



# **Telford & Wrekin Council**

**Discretionary Housing Payment**

**&**

**Council Tax Support**

**Hardship Assistance Policy**

**Effective from 1 April 2018**

## **1. Introduction and aim of policy**

This policy applies to all applications for Discretionary Housing Payment (DHP) and Council Tax Support Hardship Assistance (CTSHA).

The DHP scheme was introduced in July 2001 and is funded through an annual Department for Work & Pensions (DWP) cash limited grant. DHPs provide customers with further financial assistance, in addition to any welfare benefits, when a Local Authority (LA) considers that help with housing costs is required.

From 1 April 2013 Council Tax Benefit was abolished and replaced by Local Council Tax Support. Consequently DHPs can no longer cover shortfalls between Council Tax Benefit and Council Tax liability. As part of this Council's Council Tax Support scheme members have made a cash limited fund available to administer Council Tax Support Hardship Assistance to aid and assist the most impoverished families. A recommendation is made each year by cabinet as to the amount of any hardship funding available as part of the Council Tax Support Scheme which is approved by Full Council as part of the Council Tax setting process.

The aim of the policy is to ensure that the funding is used in the most appropriate way to provide additional financial assistance to the most vulnerable customers, who without it are likely to experience financial hardship, increased levels of unmanageable debt, homelessness, or the inability to secure or retain the appropriate type of accommodation based on specific need.

Whilst the legislation in relation to DHPs only gives a very broad discretion we have a duty to act fairly, reasonably and consistently. This policy gives the outline of when a DHP and or CTSHA award will and will not be granted.

## **2. Operation of the schemes**

Procedural requirements dictate that in every case the claimant must complete the appropriate DHP / CTSHA application form giving details of income and expenditure to show that they require further help with their housing or Council Tax costs. If an applicant has difficulty completing the application then assistance will either be given within First Point or through a home visit.

The Council will use any other available information, including information collected on the original Housing Benefit claim form when considering the claim for a DHP / CTSHA. However, the claimant should provide such available evidence as necessary in support of their claim, for example, a letter from a doctor, evidence of necessary exceptional expenditure, etc. We may request further evidence in support of the application.

A decision maker will speak with the applicant where it is deemed the applicant will benefit from further advice or additional information is required. This may be during a home visit, office interview or via telephone. The purpose of this conversation will be to give the applicant the opportunity to discuss fully their reasons for their application and will allow for

the decision maker to consider income, expenditure and family circumstances. This method of approach has two distinct advantages;

- Enables us to gather as much information as possible to assist with the final decision making process., In doing so it will identify possible entitlement to other welfare benefits or services which the claimant is entitled to which may improve their financial situation.
- It will enable the officer to identify areas and recommend steps that the applicant can take to improve and alleviate their hardship immediately or during the award.

In both the above scenarios a successful award of another benefit or action that the customer can take themselves will reduce or negate the need of a DHP or CTSHA award meaning that the extremely limited funds can be diverted to other cases of hardship.

There may be occasions where it may be deemed not necessary to speak with the applicant including those with a short term need because a known change such as the birth of a child which will end the need for a DHP or where another Officer of the Council e.g. social worker or Partner Organisation e.g. CAB is providing support and advice to the applicant.

The amount and duration of the award is at the discretion of the officers from Benefits Service with delegated responsibility for this function. However a claimant cannot receive a greater amount of DHP / CTSHA award than the shortfall in the weekly eligible rent or Council Tax after taking into account any Housing Benefit / Council Tax Support entitlement. The exception to this is one off lump sum costs such as rent deposits where the amount of shortfall does not determine the amount of the lump sum payment.

The expenditure on both DHPs and CTSHA will be monitored closely. Each month expenditure will be reported within the Revenues & Benefits monthly update which is circulated to the appropriate Service Delivery Managers and Assistant Director. DHP statistics regarding expenditure and the broad reasons for the award are submitted to the DWP on a biannual basis.

### **3. Factors to Consider**

#### **Conditions that must be met for Discretionary Housing Payments**

For a DHP to be considered the applicant must be entitled to:

- Housing Benefit; or
- Universal Credit that includes a housing element towards rental liability; and
- Has a rental liability; and
- Requires further financial assistance with housing costs

Whilst there is no definition of housing costs we intend to primarily use the limited budget to cover shortfalls in rent. However, in some limited circumstances we can also consider providing assistance to cover costs associated with:

- Tenancy deposits
- Removal costs

- Assistance with clearing rent arrears
- Letting agent fees

The above will only be considered if there is an absolute necessity for the applicant needing to move property and the specific property is better for the applicant either financially or delivers a social benefit. Such cases would generally have to have been referred to us from the Council's Housing Options team who have assessed the applicants housing needs first.

