



# **Discretionary Housing Payments Policy 2020/21**

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## Summary

1. The government funds local authorities to make Discretionary Housing Payments (DHP) to people who need assistance with their housing costs.
2. Following the welfare reform agenda, the government has increased the amount of DHP funding available to help people.
3. We have therefore updated our DHP Policy to provide people with help and advice to help themselves to adjust to changed circumstances and to ensure that the limited funding available is used to help those most in need to improve their individual situations.
4. We intend that our DHP scheme is accessible, transparent, consistent and targeted so that assistance is directed at those most in need as outlined in the policy.
5. In light of the limited funding available, anticipated demand and financial pressures on the council, the policy will be monitored closely and kept under review.

## Introduction

6. Since July 2001, local authorities responsible for administering Housing Benefit have been able to make DHPs to provide further financial assistance to claimants in receipt of Housing Benefit/Housing Element, where the local authority considers that additional help with housing costs is justified.
7. DHP is administered by local authorities and funded by a specific grant to local authorities from the Department for Work and Pensions (DWP).
8. The Welfare Reform Act 2012 has had a significant impact on large numbers of people who claim Housing Benefit in County Durham, many of whom saw a decrease in their Housing Benefit from 1 April 2013.
9. Awards will only be made where the council considers that additional assistance will help customers to achieve a successful outcome or to find a longer-term solution to their housing and financial problems.
10. Our DHP policy aims to secure successful outcomes for customers but recognises that what constitutes a successful outcome will differ from household to household.
11. A successful outcome is where the customer has taken steps to improve their financial situation and have achieved one or more of the following outcomes:

- they no longer have a shortfall between their rental liability and the amount of housing benefit they receive;
- they have reduced the amount of the shortfall between their rental liability and the amount of housing benefit they receive resulting in them being able to now afford their rental liability; or
- they are now able to afford the shortfall between their rental liability and the amount of housing benefit they receive.

The customer will therefore no longer require a DHP. Examples of a successful outcome may include:

- the customer has negotiated a lower rental liability with their landlord;
  - the customer has moved to a more affordable property;
  - the customer has taken in a lodger;
  - the customer has increased their income e.g. they have gained employment, or they have increased their hours at work; or they are now permanently receiving increased benefits;
  - the customer has cleared all debts including rent arrears and with the increase in their available disposable income can now afford their rental liability; or
  - the customer's household is no longer classed as under-occupied and there is no longer a shortfall between housing benefit and their rental liability.
12. Each application, regardless of the reason or individual circumstances, will be considered on its own merits. DHPs are discretionary awards and it is important to note that with the limited funding available, customers who apply to the council for a DHP, are not guaranteed an award.
  13. Each application will be subject to a financial means test and confirmation from their housing provider or the Housing Solutions Team that they are engaging with them with a view to improving their circumstances.
  14. The council will only consider making a DHP to customers who meet the qualifying conditions as specified in the policy.
  15. The Council wants to help customers find a longer-term solution to their housing and financial problems.

### **Links to council vision**

16. The Vision for County Durham was written together with partner organisations and the public and sets out what we would like the county to

look like in 15 years' time. It was approved by Council and launched by the County Durham Partnership in October 2019

17. Both the Vision for County Durham and the Council Plan are structured around three ambitions which are:
  - More and better jobs
  - People live long and independent lives
  - Communities are well connected and supportive of each other
18. An additional ambition of an excellent council has been developed for the Council Plan to capture the corporate initiatives that the council has identified and that it wants to undertake to transform its operations and enable achievement of the ambitions within the vision.
19. The Council Plan is structured around these four ambitions and it sets out under each ambition our achievements and issues to address together with key programmes of work the council plans to undertake. Progress against the Plan is monitored through quarterly update reports of progress against our work programme and performance against key indicators to Cabinet and the relevant overview and scrutiny committees.
20. As a public authority, Durham County Council is also required by law to set out equality objectives and review these on a triennial basis. Our new equality objectives are also set out within the Council Plan and the Plan also details how these are integrated into our ambitions.
21. The DHP policy supports the approach to housing and wealth generation as outlined in the SCS and its supporting documents. The updated approach will help us and our partners to address a number of our priority outcomes:
  - The effects of the welfare reform agenda are effectively managed;
  - Safeguarding adults whose circumstances make them vulnerable and protect them from avoidable harm;
  - Improved access to employment and welfare services;
  - Children are safeguarded and protected from harm;
  - Improved independence and rehabilitation.

