

Discretionary Housing Payments Policy – April 2024

1 Background

Councils have a statutory power to grant Discretionary Housing Payments (DHPs) to provide further financial assistance towards housing costs for applicants who are in receipt of a qualifying benefit.

The legislation governing DHPs is contained in the Discretionary Financial Assistance Regulations 2001, as amended.

The Council's Discretionary Housing Payments Scheme (the Scheme) is discretionary. Applicants do not have a statutory right to receive a payment. The Council's discretion is very broad. Decisions must be made in accordance with the ordinary principles of good decision making. The Council must act fairly, reasonably, and consistently. It is important that the individual circumstances of applicants are properly considered in deciding whether to make an award.

The amount that can be paid as DHP in any year is limited by Article 7 of the Discretionary Housing Payment (Grants) Order 2001. The Government confirms what each council's annual DHP Grant Allocation is based on its overall analysis of requirements. Most of this grant is paid to enable councils to provide short term support to tenants who cannot afford to pay their eligible rents because they are affected by the following welfare reforms: Social Size Related Subsidy ("Bedroom Tax"), Local Housing Allowance Restrictions, or the Benefit Cap.

To ensure fairness, reasonableness, and consistency in the determination of submitted claims, it is important for the Council to adopt a policy that sets out the criteria that needs to be met for an applicant to receive a DHP award, but which allows for flexibility in decision making.

Administration of the Council's Scheme will be undertaken by the Executive Director of Health, Housing & Communities in accordance with this Policy.

Each application for a DHP will be considered on its own merits. Decisions will be made in accordance with the provisions of this Policy unless there are exceptional circumstances to justify a departure from the same.

Notwithstanding the above:

- The Council will only use its Government DHP Grant Allocation to fund DHP awards each financial year. Once this funding has been allocated and paid to applicants, and in the absence of any additional source of funding, all subsequent DHP claims received in the remaining part of the financial year will be unsuccessful in their application for a DHP.
- No claim for DHP can legally be approved by the Council in any financial year if to do so would cause the Council to exceed the limit on payments imposed under the Discretionary Housing Payment (Grants) Order 2001 for the financial year in question.
- In administering the Scheme, the Council will have due regard to the matters set out in the Department for Work and Pension's guidance document, Discretionary Housing Payments Guidance Manual (the Guidance Manual) as may be updated from time to time.

This Policy will have application as from and including 1st April 2024 for applications for a DHP award that are received by the Council on, or after 1st April 2024.

2 Statement of Objectives

The Scheme supports the following broader City Plan aspirations.

- Ensure residents have the resilience to mitigate ongoing challenges, including the cost-of living crisis, and emerge in a healthy and sustainable position; and
- Families are resilient and resourceful to respond to challenges and achieve the best possible outcomes for their children.

DHP delivery is also referenced in the Council's 2023 Financial Wellbeing Strategy and supports the following aims and priorities from other corporate and partner plans / strategies, namely:

- Continue to develop, promote, and encourage uptake of local welfare schemes.
- Tackle poverty and the wider underlying causes of inequality.
- Encourage and support vulnerable people to enter and sustain employment.
- Provide early help and support to those who need it.
- Enable families to maximize their capabilities and have control over their lives.
- Ensure fair access to service dependent on need; and
- Understand the lived experience of poverty and financial exclusion.

The Council receives a defined and limited DHP Grant Allocation. Unfortunately, the Council cannot support all applicants that might approach it for support under the scheme. Nor is it possible for the Council to provide support for as long as some applicants may need it.

A DHP award is intended to provide short term financial support for applicants to provide them with the time that they require to deal with transitions and / or to support them make changes to their circumstances.

3 DHP Support Types

The majority of DHP support is paid to enable applicants to cover shortfalls in their eligible rent. DHP cannot be used to cover ineligible service charges, or where there is no eligible rent shortfall. An award can be made as a lump sum payment, or periodic payments to either the applicant or their landlord. Payment frequency and the recipient of the payment is at the Council's discretion.

By exception, DHP can also be used for the following "one off" payment types:

- Rent in advance, payments private landlords usually request in advance of tenants moving into their property.
- Rent deposit, security deposit, or bond, payments private landlords request, again normally before tenants move into a property.
- Removal costs, costs in relation to moving possessions to a new property.

The Council applies strict qualifying criteria to applications that fall under the stated "one off" payment types. As to these:

- If an applicant is moving into the Sunderland Council area from another council / local authority area they must apply to their current council first in whose area they are resident

for DHP, with this being done while they still receive Housing Benefit (HB), or Universal Credit with Housing Costs (UC), and

- In addition, rent in advance and deposits would not normally be granted and paid in relation to registered social landlords, housing association properties, or larger private landlords.

