



Discretionary Housing Payments Policy for 2021/2022

Introduction

The Discretionary Housing Payment (DHP) Scheme is designed to help people who need additional financial help with their housing costs. It is extra money that Local Authorities can pay on top of the claimant's normal Housing Benefit (HB)/ Housing Element of Universal Credit (UC), if it considers that they need extra help. The main principles of the scheme are:

- the claimant has no statutory right to a payment
- the scheme is discretionary
- all applications must be treated on their own merit. Local Authorities, however have a duty to be consistent
- the level of payment will be decided by the Local Authority and administered via the Housing Benefit system
- DHP is **not** a payment of HB/UC and as such is not subject to the statutory appeals mechanisms. Local Authorities however must have a review process
- the DHP scheme should be seen as a short term emergency fund, unless there are exceptional circumstances
- the Local Authority has the right to amend, suspend or cancel a DHP when the council considers necessary or appropriate
- total amount payable in any financial year is cash limited.

It will now also support those who are affected by the COVI-19.

Funding of the scheme

Central Government currently provides Local Authorities with a financial contribution to the scheme. Local authorities can 'top-up' the funding, but the government sets the maximum contribution overall. Once the annual funding is spent no further DHPs can be paid. Local authorities claim DHP expenditure back from Central Government as part of their annual HB subsidy claim but failure to spend the full allocation in one year is likely to result in reduced funding for future years.

Definition of ‘Discretionary Housing Payment’ (DHP)

The Definition of ‘Discretionary Housing Payment’ (DHP) is:

‘DHP provide customers with further financial assistance when a local authority considers that help with housing costs is needed.’

The legislation gives Southwark a very broad discretion in interpreting the Regulations; however Southwark has a duty to act fairly, reasonably and consistently. All decisions are made on a case by case merit in line with DWP guidelines on DHP.

What is meant by housing costs?

- If the customer is entitled to Housing Benefit (HB) housing costs is defined as rent (subject to certain exclusions) as per DWP guidelines.
- Housing costs are not defined in the Regulations. As a result Southwark Council defines it although does not limit it to the following;
 - ❖ rent in advance
 - ❖ deposits may be given on a case by case assessment where property is found within the Local Housing Allowance (“LHA”) rates and deemed to be affordable
 - ❖ incentive payment for Landlord to secure new accommodation. (DHP can only be used for incentive payments in exceptional circumstances and with the authorisation of the Resources & Review Manager
 - ❖ other lump sum costs associated with a housing need such as rent arrears payments or deposits if the Council rent deposit scheme is limited or exhausted.

Purpose of the scheme

Southwark’s overriding objective for DHP award is homelessness prevention and to maintain the customer’s tenancy.

DHP may not be awarded if the prevention or sustainment can not be met.

It also uses the scheme to encourage and motivate people into employment and helping those who are trying to help themselves as a way of helping them maintain their tenancy. Southwark also takes into consideration the following objectives when considering whether to make an award.

- ❖ alleviating poverty
- ❖ safeguarding residents in their own homes

- ❖ keeping families together
- ❖ supporting the vulnerable or the elderly in the local community
- ❖ supporting the disabled or those experiencing exceptional hardship as defined in the Equality Act 2010
- ❖ helping customers through personal and difficult events
- ❖ supporting young people in the transition to adult life, or
- ❖ promoting good educational outcomes for children and young people

Financial Inclusion Team

The DHP service is managed by the Financial Inclusion Team (FIT) which is a part of the Housing Solutions Service. In association with other agencies including Job Centre Plus, Citizens Advice Bureau, Multi Agency Safeguarding Hub, One Stop Shop and Southwark Works, the FIT works with tenants from all tenures to prevent homelessness and maintain existing tenancies.

