



DISCRETIONARY HOUSING PAYMENTS POLICY

2018/19

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1. General

The Child Support, Pensions and Social Security Act 2000 introduced a scheme of Discretionary Housing Payments (DHPs) with effect from 2 July 2001. The legislation covering DHPs can be found in the Discretionary Financial Assistance Regulations 2001 (SI 2001/1167).

Rushcliffe Borough Council's Benefits Service will help to assist potential beneficiaries of DHPs to claim them. Claims for DHPs shall be considered carefully and fairly. Any decision on a DHP claim shall be endorsed by a senior officer. Reasons for every such decision shall be recorded and on request will be communicated to the person whose claim has been considered.

In making decisions upon claims for DHPs, officers shall have regard to the Discretionary Financial Assistance Regulations 2001 (SI 2001/1167) and to the principles of natural justice and equality of opportunities.

A DHP may be awarded when the Borough Council considers that a claimant requires further financial assistance towards housing costs and is in receipt of 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.

This policy is to be read in conjunction with the latest Guidance Manual for DHPs issued by the Department for Work and Pensions (DWP).

2. Purpose

The purpose of this policy is to specify how Rushcliffe Borough Council's Benefits Service will operate the DHP scheme and to indicate some of the factors that will be considered when deciding if a DHP can be made. Each case will be treated strictly on its merits and all customers will be treated equally and fairly. The Benefits Service is committed to working with the Council's Housing Options Team, local voluntary sector, social landlords and other interested parties in the Borough to maximise customer entitlement to all available state benefits and this will be reflected in the administration of the DHP scheme.

3. Statement of Objectives

The Benefits Service will consider making a DHP to customers who meet the qualifying criteria as specified in this policy. The Benefits Service will treat all applications on their individual merits and will seek through the operation of this policy to:

- alleviate poverty
- prevent homelessness
- reduce the need and use of temporary accommodation for homeless households
- encourage and sustain Rushcliffe residents in employment
- safeguard Rushcliffe residents in their homes
- help those who are trying to help themselves
- keep families together
- support the vulnerable in the local community
- promote stability in the private rented sector
- help customers through personal crises and difficult events.

Rushcliffe Borough Council considers that the DHP scheme should be seen primarily as a short term emergency fund. It is not and should not be considered as a “way round” any current or future entitlement restrictions set out within the housing benefit legislation. Although in some cases it might be appropriate to make long term awards.

4. What are ‘housing costs’?

‘Housing costs’ are not defined in the regulations and this approach purposely allows broad discretion for interpretation. In general, ‘housing costs’ usually refers to rental liability, although the term can be interpreted more widely to include:

- rent in advance;
- deposits; and
- other lump sum costs associated with a housing need such as removal costs.

Council Tax liability cannot be met by DHPs even where a claimant is receiving Council Tax Support.

5. Welfare Reform

The Government has been introducing a number of measures to reduce its expenditure on welfare. This has included a number of changes to the Housing Benefit scheme over the last few years. Therefore, the Government has considerably increased the funding nationally for DHPs.

This extra funding is intended to assist claimants through the transitional period of these reforms. The key welfare reforms include the:

- introduction of size criteria in the social rented sector
- reductions in Local Housing Allowance (LHA)
- introduction of the Benefit Cap

The DWP’s Guidance Manual for DHPs provides further information to assist Local Authorities with the administration of their funding allocation and wherever possible Rushcliffe Borough Council will look to follow this guidance.

Size criteria in the social rented sector

The Borough Council will also look to offer assistance to claimants in the social rented sector who apply for a DHP, who have had their eligible rent reduced by either 14% or 25% due to under occupying their property. The Government has given extra DHP funding to help claimants who have had their eligible rent reduced by either 14% or 25% due to under occupying their property and for whom moving to a smaller property may be inappropriate.

It is aimed disabled people living in significantly adapted accommodation including adaptations made for disabled children. The DWP expects that most claimants affected by this measure will find ways of making up the shortfall themselves, in order to remain in their existing homes.

There may be some claimants affected by the size criteria where a short-term award is appropriate.

Local Housing Allowance

The Borough Council will look to offer assistance to claimants in the private rented sector who apply for a DHP as a result of their HB being reduced due to LHA rates being uprated annually in line with the Consumer Price Index (CPI), instead of being set every month in line with market rents (Retail Price Index - RPI).

Benefit Cap

The Borough Council will look to offer assistance to claimants who apply for a DHP who have had their HB reduced as a result of the Benefit Cap of £26,000 which was implemented from 15 July 2013 and from 7 November 2016 the cap was reduced further to £20,000. Before some awards are made the Council will look to work in partnership with Jobcentre Plus, Strategic Housing, CAB and other voluntarily organisations) in order to offer the appropriate support to these claimants.

6. Universal Credit

Universal Credit (UC) is being phased in to replace Housing Benefit, Rushcliffe switched to live service on 15 February 2016 and is due to go live with the full service in October 2018, the Council continues to have powers to make Discretionary Housing Payments to help with housing costs as long as the claimant receives the housing element within their UC award.

