

# Discretionary Housing Payments (DHP) Policy

Effective from April 2013

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## CONTENTS

1. **Policy objectives**
2. **Responsibilities**
3. **Claim categories**
4. **Claiming DHP**
5. **Decision making framework**
6. **Notification of decision**
7. **Payment**
8. **Overpayments**
9. **Right to review / appeal**
10. **Monitoring, quality and financial assurance**
11. **Reporting and review**

## **1. Policy objectives**

This Discretionary Housing Payments (DHP) Policy complements other Corporate and Housing Service obligations in preventing hardship and housing insecurity. This policy provides access to further financial assistance with housing costs to the most vulnerable where the authority considers that this help is required.

Recent guidance given by the Department for Work and Pensions has expanded the ways in which DHP can support households and has been incorporated in to the body of this policy. The more familiar and well practiced topping up the difference between the rent payable and the lower levels of benefit entitlement is now complemented by being able to help with the large one off costs of moving in to a new private rented tenancy.

The Authority needs to ensure that all households who may develop financial hardship and housing insecurity are identified early on to explore the opportunities to claim DHP either as a way to assisting with securing an appropriate private rented tenancy or as away of meeting the full amount of the rent payable, or both.

Particular priority is given within this new policy to protect those households with disability and serious ill health as well as the prevention of homelessness.

## **2. Responsibilities**

### **a. Legal responsibilities**

Authority for Local Authorities to make DHP payments arises from statutory Discretionary Financial Assistance Regulations 2001. This discretion comes in the form of a cash limited discretionary fund allowing Authorities provide financial support for those in housing need. Such decisions are left with authorities through them drawing up and approving their own local policies.

When exercising such discretions there is a legal obligation on authorities to act judiciously and to ensure that they do not simply apply rigid blanket policies. The authority has a duty to act fairly, reasonably and consistently. This policy provides a guiding framework but also still allow sufficient discretion left to officers in making decisions following the ordinary principles of decision making where each case is judged on its own merits.

### **b. Financial responsibilities**

Statutory Financial Orders prescribe a maximum allowable amount of discretionary housing payments that the Elmbridge can make each year. Known as the permitted total, for 2013/14 this has been set for Elmbridge at £706,250. Article 7 of the DHP Grant Order 2001 states that authorities must not exceed the permitted total allowed otherwise they would be acting beyond their legal powers. There is also a Section 151 responsibility on the authority to submit a DHP claim form to the DWP providing details of DHP expenditure and from April by different categories of claim types under strengthened assurance arrangements.

DWP provides a direct financial subsidy for 40% of the part of the value. For 2013/14 financial year the subsidy level has been set at £282,500. This is a 73% increase on the current year. There is a financial incentive to spend up to this limit otherwise next year's subsidy will be reduced. Elmbridge seeks to pay out the full amount of subsidy awarded again. It is therefore crucial that the budgetary level of payments is actively monitored with a view to paying up to the maximum but with qualifying criteria set to balance demand and ability to pay up to that level.

### **c. Customer responsibilities**

A core element of this policy is that customers are expected to act responsibly by taking tenancies at reasonable rents and ensuring that they seek and receive appropriate housing advice before taking on or renewing tenancies.

Customers seeking to demonstrate vulnerability or hardship to support their claim will need to provide sufficient proof of any medical factors and / or breakdown of all relevant debt and expenditures.

Customers who are not considered vulnerable will need to provide evidence of job seeking activities and specifically liaison with partner agencies including job centre plus and other employment support bodies.

Customers who meet the qualifying conditions for a DHP award must sign and return an agreement to the terms and conditions, including their duty to notify and changes of circumstances and the repayment of any overpayments.

## **3. Claim categories**

There are two main higher level categories of DHP award. These are:

- a. Ongoing weekly top ups / shortfalls in rent, or
- b. One off payments assisting with the costs of securing a tenancy

Within the more weekly top up category there are several sub categories.

### **a. Ongoing weekly top ups**

This category contains the historic majority of the current DHP caseload as well as the overwhelming majority of future DHP requests. These will come from four main sources; these being:

- The existing LHA shortfall DHP caseload;
- LHA shortfall DHP cases;
- Total Benefit Cap cases;
- Social housing tenants under occupying their homes;

All of these cases receive weekly top ups above the level of housing benefit calculated as weekly amounts in each case. These are known as shortfalls in rent. The maximum DHP award that can be made is that of any shortfall between the weekly equivalent full rent actually charged and the housing benefit award level.

### **The existing LHA shortfall DHP caseload**

These cases constitute nearly all of the DHP expenditure since the LHA scheme was introduced. These are where the rent payable is above the relevant LHA level owing to phased reductions in LHA. Unless these households find suitable cheaper accommodation or cease to claim housing benefit many, if not most, are likely to continue to reclaim at the end of their current DHP award. They are a known caseload so some predictions of expenditure commitments may be possible.