### **Core objectives and key characteristics**

22. The core objectives of our DHP policy are to:
  - a) prevent homelessness;

- b) keep families together;
- c) support the vulnerable in sustaining tenancies;
- d) enable people to secure new sustainable tenancies;
- e) provide financial respite for people in short-term difficulty;
- f) encourage people into and maintaining work.

23. We intend that our DHP scheme is:

- **Accessible** - the service will be equally accessible to all users who qualify to make an application;
- **Transparent** - the reasoning behind each decision will be clear;
- **Consistent** - decision making will be consistent and in line with the policy framework;
- **Targeted** – assistance will be directed at those most in need as outlined in the policy.

### **What are Discretionary Housing Payments?**

- 24. A DHP is a stand-alone payment, which provides customers with further financial assistance, over and above their benefit entitlements. They are not benefit payments.
- 25. They are discretionary payments and will be made at the discretion of the council, in line with this policy and government regulations and guidance.

### **What DHPs can and cannot cover**

- 26. DHPs can cover:
  - reductions in housing benefit or Universal Credit where the benefit cap has been applied;
  - reductions in housing benefit or Universal Credit for under-occupation in the social rented sector;
  - reductions in housing benefit or Universal Credit as a result of local housing allowance restrictions;

- rent shortfall to prevent a household becoming homeless while the housing authority explores alternative options;
- rent officer restrictions such as local reference rent or shared room rate;
- costs associated with moving into more appropriate accommodation;
- costs associated with overcoming circumstances which prevent the applicant from moving immediately;
- rent deposits or rent in advance.

27. DHPs cannot cover:

- ineligible service charges, as outlined in government regulations, such as wider property management charges;
- water, sewerage and environmental services;
- an increase in rent due to outstanding rent arrears;
- reductions in income support, job seekers allowance or employment support allowance due to certain sanctions;
- where Housing Benefit has been suspended due to doubt over entitlement or customer's failure to provide pertinent information;
- any shortfall due to on-going Housing Benefit overpayment recovery;
- rent when the person is getting council tax support but not housing benefit or help with housing costs in Universal Credit.

### **Application process**

28. Applications will only be considered following confirmation from Housing Solutions or a housing provider (landlord) that the customer or their representative is engaged with the Durham County Council Housing Triage Process to seek advice to improve their overall circumstances. Failure to meet these conditions will render an application ineligible for support.

29. As part of the Triage Process, Housing Solutions and housing providers will help customers with their DHP applications, gather relevant evidence and send these details to the Benefit Service so that they are in possession of all the facts when considering the application and any subsequent award. Evidence of engagement with Housing Solutions or a housing provider is not in itself a guarantee of a DHP being awarded as each application is subject to a financial means test.

30. An application for DHP must be made in writing and signed by the customer or person acting on their behalf, for example a person who has authority to act on their behalf.
31. Applications will be assessed by the council's Benefit Service, which may request any reasonable and relevant information or evidence in support of an application. Customers should provide any information or evidence within one month of the request. Occasionally, this time limit may be extended in appropriate circumstances.
32. The Benefit Service will use the information provided to consider the DHP application and may check some of the information in appropriate circumstances with other sources as allowed by law.
33. If the customer is unable or fails to provide the required information or evidence the Benefit Service will consider and make a decision on the application taking into account only the evidence and/or information supplied or available.

### **Qualifying conditions**

34. In order to be considered for a DHP award, the following qualifying conditions must be met:
  - a) Before making an application for a DHP, a customer or their representative must have first approached the Council's Housing Solutions team or their housing provider (their landlord) and be engaged in the DCC Housing Triage Process in order to seek advice and guidance in the following areas, as appropriate:
    - **Housing Needs** which will include engaging with a variety of landlords in order to secure cheaper, alternative accommodation, taking in lodgers etc.;
    - **Debt Advice/Maximising Income/Welfare Benefits Advice** which will include referral to internal DCC Welfare Rights Team or external organisations for example CAB for advice covering the maximisation of customers income, welfare benefits advice and debt advice;
    - **Employability** which will include referral to the Employability Team or engagement with the Job Centre Plus (JCP) who will deal with helping customers back into work
35. Certain housing providers offer similar advice services to Housing Solutions and have agreed with the council to follow the Durham County

Council Housing Triage Process in order to provide customers with advice and guidance on the areas outlined above. Where a customer's housing provider does not provide such advice, or the customer is living in privately rented accommodation the customer or their representative must approach the council's Housing Solutions team. Failure to meet these conditions will render an application ineligible for support.