In conjunction with the Council's Housing Team the DHP budget will be used to help secure accommodation for people who are homeless, at risk of homelessness or to help move to more affordable accommodation. This could for example be as they need to down size as their benefit is restricted by the Social Sector Size Criteria or Local Housing Allowance rates. In such cases the applicant will need to meet with the Housing Team for them to consider their circumstances.

In order to consider someone for a deposit or letting agent fees the following criteria must be met:

There must be a genuine reason for the person moving into new accommodation.

The Council will consider assisting the following:

- A person who is at risk of imminent homelessness
- A person who is actually homeless
- A person who has genuine financial hardship caused by currently being housed in a property that is too expensive for them to be able to afford due to either the Social Sector Size Criteria or Local Housing Allowance rate they are entitled to.
- A person with mental health illness who needs to move and the move is supported by their Support Worker
- A person who is required to move to a different property due to social reasons e.g. Anti Social Behaviour directed to them from neighbours or on recommendation of police or other professional body.

In addition the following criteria **must** be met:

- Housing Benefit or the housing element towards rental liability must be in payment or will be in payment when the person moves.
- The person does not have the means to pay the deposit / fees themselves.
- The property they are moving to must be affordable i.e. within £25 per month of the appropriate Local Housing Allowance rate (providing the person can afford the £25 difference if there is one).

The maximum deposit payable will usually be up to the appropriate Local Housing Allowance rate for that person / family.

DHP can also cover costs for removals. We will usually only consider cases where the move is essential for example to move to more affordable accommodation or where person is at risk of homelessness and the move is to suitable accommodation within the Borough.

It is highly unlikely that an award will be made to cover rent in advance as for someone in receipt of Housing Benefit or housing element of Universal Credit the rent will be covered albeit in arrears. However in extreme and unique circumstances it will be considered e.g. when someone is discharged from hospital and is required to move into specific supported accommodation and there are no alternative funds available.

The Council has also set aside a limited fund available through the Emergency Welfare Assistance fund. This fund may be able to assist people in a crisis with help towards their housing costs but where the person meets the criteria of the DHP policy they will be considered under this policy. Typically the only time the delegated decision maker will consider housing costs under the Emergency Welfare Assistance Policy is where Housing Benefit or the Housing element of Universal Credit is not in payment.

**Discretionary Housing Payments cannot help pay for the following;**

- Ineligible service charges,
- Water charges,
- Increases in rent to clear rent arrears,
- Shortfalls in entitlement due to sanctions or suspensions,
- Shortfalls caused by Housing Benefit overpayment recovery.

These families however may benefit from budgeting advice and will be signposted to appropriate agencies. In exceptional circumstances e.g. where an applicant has applied for an income that may exempt them from the bedroom tax or is at severe risk of homelessness a DHP may be considered, usually for a short period whilst they take budgeting advice. Those with severe disabilities are exempt from the Benefit Cap.

**Conditions that must be met for Council Tax Support Hardship Assistance**

For a CTSOA award to be considered the applicant must be entitled to:

- Council Tax Support, or would have been entitled if they were not subject to the Governments Benefit Cap (£384.62 per week for couples and/or families, £257.69 per week for single customers); and
- Has a Council Tax liability; and
- Requires further assistance with the shortfall between the weekly amount of Council Tax charged and the weekly amount of Council Tax Support they are entitled to.

**Council Tax Support Hardship Fund cannot pay for the following;**

- Shortfalls caused by overpayments of Council Tax Support
- Shortfalls in entitlement due to sanctions or suspensions
- Charges incurred as a result of action taken to recover overdue Council Tax, such as liability orders, court costs, fines etc

Given that pension age claimants are protected under the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, which broadly replicate the existing Council Tax Benefit schemes, the hardship fund will only be available to working age

claimants. By limiting applications to the working age group, the Authority will be able to target additional assistance to those most in need.

