



# Discretionary Housing Payments Policy

## 1. Introduction

### Background

- 1.1 The Discretionary Financial Assistance Regulations 2001 (amended) makes provision for local authorities to provide additional financial assistance to applicants in receipt of Housing Benefit (HB) or the Housing Element within Universal Credit (UC).
- 1.2 Each financial year the Department for Work and Pensions (DWP) allocates funding to local authorities (the government contribution). It also sets the overall expenditure limit for Discretionary Housing Payments (DHP), which is currently set at 2.5 times this contribution.
- 1.3 St Helens Council will determine each financial year the amount it intends to spend on DHPs. Expenditure in excess of the government contribution will be funded from general fund. Any unspent DHP funding below the government contribution will be returned to the DWP at the end of the financial year.

## 2. Administration

### Applications

- 2.1 St Helens Council's Benefit Service is responsible for the administration of DHPs. Decisions about who is entitled to a DHP is made in accordance with the guidelines set out in Section 3 of this policy.
- 2.2 In most cases the person who applies for a DHP will be the person entitled to the linked HB or UC claim. Applications may also be accepted from someone acting on behalf of the person concerned, if the Council thinks it reasonable to do so. Throughout this policy, references to 'the applicant' should also be read, where appropriate, as also referring to anyone who acts on the applicant's behalf.
- 2.3 A DHP cannot be awarded without an application for such payment. In most cases, the application should be made on the application form or web-form provided for this purpose.
- 2.4 In exceptional circumstances an application may be accepted that, although not made on the form provided by the Council for the purpose, is in writing and provides sufficient information to enable a decision to be made on the applicant's entitlement to a DHP.
- 2.5 DHP forms will be made available at the Council's Contact Centre, Wesley House, Corporation Street, St Helens WA10 1HF. Completed forms will be accepted in person at the Council's Customer Contact Centre or by post addressed to:  
St Helens Council, PO Box 10592, Nottingham. NG6 6DP
- 2.6 Web forms will be made available on the Council's website at [www.sthelens.gov.uk/benefits](http://www.sthelens.gov.uk/benefits) . Applicants for DHPs using the web forms should follow the instructions on the website for their completion and submission.

## **Evidence and information**

- 2.7 In deciding if a DHP should be awarded, the following evidence and information will be considered:
- information provided by the applicant on the DHP form
  - information provided by the applicant on the linked HB claim
  - any information available to the Council in relation to the applicant's UC claim
  - any other evidence or information provided by the applicant in support of their claim.
- 2.8 The Benefit Service may make reasonable requests for further information from the applicant in order to make a decision about entitlement to a DHP. The Benefits Service will confirm all such requests in writing. The applicant will be asked to provide evidence and information within one month of the date of the request being made, although this time limit may be extended in appropriate circumstances.

## **Notification of decisions**

- 2.9 Decisions on applications for DHPs will be made within 14 days of all supporting information and evidence being received by the Benefits Service, or as soon as reasonably practicable thereafter.
- 2.10 All decisions will be made in writing or via electronic notification and sent to the applicant.
- 2.11 DHP decision letters will contain the following information:
- the date the decision was made
  - the reason(s) why the award has, or has not, been made
  - where an award has been made, the amount of the DHP awarded and the period of the award
  - where an award has been made, the details of any actions the Benefits Service considers it reasonable for the applicant to make to remove the need for a DHP
  - examples of changes in circumstances which the applicant should notify to the Benefits Service
  - information about how the applicant can ask for the decision to be reviewed.

## **Review and disputes procedure**

- 2.12 An applicant or their appointee who disagrees with a decision may request a review of the decision. All such requests must be in writing and received by the Benefits Service within one month of the date of the original decision. This time limit will be extended if the applicant has good cause for making a late request for a review.
- 2.13 Following an applicant's request for a decision to be reviewed, the review will take place within one month of the request being made, or as soon as reasonably practicable thereafter. No officer will review his or her own decision.
- 2.14 The applicant will be notified in writing about the outcome of the review. The written notification will include the reason or reasons why the reviewing officer considers the original decision to be correct, erroneous or has been amended in any way.
- 2.15 If, following the review, the applicant remains dissatisfied with the decision; they may choose to seek legal advice to pursue a Judicial Review. A complaint can also be made to the Local Government Ombudsman if there is an allegation of maladministration. In such cases, the applicant should make a complaint via the Council's Corporate Complaints procedure in the first instance.