**And**

b) The customer must be in receipt of one of the following benefits:

- Housing Benefit **or**
- Universal Credit

**And**

c) Must be unable to pay their rent (rental liability)

**And**

d) Requires further financial assistance with housing costs (this will be tested via a financial means assessment)

**And**

e) The customer, their partner and any other non-dependants in the household do not have savings that could be used to meet the shortfall (evidence of savings will be required as part of the application)

**And**

f) Do not have sufficient disposable income to meet the housing costs shortfall. This will be determined by completing a financial means assessment

**And**

g) Must be willing to comply with any reasonable conditions concerning a DHP application and any subsequent award.

## **Awards**

36. The amount of the award will usually be the difference between the eligible rent and the maximum amount of housing benefit/element awarded, following a financial means assessment and an assessment of the customer's circumstances.
37. The length of award is discretionary and will be determined by the Benefit Service.
38. The start of a DHP award will usually be:
  - the Monday after the written letter, email, statement or application form is received;

- the date on which entitlement to housing benefit or universal credit commenced, providing that the DHP claim is made within one month of the authority notifying the customer of the housing benefit decision, or such reasonable extension of time as considered appropriate in the particular circumstances of each case;
- the Monday after a relevant change in circumstances giving rise to the need for the DHP.

### **Priority Groups – Long Term Awards**

39. In considering applications, the council will consider a longer-term award for a period of up to 60 weeks and then following a review of circumstances, where relevant, a continuous award for the following groups:
- a) People with disabilities, in receipt of any element of Disability Living Allowance or Personal Independence Payments and living in a property that has been significantly adapted. This includes adaptations made for disabled children, see definition of significantly adapted property at point 31;
  - b) Households with a disabled person or disabled child, where one or more bedrooms cannot be used as a bedroom as they are being used to store disability related equipment or are required for additional needs relating to the disability;
  - c) Registered foster carers who after allowing one additional bedroom will still have a reduction in housing benefit due to further additional rooms remaining under occupied. Registered foster carers must have fostered a child within the last 12 months or have become registered within the last 12 months;
  - d) Families with a child temporarily in care but where the child is expected to return home;
  - e) Families with children at a critical point in their education who are in the academic year in which they will be taking their GCSE or A Level examination and a move would have a detrimental effect on the child's study;
  - f) Families with kinship care arrangements. Children who go into the care of family and friends are often extremely vulnerable and the Council want those children to benefit from the stability of remaining in a familiar area and continuing to attend their local school;

- g) Families with a social services intervention, for example highly dependent adults, children at risk or involvement in a family intervention project;
- h) Adoptive Parents who have been approved as adopters or are going through the process of becoming adoptive parents are required to have a bedroom for an adopted child. Durham County Council stipulates that a newly placed/adopted child has their own room and does not share with a child already within the family. The only exception to this might be if it was a sibling that was also being adopted by the same family and preferably the same sex as the first adopted child;

Until the child forms part of the household, adoptive parents will still have a reduction in housing benefit due to room/s remaining under occupied and a DHP can be used to provide support in the interim period;

- i) Care Leavers, under 25;
- j) A claimant, partner or another member of the household who is terminally ill. For the purposes of this Policy, terminal is defined as expected death within 12 months of the prognosis. This Priority Group will not be subject to the financial assessment and applications received will be given priority;
- k) People within 12 months of a significant change trigger which would affect under occupancy or housing benefit/universal credit entitlement, for example: birth of a child; households with children nearing their 10<sup>th</sup> or 16<sup>th</sup> birthdays<sup>1</sup>; people nearing their 35<sup>th</sup> birthday or pension age;
- l) People within 12 months of a significant change trigger which would improve their financial circumstances enabling them to afford the shortfall in their rent e.g. single persons reaching the age of 25 receiving an increase in their welfare benefit;
- m) People who are vulnerable in need of treatment, care or support and who rely on a community and/or medical support network which if removed would have a long-term detrimental effect on their health, mental well-being and personal safety;
- n) Carers who are:
  - i. Receiving Carer's Allowance for providing care for someone who does not reside with them;

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<sup>1</sup> In line with DWP criteria in relation to under occupancy, children of different genders are expected to share a room up to the age of 10, and children of the same gender up to the age of 16.