The age someone is considered pension age is based on the age a person could qualify for Pension Credits. The Pension Credit qualifying age for men and women is gradually rising to the age of 65. Details of when a person will reach their Pension Credit qualifying age can be found on the gov.uk website or via the following link:

[www.gov.uk/calculate-state-pension](http://www.gov.uk/calculate-state-pension)

## 4. Decision Making

Whilst recognising the need for individual consideration of the circumstances of each case, consistency is also important. Each case needs to be looked at on its own merits and all customers need to be treated equitably and fairly when the scheme is administered. We therefore need to consider in each case:

- If the accommodation could be afforded when the claimant first moved in.
- If a claimant who intended to claim benefit from the outset of the tenancy was aware of the level of their Housing Benefit or housing element of Universal Credit entitlement prior to taking the tenancy.
- Any action taken by the claimant to re-negotiate the level of rent with the landlord.
- If the claimant is entitled to any other welfare benefits that they are not currently claiming.
- If the property is the cheapest available in the area for the household's needs according to the appropriate size criteria. When considering the area in which it is reasonable to compare properties, we will consider the area in which it is reasonable to expect a claimant to be able to move without losing all current community and support networks on which they depend.
- The amount of the shortfall, between the Housing Benefit / housing element of Universal Credit and rent liability, and any steps that have, or can be taken by the claimant to reduce the shortfall. This includes if there is anyone else able to make up the shortfall such as a non-dependant. For example, an adult son, daughter, other family member or other person residing with the claimant on a non commercial basis etc.
- The financial, 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 and other members of the claimant's household.
- The amount of any savings and capital held by the claimant and other members of the claimant's household.
- Any exceptional circumstances such as, the ill health or disability of the claimant or a member of the claimant's household. Examples include the need for an extra room because of a health problem affecting a member of the household, a requirement for the household to live where they do because of the need for access to medical or support services, specific extra health-related expenses such as non prescription medicine and the nature of a health problem means the choice of housing is restricted either temporarily or permanently.
- The level of debt of the claimant and family and options to re-negotiate non-priority debts.

- The possible impact of not making such an award, e.g. imminent eviction, the pressure on priority homeless accommodation.
- Whether the applicant has moved into the current property from temporary accommodation in which they were placed as statutorily homeless.
- 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 to recover arrears of rent.
- The potential discriminatory impact of legislation. For example, housing benefit legislation is such that single claimants aged under 35 are treated significantly less favourably than single people over the age of 35.
- Any other special circumstances

**Examples of the kind of situations where further help may be given include:**

- Assistance to a claimant who is in need of further financial help due to a rent restriction (where regulations require that the full eligible rent is restricted within the Housing Benefit / housing element of Universal Credit calculation e.g. due to age or under occupation) and whose circumstances are in some way exceptional and/or;
- Assistance to those claimants who reasonably require larger accommodation than that which is normally permitted under the benefit scheme
- Assistance to those claimants who have high housing costs, which they do not have the means to pay, and where moving to cheaper accommodation is not a reasonable option and/or;
- Where there has been a significant change in the claimants and/or family circumstances which means the rent or Council Tax charge is no longer affordable.

**These are only examples - the list is neither exhaustive nor prescriptive**

The decision maker will not normally award a DHP or CTSWA award in cases where the applicant has demonstrated they have sufficient surplus income or capital to be able to meet the shortfall in rent or Council Tax themselves.

The authorised decision maker decides 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 or up to the difference between the weekly Council Tax liability and Council Tax Support entitled to.

## **5. Period of award**

The duration and level of the DHP or CTSWA award will be determined individually for each claim by the decision maker. In determining the period of award, examples are given below of the types of factors that may be appropriate for consideration;

- If the need is likely to be short-term.
- If the customer is able to take steps to reduce their financial hardship.

- If the claimant is likely to require assistance in meeting the shortfall for the duration of their tenancy. In these instances, although an award may be made in the short term, where it appears that there is a long term issue of meeting the shortfall the DHP decision maker will work with the claimant to identify solutions and options available to ensure that a DHP is awarded for the shortest possible time. In some circumstances moving will not be an option and a long term award may be necessary.
- At what point in the future suitable alternative accommodation could reasonably be expected to be sought.
- When a particular milestone will be reached which will lead to increased Housing Benefit / housing element of Universal Credit or Council Tax Support entitlement e.g. a family member reaching a relevant age which leads to increased entitlement.
- In the case of CTSHA awards the awards are only intended to be short term awards due to the limited fund available. It is not intended that the fund will be a long-term solution to the overall reduction in Council Tax Support.

Where possible we aim for a decision to be made within 14 days of receipt of all information. If the claim is successful, payment of the DHP will be made in the most appropriate way; this will normally be in line with the payment of any Housing Benefit. CTSHA awards will be made direct to the relevant Council Tax account.

