more affordable and suitable accommodation.

A DHP may also be awarded for one-off costs such as a rent deposit, rent in advance or removal costs. When reviewing an award the Council must be satisfied that:

- Rent deposits and rent in advance are reasonable;
- The property is affordable;
- There is a valid reason for the move i.e. downsizing to a more affordable

- property, and;
- Where the rent deposit is linked to preventing homelessness.

5.2 What DHP cannot cover

For the purposes of a DHP, the following elements of a customer's rent cannot be included in their claim for housing costs because the regulations exclude them:

- Service charges that are ineligible for Housing Benefit or Universal Credit;
- Increases in rent that are due to outstanding rent arrears;
- Any charges for water, sewerage or allied environmental services;
- Any liability for Council Tax;
- Recovery of Overpayments of Housing Benefits or Universal Credit, or to sanctions relating to jobseekers allowance, child support or benefit offences, and;
- To supplement levels of Universal Credit paid. DHP will only be awarded where there is a shortfall between the eligible rental liability and the amount of Housing Costs awarded.

5.3 Support for households affected by welfare reform

DHPs are not generally intended to be used as a long term solution to the customer's financial difficulties. Instead, they should be used to provide short term assistance to ease transitions and allow households time to find a way of resolving their difficulties.

All applications will be assessed on their individual merits, however, when considering all applications the Council will take into account not just the cash limitations of what remains in the DHP budget, but also the extent to which a DHP can help a customer to overcome temporary difficulties and if possible, enable them to secure paid employment and/or move to alternative accommodation that they can afford.

The expectation is that DHP's will be awarded in unusual or extreme circumstances where additional help with the current rent 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 dependency into work.

5.4 Households affected by the Benefit Cap

The purpose of the DHP funding is to provide short-term, temporary relief to mitigate the most severe effects of the Benefit Cap until a more sustainable solution is found. Examples of the groups that are likely to be particularly affected by the Benefit Cap include (but are not limited to) the following:

- Families living in private rented accommodation;
- Families living in temporary accommodation;
- Individuals or families fleeing domestic violence;

- Individuals or families who cannot move immediately for reasons of health education or child protection, and;
- Households that are moving to, or are having difficulty moving to, more appropriate accommodation.

5.5 DWP intention is that the majority of these customers affected by the Benefit Cap will move into work and therefore become exempt from the Cap. Some may choose to move whilst others may consider other means by which they might be able to meet any shortfall such as trying to negotiate a reduction in their rent.

5.6 The Council is unable to provide a list of cases who will automatically receive DHP as it will treat each claim on its own merits and take into consideration the individual circumstances of the customer. Below are examples of the areas the Council may consider a priority however, other cases depending on the circumstances will not be excluded:

- Households that need to move to alternative, lower cost accommodation but are unable to do so immediately (for reasons of health, education or child protection) and the provision of short-term financial assistance will contribute to the achievement of one or more of the Councils DHP policy objectives;
- Households that need to move to alternative, lower cost accommodation but are working proactively to resolve their situation and the short-term award of the DHP will prevent the household from becoming homeless, or delay homelessness for long enough to enable them to complete a planned move to more affordable accommodation;
- Households that are working proactively with the Job Centre and advice/support providers to secure paid employment, claim Working Tax Credit and become exempt from the Benefit Cap, and;
- Homeless households that are residing in temporary accommodation (provided by, or on behalf of, Blackburn with Darwen Borough Council) and have been assessed as being particularly vulnerable and so need to remain in the area awaiting the offer of alternative temporary accommodation.

All applications will be considered on their individual merits.

5.7 Households affected by the Social Sector Size Criteria

The purpose of the DHP funding is to help those customers who are unlikely to be able to meet the shortfall in the rent payments, in a property they are under occupying, and for whom moving to a smaller property may be inappropriate.

For customers who are under occupying and living in *significantly* adapted accommodation, it may be more cost effective to allow them to live in their current accommodation rather than moving into smaller accommodation which then needs to be adapted at a cost to the LA.