## **Changes in circumstances**

- 2.16 The applicant must notify the St Helens Council's Benefits Section of any relevant change in circumstances which he or she might reasonably believe may affect his or her entitlement to a DHP. The duty to notify the Benefits Section of the change in circumstances begins on the date the application for the DHP is made and continues for as long as the person receives a DHP.
- 2.17 Any obligation placed on the applicant by the Housing Benefit regulations, or the Universal Credit regulations, to report changes applies to the same extent for DHPs. Examples of changes which must be notified to the Benefits Section include:
- changes in rent, including changes of address
  - changes in the status of other members of the household, including non-dependants
  - someone leaving or joining the household
  - changes in capital or income
  - changes relating to the payment of HB to the landlord
  - changes relating to the payment of the Housing Element of UC to the landlord
  - absences exceeding or likely to exceed 13 weeks
- 2.18 This is not an exhaustive list and applicants are encouraged to contact the Benefits Section if they are in any doubt as to if a change in circumstances is likely to affect their entitlement to a DHP.
- 2.19 All changes in circumstances must be reported in writing or by the submission of a web form designated by the Council as suitable for reporting changes.
- 2.20 Changes in circumstances that applicants have a duty to report for Housing Benefit purposes may also be relevant to a DHP award. Information received by the Benefits Section for the administration of Housing Benefit may be used to review the level and continuation of a DHP award.

## **Method and timing of payments**

- 2.21 Payments will usually be made to the applicant. A DHP may be paid to someone other than the applicant if the Council considers it reasonable to do so. This may be the agent, an appointee or the landlord.
- 2.22 Payment will be by the most appropriate method, usually BACS.
- 2.23 DHPs for Local Housing Allowance claimants, where HB is paid direct to the claimant will be paid fortnightly in arrears. In all other cases they will be paid four weekly in arrears.

## **Stopping a DHP**

- 2.24 DHP will be stopped when
- the award period ends;
  - there is a change in the applicant's circumstances that mean they no longer are entitled to a DHP under the policy;
  - the payment of the DHP was made because someone failed to disclose a material fact, either fraudulently or otherwise; or
  - when the applicant was paid a DHP as a result of an error

## **Overpayments**

- 2.25 The Council will recover DHPs where a payment has made as a result of:
- a misrepresentation or failure to disclose a material fact, fraudulently or otherwise; or
  - an error was made when a decision was made on the application
- 2.26 The method of recovery will broadly follow that as set out in the Council's Debt Recovery Policy for the recovery of Housing Benefit overpayments, taking into account the size of the debt, the amount outstanding and the financial and other relevant circumstances of the debtor.
- 2.27 Debtors who say they are unable to repay the debt in instalments at the standard rate may be asked to complete an income and expenditure statement. This statement will be used to determine what lesser instalment it is reasonable to expect him or her to repay.

## **Fraud**

- 2.28 The Council takes the threat of fraud seriously. Anyone who tries to claim a DHP by falsely declaring their circumstances or providing a false statement or evidence may commit an offence under the Theft Act 1968 or the Fraud Act 2006. The Council will investigate all cases where such a fraud may have been committed. Criminal proceedings may be taken in appropriate circumstances.

## **3. Guidelines for awarding DHPs**

### **General principles**

- 3.1 The applicant must be entitled to Housing Benefit or the housing cost element of Universal Credit before an award of a DHP can be considered.
- 3.2 The applicant must also have a rental liability and require further assistance with their housing costs. In the context of this policy "housing costs" means:
- rental liability;
  - rent in advance;
  - deposits; and
  - other lump sum costs associated with a housing need such as removal costs
- 3.3 Certain rent cost cannot be met by DHPs, including:
- ineligible service charges
  - increases in rent due to outstanding rent arrears
  - sanctions to benefits

## **Mitigating the impact of welfare reform**

- 3.4 To assist Housing Benefit claimants through the transitional period of welfare reforms, the Government has provided additional financial support to local authorities to enable them to provide assistance by means of Discretionary Housing Payments.
- 3.5 The Government has indicated that it expects that DHP awards will be particularly targeted at certain groups of Housing Benefit claimants, namely
- those subject to the room restriction in the social rented sector, particularly foster carers and those with accommodation significantly adapted for the needs of a disabled occupier
  - those subject to the benefits cap, particularly kinship carers and those families for whom the immediate application of the cap would put the health, well-being, education or safety of a child at risk
  - those subject to the impact of Local Housing Allowance reforms
- 3.6 The Council will also seek to give priority for DHPs to other claimants who have been affected by the welfare reforms, but who have not specifically been identified by the Government as in need of financial assistance. These are applicants
- who are, or who have a member of their household who is terminally ill
  - who are, or who have a member of their household who is disabled
- 3.7 In some circumstances it may not be appropriate to award a DHP as other provisions exist with the Housing Benefit Regulations to address, for example, cases of under occupation where a disabled child cannot share a bedroom with another sibling, or where another adult living in the household requires care from a non-resident overnight carer
- 3.8 The Council will also seek to assist:
- those who are within 12 months of state pension age, and who on achieving that age will no longer be subject to the cap
  - those who are within 12 months of qualifying for an additional bedroom because of the age or gender of a child, and who will no longer be subject to a restriction.
  - those applicants whose circumstances are not included in any of the above priorities, but whose circumstances indicate such financial hardship that they merit a DHP award.