Southwark accepts that DHP claims relate usually to all forms of tenure. DHPs are usually used to prevent homelessness and to support tenants in work and are integrated into the service that FIT provides. All applications will be considered but priority will usually be given to the following:

1. Tenants in private housing whose LHA does not meet their rent charge. Southwark usually pays the shortfall or part of the shortfall caused by the Social Sector Size Criteria (“**SSSC**”) for a limited period while the tenant finds alternative accommodation closer to the level of their LHA entitlement, negotiates a lower rent with their landlord, finds employment or has a change of circumstance which affects their LHA entitlement e.g. gives birth.
2. Tenants in social housing who have been affected by the SSSC. It does so by usually paying the shortfall caused by the SSSC for a limited period. All applications will be considered but priority will usually be given to the following;
 - Tenants who are actively bidding in order to downsize via Smart Move.
 - Tenants who can provide proof that they are actively attempting to downsize via mutual exchange or Housing Association downsizing schemes.
 - We will not usually continue to assist if we think that you are not living in suitable accommodation and have refused an offer of suitable accommodation.
 - Tenants who are care leavers where additional support is needed.

- Tenants who can provide proof that the room affected by SSSC is needed for medical reasons. DHP may only cover the room that is needed for medical reasons and not any further room that is being charged.
- Tenants who can provide proof that that they cannot move accommodation for medical reasons, for example if the property has undergone major adaptations.
- Tenants in arrears will usually be considered for DHP for a limited period during which applicants may be expected to engage with the council to explore all options of payment support and reflecting the Council's policy of encouraging applicants to move to a more suitably sized or financially sustainable property.
- Priority will not usually be given to applicants who fail without good reason to engage with Southwark or take active steps to address any rent affordability problem including but not limited to participation in schemes such as SMART Moves, Mutual Exchange, a lodging scheme for occupation of spare rooms, employment and training opportunities, money advice, affordable housing solutions such as offered by Credit Union.

In some circumstances tenants in arrears may be expected to agree a repayment schedule. For example, an applicant will usually be expected to agree a repayment plan if DHP is awarded towards their rent arrears. This can be agreed with their housing officer or landlord. This is because in making regular payments the DHP cannot exceed the rental liability.

3. Tenants in private rented accommodation or social housing who have been affected by the Benefit Cap. The DHP will usually cover the shortfall caused by the Benefit Cap for a limited period:
 - DHP can be awarded to tenants who are receiving Job Seekers Allowance (JSA) who can provide proof that they are actively following a Job Centre Plus work programme or course and they attend an assessment (including review of income and expenditure) with a FIT Officer and actively cooperate with any agreed programme.
 - DHP can be awarded to tenants who are not receiving JSA but are receiving other benefits providing they attend an assessment (including review of income and expenditure) with a FIT Officer and actively cooperate with any agreed programme.

Payments are also made in other lump sums associated with a housing need and homelessness prevention.

Limitations on the Council's resources will be taken into account in exercising the Council's discretion to make a payment. The Council does not have an unlimited source of financing DHP; the lack of resources and needs of other applicants will be taken into account.

Criteria for eligibility to receive award

The customer must:

- Be entitled to and in receipt of Housing Benefit or Housing Element of Universal Credit (i.e. DHP cannot be awarded for missing periods), and
- Require financial assistance with housing costs. Income and Expenditures and savings will be taken into account when assessing if a DHP should be awarded.

Note: tenants must be entitled to HB/ UC for their present home for DHP awards to be made in respect of lump sum payments which will enable them to find alternative accommodation or sustain their tenancy.

DHP cannot be paid in the following circumstances:

- ineligible service or support charges e.g. water rates or fuel charges
- requests for periods to cover rent arrears which are not eligible for HB/UC
- reductions in any benefit as a result of Jobseeker's sanctions, Child Support Agency sanctions or sanctions following certain benefit related offences
- HB/UC that is suspended
- to a claimant who is subject to an ASBO
- If benefit entitlement and DHP would exceed weekly rental liability.
- any debt arising from an overpayment of housing benefit
- Periods where applicant is waiting for Universal Credit to be paid (i.e. 6 weeks initial assessment period which is not backdated by UC can not be covered by DHP)

How to claim

- the claim must be made in writing or online to Southwark by means of a DHP Claim Form or online claim form and must contain sufficient evidence/information to enable the local authority to get a balanced view of the claimant's situation and circumstances
- the claim must specify the period and weekly amount of DHP they are claiming.