5.8 Given the limitations of the DHP budget, and on the understanding that the

Council and its Housing Association partners will do everything they can to support customers and prevent them from becoming homeless, the Council will give priority to DHP applications received from the following households:

- Households that contain a person with a disability and are living in '*significantly adapted*' accommodation;
- Households that contain a disabled child or disabled adult (wef 01/04/17) who is unable to share a bedroom because of their severe disabilities, where regulations do not allow for the extra bedroom;
- Households that contain a disabled child or disabled adult (wef 01/04/17) and are living in accommodation that has been adapted to meet the child/adults needs, where regulations do not allow for the extra bedroom;
- Households containing someone who has a severe and persisting disability which means that they are dependent on the care and support of relatives and friends who are living in the local community, and there is no suitable alternative accommodation in the area;
- Households where an additional room is needed because a person or persons disability precludes a couple from sharing a room or where an additional room is needed to store essential equipment because of a person's disability, and;
- Households who have been approved as adopters or prospective foster parents within the previous 52 weeks or are going through the approval process and need a spare room in order to qualify.

5.9 Depending on the level of demand for DHPs, the Council may also give priority (albeit slightly less priority than is given to the households listed above) to DHP applications from the following households:

- Households whose Housing Benefit is restricted by the Size Criteria but that restriction will soon be lifted because the customer (and their partner if they have one) will reach the age at which they will be able to claim Pension Credit;
- Households whose Housing Benefit is restricted by the Size Criteria but that restriction will soon be lifted because one or more of their children will soon reach an age when they are not expected to share a bedroom;
- Customers who are pregnant and whose Housing Benefit is restricted due to under occupancy but that restriction will soon be lifted when the baby is born, and;
- Households with exceptional needs which are actively and consistently engaging in seeking to downsize to accommodation that matches their need.

5.10 The legislative criteria must be followed, however, applications which are outside the policy but within the law should be considered.

6. Rent in advance, deposits and removals

A DHP can be awarded for a rent Deposit or rent in advance for a property that the customer is yet to move in to if they are already entitled to Housing Benefit or

have Housing costs included in their Universal credit award, or where the Council is satisfied that Housing Benefit or the housing costs within Universal Credit entitlement exists when the award is made.

The DHP budget is insufficient to meet the rent shortfalls of the thousands of customers whose Housing Benefit/Universal Credit will no longer cover their rent in full. In order to provide long term solutions, the Council will help and encourage customers to move to alternative accommodation that they can afford.

Instead of providing customers with short-term assistance to enable them to maintain the rent payments on a home they will never be able to afford without a DHP, the Council may decide that it would be better to help those customers to move somewhere they can afford via a payment of rent-in-advance, help with a deposit or removal costs.

6.1 When awarding DHPs for a rent deposit or rent in advance, the following will be checked:

- The property is affordable for the tenant;
- The tenant has a valid reason to move, and;
- The deposit or rent in advance is reasonable.

Establish with the claimant whether they:

- are due to have a deposit or rent in advance in respect of their existing tenancy returned to them, or;
- have they received assistance from another department within the LA towards a rent deposit (such as a rent deposit guarantee scheme or similar), and;
- However, tenants will typically not receive a returned deposit until they have vacated a property and begun a new tenancy.

6.2 It may not always be possible for the claimant to seek the most affordable accommodation, for example, when someone fleeing the home due to domestic violence needs to seek a place of safety such as a refuge service. Deposits will be paid directly to the future landlord, contact must be made with the landlord to discuss when and how this can be paid. Landlords should be aware of their legal obligations 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. Further information can be found at:

<https://www.gov.uk/tenancy-deposit-protection/overview>

6.3 As a lump sum payment for a deposit or rent in advance is not made in respect of a period, the claimant must be entitled to HB or UC at the point of the award.

6.4 Deposits can also be paid to people who are moving out of the area.

6.5 The regulations allow DHPs to be awarded on two homes when someone is treated as temporarily absent from their main home, for example because of

domestic violence. In this case, if the claimant is treated as liable for rent on both properties, and in both cases there is a shortfall, they could have DHPs in respect of both properties subject to the weekly limit on each property.

If the claimant is only treated as liable for payments on one dwelling but is having to pay rent on two, a weekly DHP could be made up to the level of the weekly eligible rent on the dwelling from which they are temporarily absent. For example, a claimant may be temporarily absent from their normal dwelling to stay near a child receiving treatment in hospital. They are not treated as liable for payments on the temporary dwelling, but are still incurring housing costs for their normal home. The Council will consider a DHP to help cover costs on the claimant's permanent residence.