### **LHA shortfall DHP cases**

LHA shortfall cases arising from April 2013 are likely to constitute an ongoing steady additional demand on the DHP fund given that most new tenancies will be taken at rents higher than the now well embedded 30% decile, lower LHA rate.

### **Total Benefit Cap cases**

These are the cases where an annual ceiling of income from all specified benefits is applied to households, mostly households with children. Around 40 cases are known. These constitute the largest shortfalls, most over £50 with a further significant number over £100 per week. The DWP's own allocation formula for the 2013/14 DHP subsidy allocation assumes that these cases will command a significant call on DHP resources.

### **Extra rooms cases / Under occupation in social housing**

Within the private rented sector this category contains a relatively small number of cases but these are some of the highest value DHP payments. These are cases where the authority has made the decision to allow the claimant extra financial support to rent accommodation with one room more than the standard statutory LHA criteria. Many of these cases will continue to claim DHP for some time as long term awards and repeat awards.

The implementation of the under occupancy charges in social housing will add to this category from April 2013. There may be upwards of 400 cases affected in the Borough. Many of these will claim DHP owing to disability and access the DHP fund to support an acceptance of the need for a further bedroom.

Examples of such valid cases are where there is particular social or medical reasons disability or mental health issues requiring the members of a partnership to occupy different rooms for sleeping or dependents requiring a separate bedroom where the statutory rules do not allow for this.

For social housing cases that have been successfully nominated for a new social housing tenancy since April 2012, but are nonetheless now over occupying, they will be entitled to transitional protection of six months DHP to allow them to make alternative arrangements with their landlord.

## **Future proofing for Universal Credit**

Following the introduction of Universal Credit (phased from October 2013) authorities will have to consider claims from customers who are not receiving housing benefit. Customers receiving Universal Credit will not receive specific amount towards housing costs there authorities will have to decide on the amount of DHP to award provided it does not exceed the weekly eligible rent.

## **Level of awards**

Most successful applicants will receive DHP to meet the shortfall between the actual rent payable and the level of local housing allowance. This will only be up to the level of rent payable for appropriately sized property. This will also only apply when the rent payable is considered reasonable for this suitably sized property by comparison with the general market rent for similar properties in the locality. Where the rent is unreasonably high then the maximum DHP award will be up to the level of reasonable rents for suitably sized properties.

For tenants of social housing affected by under occupancy charges successful applicants will receive DHP up to the level of one bedroom extra. Awards for two bedrooms extra will be rare and will only be payable for reasons of extreme or multiple disability and / or extreme ill health in exceptional circumstances.

## **Length of awards**

The length of the award will generally be for six months subject to further review when approaching that time. Awards may be reduced to three months if budget profiling shows that there is a realistic prospect of budget overspend.

As a general rule cases where permanent ill health or disability where there is no or extremely limited capability for work will be long term awards. This will be for a minimum of six months and up to twelve months in cases where that is the term on offer as part of the tenancy. It is likely in cases of permanent disability or ill health, that in the absence of suitable alternative housing options, these cases will have their DHP reinstated at renewal of tenancy, possibly several times over.

Alternatively, cases involving able bodied, non vulnerable, householders with a reasonable prospect of work will be short term awards of no more than three to six months and that upon re application will have to be thoroughly reviewed each time.

Cases will generally not be backdated unless good cause has been proven in respect of an associated housing benefit claim under the statutory scheme. Any backdating will align with housing benefit regulations. A DHP can only be considered for a period where the linked HB is payable.

## **b. One off payments**

This DHP has only very recently begun to be employed. This category has a limited provision both financially and in terms of the number of cases that can be helped. It is able to assist with the upfront, one off costs of taking up a tenancy, including

deposits, rent payable in advance and any other lump sum costs such as removals, agency fees etc. These will be paid as upfront one of payments to either tenants or landlords.

These cases are focused mainly on cases where there is either a formal homelessness duty or 'as if homeless' as assessed and notified to DHP administrators by the Housing Options team. The use of DHP is intended to assist where a homelessness duty applies or would apply by assisting in finding a suitable tenancy in the privately rented sector.

These cases can also include those assisted via the Elmbridge Rental Support scheme, or partner agency Rent Start scheme.

These will often be cases where housing choices are forced on the customer by urgency, imminent threat of eviction or very real likelihood of homelessness.

The number of cases able to be assisted via this category is likely to be limited to around 12 cases each year with an expected total annual expenditure of £15,000.

#### **4. Claiming DHP**

There must be a claim for DHP. A claim must be made either on the authority's own electronic e\_DHP form on the web site or on a traditional paper DHP claim form. Before any claim can be formally accepted this must have been properly completed in accordance with the instructions contained on the form and have provided all of the relevant accompanying documentary evidence required to substantiate statements made on the claim.

#### **5. Decision making framework**

This policy provides a framework by which officers are guided in their decision making, ensuring consistent treatment of customers but allowing for sufficient discretion on the merits of each case.

