



DISCRETIONARY HOUSING PAYMENTS POLICY

October 2018

Purpose of this policy

To ensure awards of Discretionary Housing Payments (DHP) decided by the City of London Corporation are made within the law and expectations of Government and meet changing needs. The objective of this policy is to treat each and every application for a DHP on its individual merits and ensures all claims will be treated equally and fairly

What are Discretionary Housing Payments?

Discretionary Housing Payments are payments made by the City of London Corporation to provide residents and tenants with further financial assistance when help with their housing costs is required. They are not payments of Housing Benefit or Universal Credit.

DHPs may be awarded when the City of London Corporation considers that a resident or tenant requires further financial assistance towards housing costs and is entitled to either Housing Benefit (HB) or Universal Credit (UC) with housing costs towards rental liability. (Please note that while the housing costs of the UC award notification may refer to support for mortgage interest payments, owner-occupiers are not eligible to receive DHPs). For the purposes of this document, any reference to UC is where the claimant meets the above criteria, i.e. housing costs towards rental liability are included in the UC award

The DHP scheme covers shortfalls between rental liability and payment of Housing Benefit / Universal Credit (Housing Costs). Shortfalls can occur due to: -

- The rent determined by the rent officer/ Local Housing Allowance being lower than the claimant's eligible rent
- Under occupation of a property
- Reduction in Local Housing Allowance rates for under 35's within either Housing Benefit or Universal Credit Housing Costs element;
- The 65 per cent taper being applied to the Housing Benefit/ Housing Costs calculation
- A non-dependant deduction being made to the claimant's eligible rent
- A social tenants eligible rent being reduced due to under occupancy
- The benefit cap being applied;
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The phrase 'further financial assistance' is not defined in law. Local authorities may interpret the phrase however they wish, taking into consideration the DHP claimant's financial circumstances and any other relevant factors.

In most cases, a claimant will need to demonstrate that they are unable to meet housing costs from their available income. In deciding whether to award a DHP, the Benefits Section will consider the following factors:

- The shortfall between Housing Benefit/Housing Costs and the rent liability;
- A shortfall in rent as a result of welfare reforms
- Any steps taken by the claimant to reduce their rental liability;
- The financial and medical circumstances (including ill health and disabilities) of the claimant, their partner and any dependants and any other occupants of the claimant's home;
- The income and expenditure of the claimant, their partner and any dependants or other occupants of the claimant's home;
- Any savings or capital that might be held by the claimant;
- The level of indebtedness of the claimant;
- The nature of the claimant's circumstances;
- Any other special circumstances.

Awards of DHPs will be considered on the individual merits of each case and therefore 'blanket' policies on the types of claimant or kinds of circumstances cannot be made. Decisions will be made in accordance with ordinary principles about good decision making, a duty to act fairly, reasonably and consistently. When deciding how to treat income from disability-related benefits such as Disability Living Allowance (DLA) or the Personal Independence Payment (PIP), regard will be had to the decision of the High Court in *R v. Sandwell MBC, ex parte Hardy*. This decision places an obligation on local authorities to consider each DHP application on a case by case basis having regard to the purpose of those disability related benefits and whether the money from those benefits has been committed to other liabilities associated with disability.

The amount of money left from the government contribution will not be a factor in decision making. Each case will be decided on its own merits, and decision making will be consistent throughout the year. Any unspent DHP funding from the Government contribution is returned to the DWP at the end of the financial year.

The DHP scheme is set out in the Discretionary Financial Assistance (DFA) regulations 2001 (S.I.2001/1167) as amended by the Council Tax Benefit Abolition (Consequential Provisions) Regulations 2013 (S.I. 2013/458), which came into force on 1 April 2013; and the Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), which came into force on 29 April 2013. The DFA regulations as amended are referred to in this document as 'the regulations'.

Who can receive Discretionary Housing Payments?

DHP's can only be considered if a person requires further financial assistance with their housing costs and:

- is entitled to Housing Benefit or eligible for housing support within Universal Credit and
- has a rent liability and
- there is a shortfall between the rent due and the amount of benefit being paid and
- the rental shortfall is not due to ineligible services (such as lighting, heating or water charges included in the rent) and
- the rental shortfall in Universal Credit cases is not due to a sanction

The City of London Corporation must be satisfied that the person requires further help with their housing costs and will demonstrate through its processes that it makes awards of DHPs fairly and consistently.

What Discretionary Housing Payments cannot cover

These are the elements of a person's rent and shortfalls in benefit that cannot be met by a DHP under the legislation:

- Ineligible charges: service charges that are not eligible for Housing Benefit/Housing Costs.
- Sanctions and reductions in benefit.
- Suspended payments of Housing Benefit/Universal Credit Housing Costs element.
- Shortfalls caused by Housing Benefit/Universal Credit Housing Costs element overpayment recovery;
- Universal Credit reclaims of payments on account; and
- Council Tax Reduction

Purpose of Discretionary Housing Payments

The City of London will publicise the scheme and work with all interested parties seeking to:

- alleviate poverty
- support vulnerable young people in the transition to adult life
- encourage the residents and tenants of the City of London to obtain and sustain employment
- safeguard City of London residents and tenants in their homes
- help those who are trying to help themselves
- keep families together
- support vulnerable people in the local community
- help people through personal crises and difficult events
- help with short-term rental costs until the person is able to secure and move to alternative accommodation
- help with on-going rental costs for foster carer
- help with on-going rental costs for disabled person in adapted accommodation

The right to seek a review

Generally, two officers will consider each DHP application to ensure consistency of decision making. The City of London Corporation may review its decisions in the event of disputes, but there are no appeal rights to an independent tribunal for DHP's. Reviews of decisions must be consistent and the original decision makers must not be involved. To minimise the risk of legal challenge the review is carried out by a more senior colleague than the person who made the original decision. The claimant should be notified of any review outcome in writing, including reasons, as soon as is reasonably practical

Overpayments

The Benefits Section will seek to recover DHP's found to be overpaid, where permitted. This will usually involve issuing an invoice to the claimant or the person to whom the award was paid. It is most unlikely that recovery of any overpayment caused by a City of London official error will be sought. The decision letter that notifies a decision that there is an overpayment will also set out the right of review.

This policy:

- applies to all members of staff involved in awarding DHPs
- reflects recognised best practise
- ensures all information will be stored and retained to ensure compliance with GDPR
- has regard to the rights of individuals and the obligations of the City of London Corporation under the provision of the Human Rights Act 1998
- will be reviewed periodically to take into account changes in demand and/or Government amendments

Version Control

Issue Number	1.0
Date	5 October 2018
Review Date	April 2020
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Document Control Revisions

Version	Page/Paragraph Number	Description of Change	Date Approved