- ii. Can find no suitable alternative accommodation within a reasonable distance from the care receiver; and
  - iii. The carer is experiencing financial difficulties.
- o) Couples who are unable to share a bedroom due to a disability or long-term limiting illness/medical condition where sharing creates difficulties and it is having a detrimental effect on their health and wellbeing;
  - p) Tenants who have signed a fixed term tenancy agreement where their landlord refused to release them from the tenancy unless the tenant pays a penalty as stated in the tenancy agreement; DHP payment limited to the end of the tenancy term;
  - q) People who need to live near their jobs because they work unsocial hours or split shifts; or where moving home may mean living in an area where public transport would be inadequate to enable them to sustain their current job;
  - r) People who are responsible for a disabled child who requires a bedroom of their own but where the child is not entitled to the care component of disability living allowance at the highest or middle rate and where the authority is satisfied by virtue of the child's disability that they are not reasonably able to share a bedroom with another child;
  - s) People who are responsible for a child who is not disabled but who they consider requires a bedroom of their own due to some underlying personal/behaviour/emotional situation which would have a detrimental effect on both the child themselves and the child who they shared a room with;
  - t) People who have been placed in a property at short notice, which has too many bedrooms for their needs in order to avoid homelessness. (Limited to a total of 24 months period of award). These applications will be accepted from DCC Housing Solutions Team only;
  - u) People who reside in a property which has been adapted under the \*Sanctuary Scheme or similar scheme making it difficult to move to alternative accommodation. This could include adaptations such as a panic room, installation by the Police of CCTV or Panic Alarms at the property;
- \*A Sanctuary Scheme provides for the adaption of a house or flat to make it secure and for on-going security monitoring to enable people who have been subjected to violence to remain in their own home.
- v) Households where an additional bedroom is used for an overnight carer, who is not a member of the household, to provide care to a

member of the household other than the claimant/partner on a regular basis.

### **Definition of a property which has been significantly adapted**

40. *A property which has had significant alterations to, or a bespoke design of the building structure designed to meet the needs of the claimant, partner or another member of the household who is disabled. This would include extensions, through floor lifts, widening of door frames for wheelchair access but would not include level entry showers (wet rooms), ramps, grab rails or stair lifts.*

*For the purpose of this policy the claimant, partner or member of the household who is disabled and for whom the adaptations have been carried out must be in receipt of Disability Living Allowance or Personal Independence Payment.*

### **Review of Priority Group - Long Term Awards**

41. Those qualifying for long term awards under a priority group will be required to complete a DHP review application at the end of the award period. This will allow us to identify whether a further DHP award is required.
42. Where the customer continues to meet the qualifying criteria a further DHP will be awarded usually for a further 52 weeks where relevant.

### **Non-Priority Groups – Short Term Awards**

43. In considering applications, the council will consider short-term awards for a period up to 52 weeks for those who do not fall within a Priority Group. Only one short-term award will be paid in a three-year period.
44. The total period of any short-term award will not exceed 52 weeks, and this includes any backdate periods.
45. Customers applying for a DHP award beyond 52 weeks may be considered for a further short-term award up to a maximum of 6 weeks if they meet the following criteria:
- Where a customer has secured a more affordable property and is due to move within 12 weeks of the DHP end date and require assistance to the date of their move;
  - Where a customer will have an increase in employed hours within 12 weeks of the DHP end date giving additional income enabling them to afford their rental liability;

- Where a customer has a lodger due to move in within 12 weeks of the DHP end date giving additional income enabling them to afford their rental liability.

### **Customers moving from Housing Benefit to Universal Credit**

46. When a customer's HB stops following a claim to Universal Credit (UC) the council will award an eight-week extension of their DHP. This will be paid on receipt of evidence to confirm that their UC includes the housing element. The amount paid will be equal to the rate of DHP awarded whilst in receipt of HB.

