

London Borough of Barking and Dagenham

Guidance on Discretionary Housing Payments (DHP) 2020/2021

Introduction

Discretionary Housing Payments (DHP) is a fund that is intended to alleviate hardship. It allows customers who face a variety of challenges, time to find alternative solutions to shortfalls in income and help with housing costs on a short term and temporary basis. There will be exceptional cases where a DHP is required in the long term; however, it should not be seen as a permanent solution.

This guidance sets out some of the factors that will be considered when deciding if a DHP can be made; it details the principles that will be followed. Each individual case will be considered on its own merits in accordance with DHP legislation, Department for Works and Pensions (DWP) guidance and good practice.

The main features of the scheme are:

- The scheme is discretionary, and the claimant does not have a statutory right to payment
- All applications must be treated individually on their own merit
- The level of payment will be decided by the council and administered via the Housing Benefit system
- The DHP scheme in most cases should be seen as a short-term and temporary fund to allow customers who face a variety of challenges to find alternative solutions
- The scheme will work in conjunction with the Homes and Money Hub to support the residents across a broad range of services. This will include referrals of discretionary housing applicants to the Homes and Money Hub for further advice.
- The scheme will also look to support residents where required and referrals to the Job Services maybe made to engage residents and support them in finding work or gaining new skills.

We want to help people who are:

- Actively seeking employment e.g. applying for jobs and attending interviews or moving towards work readiness e.g. gaining employment skills, such as by volunteering or actively engaging in education
- Recently engaged in employment to aid the financial changes and support back to work activities
- Actively looking to downsize and move properties

- Able to prove hardship e.g. proof of no assets
- Taking positive steps to reduce their overheads/outgoings e.g. reducing household bills, attending financial management activities for example.
- Experiencing short term financial issues associated to illness or disabilities

Purpose of the scheme

- Helping people who are trying to help themselves
- Prevent homelessness
- Safeguard people in their home or enable tenants to find more suitable accommodation
- Encouraging and sustaining people in secure paid employment
- Keeping families together
- Help people through personal crises and difficult events
- Promoting good educational outcomes for children and young people
- Supporting young people in the transition to adult life
- Supporting the vulnerable and elderly in the local community
- Supporting victims of domestic violence to move to a place of safety
- To support the most vulnerable residents who are least able to help themselves (e.g. terminally ill or severely disabled)

Funding of the scheme

Central government fix the amount of DHP funding for each borough and provide Barking and Dagenham with the financial contribution to the scheme annually. After the council has spent all of its funding for the financial year no new awards can be made until the new financial year. As such DHP's will be allocated where they can provide support to the most vulnerable. DHP's will not automatically be awarded because a household has been affected by Welfare Reform, it is expected that a majority of households will have to make difficult decisions and due to the limited funds available DHP should not be relied upon for help.

Making the DHP claim

The customer must make a formal claim for DHP before the council can consider making an award. The claim must be made through the following methods:

- Online form
- Asking us to visit you if you are unwell or unable to leave the house
- Relevant form issued by the Local Authority

When the form is received, the customer may be contacted for further information.

The claim form requests a range of information and relevant supporting documentation:

To begin the claim the council must be satisfied that the customer is claiming

- Housing Benefit (HB) or
- Universal Credit (UC) and receives the housing element; and
- Was entitled to either for the period which the DHP is being requested to cover and

- has a rental liability and requires further financial assistance with housing costs

Supporting documents for the above may be required i.e. paper versions for checking databases, at the point at which the application is made. This will include income, outgoings and any savings.

The council reserves the right to verify any information or evidence provided by the customer.

The person claiming the DHP must be the person entitled to HB or UC (including housing element), unless they are acting on behalf of the person concerned who may include appointees, someone on the person's behalf such as a relative or social worker (countersignature and relevant authorities required) or a supportive department or organisation such as the Citizens Advice Bureau (CAB).

Where changes are anticipated, applications for DHP can be made in advance and will be looked at individually.

DHPs cannot cover:

- Service charges, management charges, hot water/heating, water rates or other non-housing costs that may be included in the rent as set out in the tenancy agreement
- Rent arrears which are not eligible to Housing Benefit (HB)
- Deduction for the recovery of Housing Benefit overpayments
- Reduction in any benefit as a result of Jobseekers sanctions, Child Support Agency sanctions or sanctions following certain benefit related offences
- Housing Benefits (HB) that are suspended
- If benefit entitlement and DHP would exceed weekly rental liability
- Increase in rent due to outstanding arrears

Types of shortfall areas DHP could cover individuals or households where:

- Waiting to move to more appropriate accommodation and making regular, positive steps to pursue this option
- Unable to afford moving costs which are inhibiting downsizing
- In danger of eviction and homelessness, where alternative options are being pursued
- Liable for two properties due to being temporarily absent from their home such as through domestic violence
- A request for payment on two homes is received but not awarded because the claimant has not moved into the new property, but would have qualified on the old home if they had moved into the new property, a DHP award can be made to alleviate rent arrears at the new property
- With a child who has particular issues for example, special needs requiring frequent hospital visits
- With a child of a significant age for example, leaving school in the next school year, ensuring children are not displaced from their school environment at critical times
- With child protection issues where DHP would assist in keeping the child safe.