In cases of domestic violence the victim may have fled from, or to, another area to seek safety the Council may liaise with other Council's to establish which authority should take the DHP application (the authority where the home is located or the refuge service where the victim is currently living).

Removal costs can also be paid in circumstances where the claimant has to move in emergency circumstances.

7. DHP's and two homes

- 7.1 The regulations allow a DHP to be awarded in respect of two homes when someone is treated as temporarily absent from their main home, for example, because they have had to leave their main home because they are a victim of domestic abuse. Please refer to the Housing Benefit Regulations 2006 (S.I. 2006/213) (HB regulations) or Universal Credit Regulations 2013 (S.I. 2013/376) (UC regulations) for the time restrictions on these provisions. In such cases of temporary absence - if the claimant is treated as liable for rent on both properties, and in both cases there is a shortfall, the Council will consider an award a DHP in respect of both properties subject to the weekly or monthly limit on each property.
- 7.2 Where the claimant is only treated as liable for HB or UC on one home, but is having to pay rent on two, a weekly DHP could be made to cover costs of the second home; the HB or UC eligible rent for the main home is the maximum award. For example, a claimant may be temporarily absent from their main home to stay near a child receiving treatment in hospital. They are incurring costs on their temporary dwelling but their housing costs are covered for their main home. The Council will consider a DHP to help cover costs on the claimant's temporary dwelling.
- 7.3 In cases of domestic abuse where the victim has fled from, or to, another area to seek safety, the Council may collaborate with other Councils in order to establish which authority should receive the DHP application (i.e. the authority where the main home is located or that of the refuge service or temporary dwelling where the victim is currently living).

8. Claiming a DHP

- 8.1 Applications for DHP's will be made on line via Blackburn with Darwen Council's website www.blackburn.gov.uk/benefits or by referral from another party acting on the customer behalf. In order to make an assessment customers must provide details of their income, capital and expenditure and provide proof where required.

When deciding whether or not to award a DHP, the Council will assess each application on its merits and take into account its objectives and such things as:

- The size of any shortfall that exists between what the customer is receiving in housing costs (from Housing Benefit or Universal Credit) and the eligible housing costs for which they are liable, together with the reasons for this shortfall;
- The financial circumstances (income and expenditure, savings, capital and debt) of the customer, their partner and anyone else living in their home;
- Any special needs or health and social problems that the customer and / or their family have along with what impact these have on their housing and financial situation;
- The impact that moving and / or changing schools is likely to have on the family and the educational outcomes of any young people in the household;
- The reasons why, compared to other people, the circumstances of the customer and their family should be considered '*exceptional*';
- The impact that not awarding a DHP is likely to have on the Council's finances and services especially homelessness, social care health etc;
- The length of time for which a DHP is being sought;
- Any steps the customer has taken to reduce their rental liability, including looking for alternative accommodation, and;
- The amount of money remaining in the DHP budget, and
- Any other factors that the Council and/or the customer consider appropriate.

In most cases, the person who claims a DHP will be the person who is receiving Housing Benefit or Universal Credit, or their partner. The Council may however accept a claim from someone who is acting on behalf of that person (such as an appointee or advocate) if the person is vulnerable and requires support.

A claim for a DHP will be considered from the date a DHP is requested, but on condition that all supporting information and documentation is received by the Council within one month of that request.

If the Council requires additional information and evidence to assess the claim, it will request this from the customer in writing, electronically or verbally (over the telephone or face to face). The customer must provide this information and documentation within one month of the date requested.

If the customer fails to provide the information and documentation on time, the Council will make a decision based on any information it already holds, including the information held on file.

The legislative criteria must be followed but applications which are outside criteria set by the policy, but within the law, should be considered so that the Council does not fetter its discretion by applying the policy rigidly.

8.2 The Council will not normally make allowance for any financial loss resulting from the customer's failure to claim any benefits in a timely manner. No allowance will be made for any debt relating to an overpayment of Housing Benefit.

8.3 The award of a DHP does not guarantee that a further award will be made at a later date, even if the customer's circumstances remain unchanged.

9. Backdating an award

9.1 Each application will be looked at on its own merits when deciding whether or not to backdate a DHP. There are no restrictions on the length of the backdating period beyond a prohibition on awarding DHP for any date prior to 2 July 2001, when the scheme began, but we do have a duty to act consistently.