4 Criteria for DHP Initial Awards

To be eligible to receive a DHP award an applicant must be entitled to HB, or UC and is applying for DHP support after 1st April 2024.

Applications must be submitted in writing, using a Council DHP application form, or in accordance with the procedure specified by the Council in its public information. The applicant must provide such details and appropriate evidence relating to income / benefits, capital / savings and expenditure as may be reasonably required by the Council in order that a financial assessment can be undertaken of their circumstances. The types of income / benefits, capital / savings and expenditure taken into account are set out in **Appendix 1**. The levels of allowable expenditure and any excess is to be determined by the Council and reviewed on an annual basis.

The applicant must provide, within such time as may be specified, any further information, or evidence reasonably requested by the Council to enable a financial assessment to be undertaken.

The required financial assessment is used to determine, -

- Whether the applicant is unable to afford their housing costs, (i.e. eligible rent shortfall), without additional financial assistance; and
- If so, how much financial support the Council should provide to the applicant under the terms of the Scheme based on either their HB, or UC entitlements, other income sources / benefits, savings / capital, and expenditure.

Although HB and UC are different benefits and are calculated differently, the Council's financial assessment process seeks, as far as possible, to achieve parity in the awarded DHPs as to applicants with similar financial circumstances.

The requested DHP must normally be required to help the applicant with the following:

- a) To secure and move to alternative accommodation.
- b) Short-term rental costs until they are able to secure and move to alternative accommodation.
- c) Short-term rental costs while they seek employment.
- d) On-going rental costs for a disabled person in adapted accommodation.
- e) Short-term rental costs while they seek to increase their hours of employment enough to become exempt from the benefit cap.
- f) Short-term rental costs for a foster carer; or
- g) Help with short-term rental costs for any other reason, except any reason which is ineligible under the relevant legislation.

When considering whether to make an initial DHP award the Council will have due regard to the Guidance Manual. This includes how best to target funding as to priority groups, whilst remembering that each application for a DHP will be considered on its own merits.

5 Length of Initial DHP Awards

DHP awards are meant to provide short-term support. The length of awards are at the discretion of the Council. Awards will normally be made for a single period of no more than 26 weeks, i.e., from the date of the submitted application. This is to allow most applicants sufficient time to start to make improvements to their circumstances where they can reasonably do this. Applicants that still face a financial shortfall at the end of that period will be required to apply for a further DHP.

In any case where, on the date of application, an applicant has confirmed credits on their rent account which do not exceed the DHP that would be payable over 26 weeks, DHP will only be paid from the time when such credit is exhausted, for the balance of the 26 weeks award period remaining. If the amount of credit exceeds the amount of DHP that would be payable, no award of DHP will be made.

Where an applicant's circumstances are expected to have improved before the end of the usual 26-week award period, or where any transition is likely to be successfully made within that time, an award may be made for less than 26 weeks.

Unless a one-off payment is made, the applicant will be advised of the start date and the end date of their award. Information will also be provided about how to re-apply for DHP, should the need arise.

6 Repeat Claims

While many applicants should only require one award of DHP, some will reapply for support either when their award is due to end, or at some point thereafter. The Council will regard as a Repeat Claim any further application that is made by the same applicant, (or their partner), at any address within the City of Sunderland within two years of their previous DHP award where:

- They have already received a DHP award after 1st April 2024; and
- Where their circumstances, or reasons for reapplying are considered by the Council to be the same as those that applied at the time of the previous DHP award.

The Council's DHP grant allocation only allows it to make a limited number of awards. Repeat awards will be made in a limited number of circumstances and for limited periods of time. This means even in cases where applicants would be entitled under a repeat financial assessment and are trying to make improvements to their circumstances a further award may not always be made.

The following four priority groups are identified as those that the Council intends to prioritize for ongoing support. This is due to both the extent of the issues affecting them, the potentially intractable nature of these issues, and the costs that would be borne by either the applicant or other agencies should they be required to move. Other groups will also be considered on a case-by-case basis:

- (a) People affected by domestic abuse who remain in a property which has been adapted under a sanctuary scheme.
- (b) Families with a disabled child not in receipt of upper of middle rate Disability Living Allowance (DLA), but whose condition makes sharing a bedroom difficult.
- (c) Disabled people who need, or have had, significant adaptations made to their property, or where they are living in a property particularly suited to their needs. This includes properties which have been adapted for other members of the household, such as

- disabled children, or non-dependants; and
- (d) Where the applicant, or someone in their household has an impairment, which requires them to have a larger property than would usually be the case for the size of their household due to, for example, where a bedroom is used for storage of medical equipment or used to support their disability for example, sensory room.