### **Dis-engagement with Housing Solutions/Housing Providers**

47. Customers who qualify for a DHP award (under a short-term or priority group) who do not continue to engage with Housing Solution/Housing Provider will have their DHP stopped and no further payments will be made.

### **Backdating a Discretionary Housing Payment**

48. The Benefit Service will look at each claim on its own merits when deciding whether to backdate a DHP and will act fairly and consistently.
49. DHP can only be considered for a period where the linked housing benefit or universal credit is payable.
50. Any backdated period will not exceed a total of 26 weeks and will be included towards the initial 52-week award period for both short and long term awards.
51. Consideration will be given to the following when considering a request:
  - Personal circumstances;
  - Make-up of the household.

### **Method of payment**

52. Customers who are in receipt of housing benefit will receive the DHP at the same time.
53. Customers who are in receipt of universal credit will receive the DHP as a separate payment on or around the fifth of each calendar month.
54. DHP payments will be made to the customer or their landlord.

55. The Benefit Service will have the final decision as to the most appropriate person to pay and the method and timing of payments, based upon the particular circumstances of each case.

### **Notification**

56. The Benefit Service will notify the customer of the outcome of their application in writing. Where the application is unsuccessful, the notification will state the reasons why.
57. Where the application is successful, the notification will advise:
  - the weekly amount of DHP award;
  - the period of the award;
  - how, when and to whom the DHP will be paid;
  - the requirement to report any relevant change;
  - Information for the customer detailing how to request a reconsideration of our decision.

### **Changes in circumstances**

58. All changes in circumstances must be reported within one month of the change happening and depending on the nature of the change, the DHP award may be amended.

### **Re-consideration**

59. DHPs are discretionary and not subject to the statutory appeals mechanism.
60. A customer or appointee who disagrees with the outcome of a DHP assessment may dispute the decision. The request must be made in writing, signed by the customer (or signed authorisation for someone to act on their behalf) and received by the Benefit Service within one month of the written decision about the DHP.
61. The Benefit Service will reconsider the original decision (by an officer other than the one who made the original decision) and notify the customer of the outcome of their dispute in writing. Where the original decision is upheld the notification will state the reasons for the decision.
62. The outcome of the reconsideration will be final and binding and may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman.

## **Overpayments**

63. Where a DHP is found to have been overpaid, the Benefit Service will consider whether it is appropriate to recover it in full, in part or not at all. As a rule, overpayments caused by official error will not be recovered, unless the customer caused or contributed to the error or was aware that too much was being paid.
64. Where it is decided to recover an overpayment from the customer or payee, an invoice will be issued.
65. Notifications to the customer on overpaid DHP's shall offer the opportunity to seek a re-consideration.
66. Under no circumstances will recovery be sought for DHP from housing benefit payments or universal credit payments due to the customer.
67. DHP overpayments can be written off in accordance with the authority's current write off policy.

## **Fraud**

68. Durham County 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.
69. Any information submitted as part of the DHP application process may be used to cross match against other information held by the authority as part of benefit application processes.
70. Where it is alleged or the authority 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.

## **Monitoring and review of the policy**

71. As a result of the increased funding to local authorities for DHP, the government requires the council to monitor how DHPs are being used to support customers affected by the welfare reforms. In addition to the annual DHP claim form we will also be required to provide a broad breakdown of our expenditure.
72. Following a successful application for a DHP we will record the main reason for the award being given from one of the following:
  - to support a customer affected by benefit cap;
  - to support a customer affected by social sector size criteria;
  - to support a customer affected by LHA reforms;

- any other reason.
73. The four main reasons reflect the intent of the increased funding.
  74. Monitoring returns are required to be returned to the DWP twice a year on 30th April and 1st September.
  75. This policy has been designed to manage demand and ensure that DHP is only awarded to those most in need and that all applications are handled consistently.
  76. The council will continue to carefully monitor the number and value of DHP awarded from 1 April 2013, including monitoring by the protected characteristics set out in the Equality Act 2010, and by priority group as defined in this policy.
  77. Records and monitoring will be also kept of applications that have been refused and the reasons why.
  78. This policy will be kept under review.