- Where a pregnancy will significantly, more than would normally be expected, affect the family
- With recent kinship or carer responsibilities
- Who are undergoing life changing circumstances that significantly affect a household
- Where a significant age might be a factor for example, someone soon to reach the age of 65 and therefore will be exempt
- With significant health problems which will affect the type of housing they need to live in and the associated housing costs
- Who are trying to attain employment and are registered with relevant agencies, DHP can be paid up to 12 months
- Those who have started employment, DHP can be paid for up to 12 months to support the transition into Employment
- Awaiting a decision or appeals on HB or UC so long as HB or UC is in payment
- Can cover under occupying deductions if reasonable for up to 12 months
- Those affected by the benefit cap who are actively taking steps to reduce their overheads/outgoings for example, reducing household bills, attending financial management activities

Exception to the short-term rule would be applied in cases such as for example;

Where a customer is affected by under-occupation in the social sector restriction and the property has been significantly adapted for a disability, consideration will be given as to whether it is more cost effective to enable tenants to live in their current accommodation with DHP support rather than move to accommodation that would need to be adapted.

Or where individual cases are exceptional.

Please note if you are in receipt of Disability Living Allowance, PIP or Attendance Allowance, when calculating any entitlement to DHP additional outgoings made covering appropriate medical and living expenses due to the nature of disability are taken into full consideration and allowed accordingly.

In determining DHP, Barking and Dagenham may take into account any previous evidence of proven abuse of Housing benefits.

It is also expected that DHP's will not be paid or continued if households have failed to adhere to appropriate referrals for debt advice, Homes and Money Hub or employment support.

As part of the application process or as a condition of the award we may decide that support is required through the Homes and Money Hub and as such the details will be passed to them to support this. Engagement with these teams will be required to support the application and/or award so we would encourage all customers to engage fully with these services.

A DHP may be awarded for rent in advance, a deposit and/or moving costs to support residents move to more sustainable accommodation. As the aim of the DHP is to prevent homelessness any decision to award a DHP will have to look at both

the length of the tenancy and whether the new property is appropriate and affordable. The council will also need to check if

- They are due to have a deposit or rent in advance in respect of their existing tenancy returned to them
- They have received assistance from the local authority through a rent deposit guarantee scheme or similar
- Once a DHP has been made to the customer/landlord for rent in advance or a deposit and used for that purpose, legislation does not provide for it to be refunded

In all cases the council will consider whether the amount of the deposit, rent in advance and removal costs are reasonable compared to market rates and may limit the size of the award if considered high. Rent deposit limits were capped by law in 2019 to prevent abuse of the scheme and excessive advance payments and rent deposits.

Rent deposit payments are capped at a maximum of the equivalent of 5 weeks rental charge, if only a rent deposit is awarded.

Rent deposit and rent in advance payments paid together are capped at a maximum of 2 months rental charge.

Rent in advance payments are capped at a maximum of 1 month rental charge if only a rent in advance payment is awarded.

The council should include information about the landlords' legal obligations to protect the deposit paid in a government approved tenancy deposit protection scheme.

DHP's can also be used for one off payments and these would be considered where it is determined that the customer has sufficient funds to meet ongoing financial needs, has taken or is taking active steps to improve their financial wellbeing however needs some support for an interim period. To be satisfied that a one off is applicable you may be asked to engage with our Homes and Money Hub or provide additional information on steps you have taken to improve or stabilise your circumstances.

Decisions

Possible outcomes of a DHP application are that that the:

- DHP is refused
- DHP is awarded in full
- DHP is awarded in part i.e. less DHP paid than applied for or paid over a shorter period
- Or further information is required

The DHP will be awarded on the basis of the known facts and evidence supplied.

DHP awards will normally come with conditions for example requirements to attend a number of interviews, progress with downsizing of home, working with the Homes

and Money Hub. This may be a requirement of the award before further DHP applications will be considered.

A review date for a DHP award may be set; this will usually be after three or six months. This may lead to a repeat award, termination of the award or, increase or decrease of the award. Failure to meet any conditions of the award may also result in termination of an award.