It is not always necessary for the claimant to complete a DHP Claim Form. A claim will be accepted providing there is a valid claim i.e. a written request (including an e-mail or fax) or a completed 'extra help' section of the HB application form and there is enough supporting information on the HB file.

If advocate is assisting in claiming for DHP then a signed consent form from applicant must be provided.

If the claimant writes asking for a DHP and provides all the necessary information they will, for a decision to be made, still be required to sign the declaration on the form.

The DHP Claim Form requests the following:

- the claimant's reasons why they require financial assistance
- a declaration that the information given is correct
- authorisation for LBS to verify information given
- a declaration that the claimant will repay any overpayment.

Note: Southwark undertook a programme of DHP award following the reduction in LHA and the subsequent end of transitional protection. For the purpose of this exercise tenants were contacted by the FIT who advised the tenant of the amount of DHP for which they were eligible (13 weeks of the shortfall between the current entitlement and the reduced entitlement). Verbal acceptance of the award was accepted in these circumstances.

Any misrepresentation or failure to disclose a material fact or error may result in overpayment of DHP which can be recovered by Southwark.

Who can complete a request for DHP

Southwark will accept claims from:

- claimants
- appointees
- another person acting on the claimants behalf such as a relative or Social Worker. The claimant, however, must countersign the claim.

Advance / backdated claims

Claimants can make a DHP claim no more than 4 weeks in advance.

Backdated payments can be made from an earlier date if it is considered reasonable given the circumstances of the case.

DHP decision

There are several possible outcomes of a DHP application:

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

Duration of award

When considering a DHP claim it is taken into account that the DHP scheme is primarily a short term emergency fund. The end date may be one of the following:

- the end of the financial year, this is because the level of funds for DHP is not guaranteed beyond this period however applicants may reapply for DHP for the next year
- to tie in with an expected change in circumstances e.g. reaching 35th birthday
- a date considered reasonable given the circumstances of the case e.g. time to find alternative accommodation, negotiate a reduced rent or find employment
- the end date of the benefit entitlement. This is because payment of DHP is usually dependent on entitlement to housing benefit or the housing element of universal credit'
- We may consider making long term or indefinite DHP awards. Each application will be considered on a case by case basis. Long term or indefinite awards are only made in exceptional circumstances and will always be subject to a relevant change in the claimant's circumstances.

Claimants must be made aware that they must actively cooperate with the FIT with regard to their housing needs and how their finances should be managed in the long term.

After the period for which DHP is approved, a fresh application may be made.

Extensions to awards will be considered, however Southwark has the right to reduce awards for subsequent periods to enable the tenant to adjust their budgeting accordingly and not become reliant on on-going DHP payments.

In all cases awards may be subject to periodic or other review and may be discontinued on review, for example if there is a change in the circumstances of the claimant, a relevant change in the law, a failure to co-operate without good reason, the award was made as a result of an error, or the claimant has misrepresented or failed fraudulently or otherwise to

disclose a material fact or where competing demands for resources require a DHP to be discontinued.

Southwark may seek to recover any overpaid DHP.

Level of DHP

DHPs can pay part or all of the shortfall in rent but cannot exceed the eligible rent or the value of housing costs on a UC award notice' after eligible rent

There are no restrictions on lump sum payments but they must be reasonable.

Each case that meets the overall scheme objectives will be considered on its merits. Priority for funding the full shortfall will usually be given to those living in accommodation adapted for the occupation of a member of the household and who continue to need the adaptation.

Notification details

The claimant will be notified of the decision by the Financial Inclusion Team in writing. The Financial Inclusion team will aim to provide a decision within 28 days of the application being received by FIT. If awarded, the notification advising them they have been successful will specify the:

- period of the DHP award
- weekly amount of DHP
- Right of the claimant to ask for a review of the award and the time and manner of doing so (Note: As DHPs are discretionary arrangements, there are no appeal rights to an HB tribunal).

Right of Southwark to amend, suspend or cancel a DHP when necessary or appropriate.