9.2 A backdated DHP award may be made in cases where a claimant is subject to a rent shortfall due to welfare reforms and has accrued rent arrears during the transition period between a reduction in benefit and moving into employment. In this case it the LA will award a backdated DHP to cover the arrears so as not to undermine the claimant's move into employment. In other cases DHP could be used to facilitate a move of home (such as through a mutual exchange) where a landlord will not allow a move for someone who is in arrears.

10. Making a claim in advance

10.1 A DHP can only be considered for a period when the customer is entitled to Housing Benefit or Universal Credit. Claims can however, be made in advance such as the forthcoming imposition of upcoming welfare benefit changes.

11. Notification of a decision

11.1 The customer will be notified, in writing, of the outcome of the DHP claim. If a claim is unsuccessful, the letter will include an explanation of how the decision has been reached and details of the right of review. If the claim is successful, the Council's decision notice will include the following:

- The reason for the award;
- The amount awarded;
- The period of the award;
- To whom the DHP will be paid, and;
- The customer's duty to report any changes in circumstance.

12. Change in circumstances

12.1 The customer must tell the Council if their circumstances change after a DHP is awarded. This is made clear to customers in the award letter and application form.

12.2 DHP's will be stopped:

- If DHPs are being, and/or have been made because a claimant has misrepresented or failed to disclose a material fact, fraudulently or otherwise; and/or
- When a claimant has been paid as a result of an error.

13. Payment arrangements

13.1 The Council will decide whether the DHP should be paid to the tenant, the landlord or a third party. All payments will be made via BACS in accordance with the Council's HB payment schedule.

14. Right to request a review

14.1 As a DHP is not a payment of Housing Benefit or Universal Credit, it is not subject to the appeals mechanism that operates under those schemes.

Customers can however request a review of a decision to refuse an award, a decision to award a reduced amount, a decision not to backdate an award or a decision to seek recovery of an overpayment of a DHP as follows:

- A customer (or their representative) who disagrees with a DHP decision may request a review. This request must be made in writing, within one month of when the notification was issued and confirming the reasons why the review has been requested;
- The appeal will be reviewed by an independent person to those that made the initial decision, and;
- The customer will be notified in writing once the decision has been reviewed, including the outcome of the review and a new decision notification if appropriate.

This decision will be final. In cases of alleged maladministration by the Council, the customer should follow the Council's complaints procedure. If a customer is still unhappy, they have a right to contact the Local Government Ombudsman.

15. Overpayments

15.1 The Council will make every effort to minimise overpayments of DHP. If an overpayment does occur, the Council will decide whether or not it is appropriate to recover. If recovery action is appropriate, the Council will send an invoice to the customer (and/or the person to who the payment was made) and a written

explanation of how the overpayment occurred and the periods and amounts to which it relates.

- 15.2 Where the overpayment is a result of an error made by the Council, recovery will not normally be sought, unless the customer or person who received the payment could have reasonably known they were being overpaid. DHP overpayments will not be recovered from payments of Housing Benefit and Universal Credit that are due to the customer.
- 15.3 DHPs will not be recovered from ongoing HB or UC. This is unlike HB overpayments where there is a regulatory provision to allow recovery from ongoing HB.

16. Fraud

- 16.1 The Council is committed to tackling and preventing fraud in all its forms. If a customer, landlord or agent attempts to claim a DHP by making a false declaration or by providing false evidence or statements, they may have committed an offence under the Theft Act 1968. Where the Council suspects that fraud may have occurred, it will investigate the matter as appropriate and this may lead to criminal proceedings.

17. Publicity

- 17.1 The Council has a responsibility to ensure that it does not limit the legal discretions it may apply, and is committed to applying this policy fairly and consistently. It will take steps to maximise take up to make sure that the funds are targeted towards those who are most in need. This policy will be made available on request.

18. Debt advice

- 18.1 Anyone experiencing debt problems will be signposted to the local debt advice team 'Shelter' for free, confidential advice. Personal Budgeting support and Assisted Digital support can and may be offered where applicable.

19. Policy review

- 19.1 This policy will be reviewed on a regular basis and in light of any legislative changes or other factors that impact on its effectiveness.