Decisions will be in writing and will include details (if awarded) including:

- Period of the DHP award
- Weekly amount of DHP
- The requirements of the successful applicant to carry out positive actions to assist their situation before they are considered for further DHP awards
- The right of the claimant to ask for a review or appeal of the award and the time and manner of doing so
- The right of the LA to amend suspend or cancel a DHP when deemed necessary or appropriate
- The claimant's duty to report any change of circumstances

The council will be able to make decisions within 21 working days where all applications and supporting documents are supplied. Where it is apparent that there are extenuating circumstances i.e. where a tenancy or the claimant is in immediate risk, the payment time may be reduced.

Start dates

The start date of the DHP payment will normally be from the Monday following the date the written request was received. If a claim is received at the same time as an HB claim the start date of this can be matched to the start of the HB.

Backdating

The council will consider any reasonable backdating on the individual case for example in hospital, however they will be limited to when the claimant has been receiving Housing Benefit (HB) or Universal Credit (UC) and/or they will be limited to the current financial year.

Length of the award

- The end of the financial year
- To tie in with a change of circumstance
- A date considered reasonable given the circumstances of the individual case
- The end date of the benefit entitlement

DHP is a short-term emergency fund and claimants must ensure they seek advice with regard to housing and ways to manage financially in the long term. DHP will be normally be awarded for 3 or 6 months before it will be required for a review. There may be extenuating circumstances where it is paid for a longer period; however, DHP cannot be paid indefinitely. If further assistance is still required after a period of DHP has been awarded a reapplication will need to be made in full. It is not guaranteed that there will be a re award of additional help. Proof will be required of the steps taken to improve resident's financial situation for example;

- Move into employment or increased in working hours
- Sought to move to cheaper accommodation
- Sought help with budgeting
- Re-negotiated of rent where appropriate
- Reduction of household bills

Level of award

Regulation 4 of the 2001 regulations places a limit on the DHP award so it does not exceed the weekly eligible rent on the customer's home, the limit only applies where the award is calculated as a weekly sum, e.g. to meet a shortfall, awarded a lump sum for an immediate housing need.

Payment method

Via HB payment systems or other instruments of payments (this is to show a clear audit trail to show the difference between HB and DHPs. This needs to also be shown clearly to the customer).

The DHP is paid at the same frequency to mirror the HB or UC. Where appropriate this can be altered.

DHP can be made to

- The claimant
- The claimant's landlord
- Appointee

DHP should normally be paid to the person who received the benefit payments so either the claimant or landlord. Where it is considered that this is not reasonable to pay the claimant directly, another payee can be paid so long as they are also affected by the benefit decision.

Change in circumstances

Claimants must report in writing any change in circumstances that might affect the amount of DHP they get. Examples include:

- Change of address
- Leave their home temporarily
- Income change
- Changes in the household make-up for example, new children or adults moving into the property

Overpaid and recovery of DHPs

The council may seek recovery of an overpayment including:

- If misrepresentation or failure to disclose material fact, either fraudulently or otherwise.
- If paid as a result of an error made when the claim was determined.

If an overpayment does occur the council will decide whether or not it is appropriate to recover it for example, if it is an error of the council it would not be sought, unless the person receiving the payment reasonably knew they were being overpaid.

Recovery of a DHP is via an invoice. An instalment plan may be set up to aid recovery where appropriate.

Stopping payments

If the council decides that DHPs are being and have been made because someone has misrepresented or failed to disclose a material fact fraudulently or otherwise, they can be stopped.

If a claimant attempts to claim a DHP by making false declaration of 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.

Reviews and disputes

DHPs are not payments of Housing Benefit and are therefore not subject to the statutory appeals mechanism. Claimants can however request a review of DHP decisions; they must do so in writing to the council. The claimant (or appointee) must sign the review request letter and state specific reasons for disagreeing and provide any relevant information to support the dispute.

Reviews will be looked at by a different officer to the one who made the original decision. The final decision will be provided in writing within 21 working days.

The claimant has no further right to a review against the decision. However, applicants may still seek a judicial review of the authorities' decision.

Monitoring arrangements

The council will keep a record of the main reason(s) for the award. This will be provided to the Department of Works and Pensions twice a year (1 September and 30 April).

- To support customers affected by benefit cap
- To support customers affected by social sector size criteria
- To support customers affected by LHA reforms
- Any other reason

The department who make decisions on DHP's will quality check these on an ongoing basis to ensure consistency of approach. Management controls will also be

in place to monitor the broader range of reasons for the awards (wider than the above) and spend on each area.

All claims for DHP will be treated equally and fairly in accordance with the London Borough of Barking and Dagenham's equalities.

Review of the guidance

This guidance will be reviewed annually in light of any legislative changes, or other factors that impact on effectiveness; however minor changes in year may be approved by the Chief Finance Officer (Section 151 Officer).