The Council does not expect to use Discretionary Housing Payments as a general supplement to the level of Universal Credit paid but would make payments in line with this policy where the Universal Credit housing element was restricted below the claimant's actual rent on the basis of Local Housing Allowance rates or size criteria or where Universal Credit including a housing element was restricted by the household benefit cap.

7. Rent in advance, deposits and removal costs

A DHP can be awarded for a rent deposit or rent in advance for a property that the claimant is yet to move into if they are already entitled to HB or UC at their present home. When awarding a DHP for a rent deposit or rent in advance, the Council may ensure that:

- the property is affordable for the tenant; **and**
- the tenant has a valid reason to move; **and**
- the deposit or rent in advance is reasonable.

In the main these awards will be restricted to assisting moves into private rented accommodation. Where applications are received to assist with moves to RSL properties, the award will be limited to one week rent in advance and only when the claimant is not able to afford to pay for this out of their own finances.

8. Claiming a DHP

A claim for DHP must be made by the claimant in writing or by using our online application form. A letter, email or statement made at the Council's offices or received by a visiting officer will be deemed as sufficient providing the following conditions are met:

- On request or in appropriate circumstances the claimant will be issued with an application form to collect relevant data.
- This form will be date stamped and may be used as the date of claim.
- A senior officer may visit the claimant or ask the claimant to attend the office to establish the details of the claim and to obtain relevant supporting evidence.
- A senior officer may request any (reasonable) evidence in support of the application for DHP. The claimant will be required to provide the evidence within 10 working days of the date of the request, although this can be extended in appropriate circumstances.
- Bank statements showing all transactions for the previous two months for all accounts will be required for the majority of claims, there may be some situations where discretion will be shown regarding bank statements by the senior officer reviewing the application if the claimant cannot provide these or there is a will a significant cost to the claimant in obtaining the statements.
- Evidence from prospective landlords will be required for rent in advance and/or deposits and evidence will be required for any removal costs.
- If the claimant is unable to or does not provide the required evidence, a senior officer will consider the claim and either make a recommendation on the information available (including that held on Housing Benefit and Council Tax records) or make a decision to treat the claim as defective (and therefore reject the claim).
- Rushcliffe Borough Council reserves the right to verify any information or evidence provided by the claimant in appropriate circumstances.
- Rushcliffe Borough Council will seek to ensure the claimant maximizes their income by checking the availability of state benefits and other sources of financial assistance that may be available to the claimant before a decision is made - this could include disability benefits such as PIP and DLA or access to additional income through maintenance payments.

9. Period of award

A senior officer will decide the length of time for which a DHP will be awarded on the basis of the known facts and the evidence supplied.

The start date of a DHP award will usually be:

- the Monday after the Council receives the DHP claim, or
- the date on which entitlement to HB commenced, providing that the DHP claim is made within one month of the Council notifying the customer of the HB/ decision, or such reasonable extension of time as officers may consider appropriate in the particular circumstances of the case, or
- the Monday after a relevant change in circumstances giving rise to the need for the DHP, or
- any date which the senior deems appropriate to assist the claimant

– whichever is most appropriate.

A DHP shall not be awarded for any period for which the customer has no entitlement to either Housing Benefit or the housing element within their Universal Credit (UC) under the government's statutory schemes.

The minimum period for which a DHP may be awarded is one week, but in most cases DHPs will be awarded for not less than 13 weeks.

A senior officer will consider any reasonable request for backdating a DHP claim, but this will normally be restricted to the current financial year.

10. Awarding a DHP

The senior officer dealing with the claim shall consider the full circumstances and make a decision on how much, if any, DHP to award. The officer may consult with the Council's Housing Options Team prior to making the decision.

Whenever possible, the Borough Council will make a decision on any claim for a DHP within two weeks of receiving the necessary information and evidence, or as soon as is reasonably practicable thereafter.

In deciding whether to award a DHP, officers will take into account any of the following factors which may be relevant:

- the shortfall between HB or UC and the rental liability (less ineligible charges)
- any steps taken by the claimant to reduce their rental liability
- the financial and medical or social needs and circumstances of the claimant, their partner and any other persons in the household
- the income and expenditure of the claimant, their partner and any other persons in the household
- a weekly miscellaneous expenditure allowance equivalent to the respective earnings disregard for the claimant's circumstances, i.e. £5 for single claimants, £10 for couples, £20 if they receive a disabled or carers premium, or the support component of ESA and £25 for a lone parent will be included in addition to the claimant's declared expenditure
- when deciding how to treat income from disability-related benefits such as Disability Living Allowance (DLA) or the Personal Independence Payment (PIP), we must have regard to the decision of the High Court in *R v. Sandwell MBC, ex parte Hardy*. This decision places an obligation on the Borough Council 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.
- if the claimant has non-essential expenditure the Borough Council will use its discretion in deciding whether this can be allowed
- any savings or capital held by the claimant or family members
- the level of indebtedness of the claimant and family