The Council will have due regard to the Guidance Manual when considering making any repeat awards and whether the applicant's circumstances meet the criteria for the priority groups and / or they are undertaking actions to improve their situations. The Council will only be able to provide limited support for repeat applicants from 1st April 2024. Having due regard to an applicant's circumstances, the following guide will be applied when considering repeat claims:

- If a further DHP award is to be granted, the repeat award may be limited to approximately 50% of what would otherwise be a full value award based on the applicant's new financial assessment; and
- A limited number of repeat awards being made to the same applicant, i.e. normally no more than one to two awards in total, although this is subject to an applicant's individual circumstances and having due regard to what they are doing to make changes to their circumstances.

7 Length of Repeat Awards

For repeat applications for DHP that fall within the four identified priority groups, repeat awards should not exceed 52 weeks.

All other repeat awards would be made for no more than 26 weeks but could be for a shorter period depending on the circumstances that apply.

8 Backdating

When deciding whether to backdate a DHP award the Council will consider each application on its own merits. The following points are highlighted:

- (a) Under the Discretionary Financial Assistance Regulations 2001 a DHP award can only be considered for a period where the linked HB, or UC is payable. This is of particular relevance to requests for a period of backdated DHP where backdating cannot cover arrears accrued while an applicant was not in receipt of these benefits.
- (b) The Council will consider backdating DHP awards in limited circumstances where the applicant has shown continuous good cause and provided evidence for having applied later than they could have done. A DHP award will only be backdated to cover the period, or from the period where the applicant has demonstrated good cause and in all cases for no more than a maximum of 52 weeks. Examples could include where an applicant was ill, or incapacitated and in the Council's opinion, this did prevent them from making a claim, or where the applicant had only just received notification of HB, or UC, and where these primary claims decisions were applied retrospectively; and
- (c) Backdating is also subject to there being sufficient budget within the Scheme to enable the payment to be made.

9. Protection of Public Funds

The Council is under a duty to protect public funds and resources. This includes funds and funding it administers on behalf of other agencies.

Where a DHP is found to have been overpaid, the Council will consider the reasons for the

overpayment, and will follow its Debt Management Policy and associated processes regarding any decisions on pursuing recovery.

The Council is committed to reducing fraud in all forms. A customer who tries 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. Any information submitted as part of the DHP application process may be used to cross match against other information held by the council as part of benefit application processes including that held for other Discretionary Hardship schemes. Where it is alleged or the council suspects that such a fraud may have been committed the matter will be investigated. If fraud is found to have occurred, action will be taken including the recovery of overpaid monies and if appropriate criminal proceedings.

10 Reviews

The following review process is to apply, with the process for review being detailed in the correspondence issued to an applicant following determination of their application for a DHP award:

- (a) Any applicant who is dissatisfied with a decision made in respect of a claim for DHP may request a review of that decision within one month of the date upon which they are notified of the decision.
- (b) Any request for review must be submitted in writing, using a Council DHP Review Form, or in accordance with the procedure specified by the Council in its decision notifications / public information. The review must include the reasons for the request. For example, what they disagree with, or what in their opinion, the Council has got wrong. If an applicant states that they are unhappy with the decision, that will not be enough to trigger the review process.
- (c) The review of a decision will be undertaken by an Officer of the Council no less senior to the original decision maker and who was not involved in making the original decision. The Officer undertaking the review is “the Review Officer”.
- (d) The outcome of any review undertaken by the Review Officer will be communicated to the applicant in writing within one calendar month, or as soon as possible thereafter.
- (e) Where the review does not give rise to the outcome desired by the applicant, reasons for the outcome of the review will be given by the Review Officer.
- (f) Should the applicant remain dissatisfied with the outcome of the review, the applicant can access the Councils’ Corporate Complaints Policy and processes. In cases of alleged maladministration on the part of the Council the applicant may be able to pursue their case with the Local Government and Social Care Ombudsman. There may also be the option of pursuing a Judicial Review.

Appendix 1

Income / Benefits, Capital / Savings and Expenditure

Income / Benefits

All income / benefits, (such as Universal Credit), will be taken fully into account, (net of Tax or National Insurance for earnings / self-employed earnings), within the financial assessment, except where detailed below.