Housing costs that can be assisted through this policy include ongoing rental liability, rental deposits, rent in advance and other lump sum payments required in the setting up of a home. Housing costs that cannot be assisted are ineligible service charges, increases in rent due to rent arrears or certain prescribed sanctions and reductions in benefit.

There are some key qualifying criteria that must be met. These are called essential criteria and determine whether, or not DHP is awarded; all of which must be met.

##### **Essential criteria**

To meet these essential criteria the claimant must require further financial assistance with housing costs and there must be:

- sufficient DHP funds available at the time of making the decision and,
- a valid rental liability for the property, and

- a current underlying entitlement to Housing Benefit, or (from October 2013 onwards) Universal Credit, and
- the relevant tenancy is within the Borough, except in cases where the authority has a statutory housing duty, and
- a shortfall between the full rent payable and Housing Benefit award level (although this will not equally apply to Universal Credit), and
- a properly completed claim together with all relevant evidence as reasonably required, and
- a proven local connection either by their prior establishment within the Borough or their need to live here for employment or family reasons and,
- reasonable attempts have been made to seek to persuade the landlord to reduce the rent.

### **Discretionary criteria**

There are a secondary set of discretionary criteria, which fall under four broad categories of:

- Vulnerability
- Housing Needs
- Work focus
- Other Programmes

A weighted DHP scoring system applies for these criteria. These include such considerations as:

#### **Vulnerability**

- relevant adverse health, medical or social factors exist in the household,
- the property has been specially adapted due to disability,
- debts and expenditure assessments evidence financial hardship.

#### **Housing needs**

- threat of homelessness,
- all relevant housing advice has been sought, received and acted upon,
- a rising age band will have a key entitlement effect in the next 6 months,
- the claimants are registered foster carers or formal carers.

#### **Work focus**

- all relevant employment seeking activities are being pursued.

The discretionary criteria employ a weighted DHP scoring system. The highest weightings attach to disability and / or serious ill health factors where these factors affect the number of bedrooms required and / or any necessary adaptations to the property. They also reflect the adult householders' inability to improve their income or housing circumstances via employment opportunities. In most cases these can be evidenced by receipt of qualifying disability related benefits.

There is also recognition within the scoring system to those already in work as well as adult householders actively seeking work and liaising with Job Centre and others regarding employment opportunities.

As guides to officers in making their decisions an indicative threshold is used. This threshold and the weightings will be kept under regular review and are likely to be varied during the year dependant upon the financial demands on the fund.

## **6. Notification of decision**

All claimants of DHP will be formally notified of the decision. Successful claimants will be informed of the weekly amount of the award, the period for which it is given including when it ceases. Unsuccessful claimants will be informed of the reasons why they were unsuccessful. Both successful and unsuccessful claimants will be given a right of appeal although the latter will constitute the most of these.

The notification will include a clear warning that the award is subject to financial considerations and the possibility of future shortened benefit periods. Successful claimants will have to sign a formal acknowledgement of acceptance of these terms and return this before receiving their award.

## **7. Payment**

Payments will generally be made to align with the underlying housing benefit. Where the claimant and landlord are in agreement as part of one of the above schemes payments are able to be made direct to the landlord. Payments will be made electronically direct in to bank accounts and not by cheque. With the introduction of Universal Credit (phased from October 2013), payments will be separate.

## **8. Overpayments**

Overpayments that are not Elmbridge's fault will be recoverable and where caused by the claimant will be recoverable from the claimant themselves. Where the landlord could reasonably have known that an overpayment was occurring but delayed in notifying Elmbridge then the overpayment is recoverable from them.

## **9. Right to a review / appeal**

Claimants unsuccessful with their claims for DHP have a right of appeal. These will be decided upon by a different officer to the one who made the original decision. This is also known as an internal review. Appeals need to be made in writing and give full reasons / grounds for appeal. Appeals must be received by the Authority within one month of the claimant being issued with a unsuccessful notification of decision. Notifications of decisions on internal review should be issued to the claimant within one month of the receipt of appeal or where this is not possible where reasonably practicable thereafter.

Claimants who appeal but are still dissatisfied at the outcome of the internal review are able to request one final review. All such further reviews are decided upon by the Housing Benefits Manager. Notifications of decisions on final review should be

issued to the claimant within 1 month of the receipt of appeal or where this is not possible where reasonably practicable thereafter. This is the final right to appeal available to claimants under the terms of this policy.

#### **10. Monitoring, quality and financial assurance**

All claims for DHP are recorded on the Academy Benefits IT system as well as a dedicated database to allow for monitoring of progress reporting on performance and research. The DWP have in their recent guidance strengthened up their assurance requirements of authorities as part of the DHP subsidy claims process to monitor and report by different categories of claim. This categorization, coupled with a new weighted scoring system, will assist in identifying unsuccessful claims who may be part of a reserve fund in the event of underspend.

#### **11. Reporting and review.**

Monthly reports on DHP payments made and financial projections will be provided by the Benefits Manager to the Heads of Housing and Finance.