## **Priority between awards**

- 3.9 Due to the number of Housing Benefit claimants who are affected by welfare reforms, it will not be possible to assist everyone. The Council will prioritise DHP awards in relation to the relative needs of applicants.
- 3.10 Generally, awards will be made in the following order:
- approved or prospective foster carers or adoptive parents
  - those living in significantly adapted accommodation to meet disablement needs
  - those subject to the benefit cap
  - those affected by the changes to Local Housing Allowance
  - claimants who, within 12 months of the date of the application for a DHP, will qualify for an additional bedroom under the size criteria and who will no longer be subject to a 14 percent or 25 reduction in eligible rent
  - claimants who will achieve state pension credit within 12 months of the date of the application for a DHP and will no longer be subject to the room restriction

- 3.11 There will be other circumstances not listed above which merit a DHP award. Each application will be treated on its own merits. Generally, however, an application will not succeed if the only reason for the application is financial hardship caused by welfare reform and there are no other factors to be taken into account.

### **Factors to be taken into account**

- 3.12 In making a decision the following factors may also be taken into account
- the amount of the shortfall between Housing Benefit (housing cost element within Universal Credit), and the contractual rent
  - any steps the applicant has taken to reduce his or her rental liability
  - the financial circumstances of the applicant, the applicant's partner and any other members of the household
  - the income and expenditure of the claimant, the claimant's partner and any other members of the household
  - any savings or capital that may be held by the claimant and members of his or her family
  - the level of indebtedness of the claimant and his or her household
  - the exceptional nature of the claimant's circumstances or the circumstances of their family
  - the possible impact on Council services and resources of not awarding a DHP

### **Rent arrears and repossession action**

- 3.13 Rent arrears recovery or possession proceedings by the landlord will not, of itself, be triggers for the award of a DHP.

### **Amount of award**

- 3.14 In all circumstances, the amount of the award will depend on the factors set out at paragraph 3.12 of this policy. The amount may be varied either upwards or downwards at the discretion of the decision maker, should the facts and circumstances of the application merit either a higher or lower award.
- 3.15 The amount of the award may be varied to take into account the overall DHP funding available in any one year and the expected number of applications that will be received during the financial year.

### **The length of the award**

- 3.16 No award of a DHP can be made beyond the end of the financial year, which runs from April to March.
- 3.17 Awards will generally be made for periods of 4, 13, or 26 weeks or to the end of the financial year. In deciding on the length of an award in any individual case, the following will be taken into account:
- the degree of priority which the application has under this policy
  - the duration of the circumstances which have resulted in the award being made
  - any change in circumstances that is likely to mean that a DHP will no longer appropriate

### **Start of payment**

3.18 Payment of the DHP will start:

- on the Monday following the date of the application; or
- on the date on which entitlement to HB or UC started providing the claim for the DHP is within one calendar month of the date the HB claim was decided

### **Backdating**

3.19 Decisions to backdate DHPs will be made on their merits. However, a DHP can only be backdated where there is a linked HB or UC award.

### **Expectations of successful applicants**

3.20 Successful applicants for DHP may be expected to take one or more of the following actions where appropriate:

- ask the landlord to reduce the rent
- seek cheaper alternative accommodation
- seek smaller alternative accommodation
- seek money advice or debt counselling
- seek advice on budgeting
- change spending patterns on non-essential items
- claim welfare benefits or other monies to which they may be entitled

This list is not exhaustive and other actions may be expected of the applicant.

3.21 Where an applicant is expected to take action to reduce their housing costs, that action will be detailed in the award letter sent to them.

## **4. Data Protection**

4.1 As part of the application process, the Council will collect personal data in respect of the applicant and their family if they have one. Data will be held and processed in accordance with the principles of GDPR. For further information please refer to the Council's Privacy Notice and Data Retention policy.

**Reviewed: 14 June 2019**

**Responsible Officer: Keith Holland (Benefits Manager)**

**Equalities Impact Assessment: Y / N**

**Approved : 20 June 2019**

**Admin Decision : CORP000592**