The following income / benefits should be disregarded for the financial assessment calculation. However, the income from these may be offset against claimed expenditure for care, or mobility costs where appropriate:

- Armed Forces Independence Payments and Mobility Supplement.
- Constant Attendance Allowance, (and any Exceptionally Severe Disablement Allowance paid to customers receiving CAA).
- Disability Living Allowance Care and Mobility Components.
- Personal Independence Payment Daily Living, or Mobility Components; and
- Any Direct Payment / Personal Budget received by the applicant from the Council to help them meet and pay for their agreed social care needs / outcomes.

Savings / Capital

All savings / investments, (for example banks, or building society accounts, ISAs, or National Savings products), will be considered in full, unless detailed below.

The council will normally look to disallow any DHP application where the applicant has over £1000 in assessable savings because most DHP awards are short term support and therefore the council considers that savings can be used first.

Should the applicant's savings have diminished significantly in the months leading up to their application and / or have diminished after initially being turned down, then the Council will consider the applicants individual circumstances, and reasons for the reductions before making a decision on whether to apply deprivation of capital rules.

Should these rules then be applied, the Council would still assess the applicant on the basis that they have these savings. The length of time that the Council would apply this for would depend on the customers individual and financial circumstances.

Savings / Capital Disregards

- The value of the applicants Rent Deposit / Bond may be disregarded if the applicant is intending to use that money for the same purpose, i.e., to secure their new property.
- Stock and shares, less 10% selling fees.
- Any capital which is treated as income, such as lump sum frequent annuity payments, or capital payments that are released in instalments.
- Any ex-gratia payments made to former Far Eastern prisoners of war.
- Any regular income, (whether wages, or benefits payable for that month - in respect of that month), and providing that the applicant's statements etc. show that this income is spent each month on meeting their normal day to day expenses / outgoings.
- Any payments in kind from a charity.
- Any compensation payments made to anyone suffering from Creutzfeldt-Jacob disease.

- Capital derived from an award of damages for personal injury, and which is administered by a Court.
- Credits on an applicant's Rent Account. However, the credit will be considered and may then either delay the start date of a DHP, or remove entitlement entirely, if the credit is worth more than the value of the 26-week DHP payment.
- Payment of arrears for Social Security benefits should be disregarded for 52 weeks.
- Payments made under the Vaccine Damage Payment Scheme.
- Social Fund payment.
- Student Loans.
- Surrender value of any life insurance policy, or annuity; and
- Capital unable to be accessed from the impending sale of a property.

Trust Funds will be reviewed on a case-by-case basis to assess what the beneficiary can access, and in which cases capital and any income from the trust can be considered.

Expenditure

The following expenditure will be allowed for the financial assessment calculation, subject to the maximum amounts to be prescribed by the Council from time to time. This list is intended as a guide and is not exhaustive. For many of these expenditure types a standard amount will be included in the financial assessment, (based on family size / composition), and in these cases no evidence will need to be provided. For higher amounts, or other areas of expenditure proof would need to be provided, together with evidence of the need before they could be considered within the financial assessment, which is done at the Council's discretion:

- Gas / electricity.
- Water rates.
- Council Tax.
- Food.
- Mobile telephone.
- Landline.
- Broadband.
- TV License
- Clothing.
- Car / petrol / taxis and public transport, less any offsets against disregarded benefits, i.e., DLA, or PIP Mobility.
- Contents insurance.
- Priority debt repayments.
- Non-priority debt repayments.
- Prescriptions / other medication, less any offsets against disregarded benefits, i.e., DLA, or PIP Care.
- School meals
- Non-rebate able service charges / other ineligible housing costs.
- Private domestic help / personal care, less any offsets against disregarded benefits, i.e. DLA, or PIP Care.
- After school clubs, i.e. cases where parents work and no childcare during relevant working hours.
- Nappies.
- Subscriptions / membership fees required for work; and
- Life insurance.

An allowable excess will be included in each financial assessment to provide a buffer zone

and reflect the fact that minor items of expenditure and one off or irregular items cannot always be accounted for. The following maximum sums will be allowed, subject to periodic review by the Council:

- £15.00 Single Person
- £20.00 Couple
- £30.00 Family, i.e., single parent, or couple.

The following expenditure will not normally be allowed in the financial assessment calculation, with the list intended as a guide and is not exhaustive:

- Window cleaning.
- Gym membership.
- Swimming lessons.
- Newspapers / subscriptions.
- Personal Budget Contribution: the financially assessed amount that the person should already contribute, taking account of net rent / council tax payments, i.e., after HB/LCTS.
- Garden maintenance / handyperson services.
- Social Allowances / cigarettes/alcohol, i.e. expenditure included within customer excess incomes above; and
- Satellite – expenditure included within customer excess incomes.