Payments

DHPs can be paid:

- to the claimant – bank details and bank statement showing the details have to be provided.
- to the claimant's landlord.
- Into the claimant's housing rent account. This is the preferred method especially for claimants with rent arrears.

DHPs should normally be paid to the person who receives the benefit payments. For example, if the HB/UC is paid to the claimant, then the DHP will be paid to the claimant as well. However, where it is considered that it is not reasonable to pay the claimant

directly, payment can be made to another payee as long as that person is also a 'person affected' by the benefit decision. For example, if HB/UC is normally paid to the claimant, payment can be made to the landlord if it is considered reasonable to do so (both the landlord and the claimant are 'person affected' by the Housing Benefit decision).

Payment frequency

DHP payments should mirror the payment frequency cycle used to pay claimant's HB/UC.

Change in circumstance

Claimants must report, in writing, any change in circumstance that might affect the amount of DHP they are awarded. Examples of these changes include:

- if they change address (or room if claimant occupies a room only)
- if they leave their home temporarily
- if their income goes up
- if another adult leaves the household
- relevant changes in medical or social circumstances of the claimant or a member of the household' and 'changes in the layout of the property such as the number of bedrooms' and 'changes in the type of benefit entitlement' and 'issues relating to arrears or a claim or potential claim for possession by a landlord or licensor such as any agreement by the landlord relating to arrears or a decision not to evict the claimant.

This list includes examples of certain change in circumstances however all change of circumstances should be reported.

Reviews / Appeals

Claimants can request a review/appeal of DHP decisions. Appeals are to be made in writing and received no later than one calendar month from the date of the decision letter. An appeal made outside of this timeframe will be classed as a new application and assessed accordingly, requesting further information if required.

In accordance with the Department for Work and Pensions DHP guidance manual, the claim will be reviewed by a senior officer and the original decision maker will not be involved. The claimant will be notified of the appeal outcome in writing, including reasons for the decision, within 28 days of the appeal being received by the Financial Inclusion Team.

Appeals made against one or more of the following refusal reasons will be treated as reconsideration requests and will not be subject to the appeals process. Refusal reasons;

- Housing Benefit assessment outstanding / suspended
- Request for further information

The claimant has no further right of review against the decision of the Housing Solutions Manager. However, applicants can still ask for a Judicial Review of the Authority's decision.

Overpayments

The Council will seek recovery of all overpaid DHP. Discretion can be used, however, not to seek recovery of the DHP overpayment in following cases:

- the overpayment was caused by an official error and the claimant could not be reasonably expected to know that that it was an overpayment
- if it is considered that the claimant will suffer serious hardship if the Council seeks recovery.
- DHPs cannot be recovered from on-going HB/UC.

The Council will consider not awarding a further DHP to a claimant in order to recover a previously overpaid DHP.

DHP and Equalities

In devising this policy Southwark Council recognises its obligation under the Equality Act 2010 and more specifically the Public Sector Equalities duty under section 149. The Policy has been designed to ensure that a level of protection and support is available to those applicants in most need.

The council considers that disabled people who are awarded DHP because they meet the criteria stated previously in this policy may be awarded longer periods of DHP.

Priority for long-term and/or full DHP will be given to claimants with a disabled member of the household who needs to continue to live in a property. This may be because the property has been adapted for his or her occupation and the claimant cannot reasonably be expected to move, or because the claimant needs a spare bedroom for reasons connected to the disability, or for any other reason.

Any relevant needs of a member of the applicant's household who has a protected Characteristic (age, disability, pregnancy and maternity, religion or belief, race, sex, sexual orientation, gender reassignment, marriage and civil partnerships) which are disclosed when making an application and which may affect the decision about DHP will be taken into account.

By disabled the Council means under the Equality Act 2010 – if you have a physical or mental impairment that has a “substantial” and “long term” negative affect on your ability to do normal daily activities.

Other Considerations

The Council has regard to section 11 of the Children Act 2004 to the need to safeguard and promote the welfare of children. Any particular relevant needs should be drawn to the attention of the Council when making an application.