- any exceptional circumstances of the claimant or family members
- any special reasons which make it necessary or especially desirable for the claimant to occupy the dwelling in respect of which the liability arises
- the probable consequences of rent or council tax arrears for the claimant or family members, especially if any of them are vulnerable by reason of age, sickness or disability
- action taken by the landlord (or the Council) to recover arrears of rent or council tax
- discriminatory impact of legislation (e.g. restrictions on the rent and applicable amount of younger single claimants)
- the amount available in the Council's DHP budget or within the limits of the permitted total
- the possible impact on the Council of not making an award, e.g. the pressure on priority homeless accommodation
- the cost and availability of suitable alternative accommodation within the borough
- claimants who have had significant disabled adaptations to their property funded through the Disabled Facilities Grant will not be subject to an income and expenditure calculation and will receive full support to cover any reductions due to welfare reform measures
- any other special circumstances brought to the officer's attention.

The senior officer will recommend how much to award based on all the circumstances. This may be any amount within the limits prescribed by the Discretionary Financial Assistance Regulations 2001. (For 2018/19, Rushcliffe Borough Council has received a government contribution of £123,603).

An award of DHP does not guarantee that a further award will be made at a later date even if the claimant's circumstances have not changed.

11. Changes of Circumstances

There may be a need to revise an award of DHP where the claimant's circumstances have changed.

As applicants for DHP must be in receipt of either Housing Benefit or Universal Credit they therefore remain under a general obligation to inform the Council of changes in their circumstances that might affect their claim for Housing Benefit.

12. Method of Payment

As a general rule DHPs will be paid together with Housing Benefit.

A senior officer dealing with the request will decide on the most appropriate person to pay (the claimant, their partner, their appointee or their landlord), and the method and timing of payments, based upon the particular circumstances of each case. In most cases payment with Housing Benefit will be the most convenient payment method.

13. Notification

The claimant will usually be notified of the outcome of their application within one working day of making the final decision. Where the application is unsuccessful, the notification will state the reasons for the decision.

Where the application is successful, the notification will advise:

- the weekly amount of DHP awarded, if any
- the period of the award
- how, when and to whom the DHP will be paid
- any actions that need to be undertaken by the claimant and/or their partner
- the requirement to report any relevant changes of circumstances

14. The Right to Seek a Review

DHPs are not payments of HB and are therefore not subject to the statutory appeals mechanism.

Rushcliffe Borough Council will operate the following policy for dealing with appeals against any decision on a claim for DHP:–

- A claimant or person acting on their behalf who disagrees with a DHP decision may dispute the decision or request the full reasons for it. A request for an internal review or for reasons shall be made in writing. Any request for a review must be made within one month of the customer being notified of the decision.
- Where appropriate, benefit officers will explain the decision to the customer by telephone, letter or email and will seek to resolve the matter.
- Where agreement cannot be reached, a different senior officer will consider the case.
- Where the different senior officer decides not to revise the original decision, they will notify the appellant of the outcome of the review, setting out the reasons for confirming the original decision.
- In exceptional circumstances only, officers may extend the time limit for an appeal.
- In exceptional circumstances only, if it appears that the interests of natural justice would not be served by the usual procedure, or if the customer still disagrees with the outcome of an internal review, officers will consider whether to submit an appeal to the Financial & Corporate Services, Service Manager for consideration. Their decision will be final and binding and may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman.

15. Overpayments

In the event that a DHP is found to have been overpaid, officers will consider whether it is appropriate to recover it in full, in part or not at all. As a general 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.

Overpaid DHPs will be recoverable from the claimant or the payee. In most instances the Council will invoice the claimant or payee. Under no circumstances will recovery be made from HB payments due to the claimant.

Any letter notifying a customer of a decision on overpaid DHPs, recoverability or the person from whom recovery will be made, shall offer the opportunity for the customer to seek a review.

16. Fraud

Rushcliffe Borough Council is committed to the fight against fraud in all its forms. A claimant 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, Social Security Administration Act 1992 and/or the Fraud Act 2006. Where it is alleged, or the Council 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.

Claimants are under a general duty to inform Rushcliffe Borough Council of changes in their circumstances. If they do not notify changes, they may lose money to which they are entitled or be paid too much benefit. It is an offence not to advise the Council about any changes that may affect their benefit, therefore the Council may take court action if too much benefit is paid and take appropriate action to recover the overpayment.

17. Publicity

Rushcliffe Borough Council wishes to publicise the availability of DHPs and will work with all interested parties, including the Council's Communications team, to achieve this. In particular, the Benefits Service will seek the cooperation of the Council's Customer Services and Strategic Housing sections, Citizens Advice Bureau, Jobcentre Plus, housing associations and voluntary sector organisations. A copy of this policy statement will be available for inspection and will be posted on Rushcliffe Borough Council's website.