The amount of any DHP or CTSHA award is entirely at the discretion of the delegated officers from the Benefit Service. A successful claim **does not** imply that a further award will be made at a later date, even if the claimant's circumstances have not changed.

The start date of a DHP or CTSHA award will usually be the most appropriate of:

- The Monday after the Council receives the relevant claim; or
- The Monday after a relevant change in circumstances giving rise to the need for the DHP or CTSHA award.

However the decision maker may decide that a different date is appropriate based on the particular circumstances of the claim. Due to the expected pressure on the DHP budget and CTSHA fund a claim will not usually be backdated more than 3 months, although where someone has rent arrears and is at risk of homelessness then backdated awards may be made which cover the period of previous rent or Council Tax arrears. In such cases some Housing Benefit / housing element of Universal Credit or Council Tax Support must have been in payment for the period concerned.

This will only be considered in appropriate cases to prevent homelessness where the current property is affordable and sustainable based on claimant's circumstances or to allow a person to be considered for a move to a more affordable Housing Association property e.g. where an offer is conditional on previous rent arrears being cleared.

The reasons for the rent arrears will be considered and each case will be looked on its own merits. The applicant will need to be engaged with their landlord, have made efforts themselves to pay the rent arrears (and any other rent arrears or costs not covered by the DHP) and be actively engaged with any suitable support for their circumstances.

A DHP shall not be awarded for any period for which the customer has no entitlement to Housing Benefit under the Housing Benefit statutory scheme or the Housing Cost element (towards rental liability) of Universal Credit.

Claims may be made in advance of a change in legislation.

Most awards will be short term awards, typically not more than 4-6 months, however the length may vary depending on the customer's circumstances. Due to the Government's Welfare Reform changes it may be necessary to award long term DHP awards of 12 months or more e.g. for those suitably housed in a home adapted for the disabled needs of a family member but who are affected by the Social Sector Size Criteria and unable to pay the shortfall.

The following are guidelines for the length of award in the following scenarios:

- **Pregnancy** - in the case of a pregnant woman who has had to move home in readiness for the birth and who will have an extra room allowed in either the Social Sector or Local Housing Allowance size criteria when their baby is born we will usually consider awarding a DHP up to 3 months prior to expected date of birth.
- **Illness** - If a person requires an extra bedroom because of illness e.g. because they need a treatment room or because a member of the household has a condition that makes it difficult to share a bedroom, we will consider a longer term DHP for up to 12 months if moving is not an option. Medical evidence will usually need to be provided for the requirement of the extra room. Ongoing entitlement will then usually be reviewed at 12 monthly intervals.
- **Disability** – If a person is living in a property which has been significantly adapted for their disability needs and moving is not an option then a longer term DHP of up to 12 months will be considered. Ongoing entitlement will then usually be reviewed at 12 monthly intervals.
- **Foster Carers** – One bedroom is included in the Housing Benefit size criteria for a foster child or children living with an approved foster carer. A bedroom can also be included for newly approved foster carers for up to 52 weeks and an approved foster carer who is between placements for up to 52 weeks. However a DHP will be considered where an approved foster carer has more than one foster child as only one room is included in the size criteria regardless of the number of children fostered. Where the foster carer is unable to afford the shortfall in rent a DHP will be considered for up to 12 months. All income and expenditure, including that in relation to the foster child will be taken in to account in the DHP assessment.
- **Shared Life Carers** (formerly known as adult placements) – where a Shared Life Carer has an adult they are caring for, a bedroom is allowed for the adult within the size criteria rules. However there may be times when a carer is between placements and will be affected by the size criteria. If they are unable to afford their rent because of this and moving to smaller accommodation may not be an option if they are keeping a spare bedroom in readiness for their next placement. DHPs in these cases will be considered for up to 3 months.

All the above are subject to the overriding principles that the customer is not able to afford the shortfall, or take steps which will allow them to be able to afford the shortfall or will have a change of circumstance in the future which will affect the shortfall. The length of award will be reduced where a known change of circumstance such as the completion of debt repayments or the payment of increased income will mean that the applicant will be able to afford the shortfall in rent.

When a DHP or CTSMA period comes to an end, if a customer wishes to reapply they will usually be required to complete a further DHP application or review form to renew their

award. It may be possible to extend an existing DHP period for up to eight weeks if the customer has confirmed their circumstances have not changed but whose circumstances are likely to change within the next eight weeks e.g. have been offered a job, moving house, child being born etc.

Where a customer has not taken steps to ease their own financial circumstances, for example;

- they have decided not to look for more affordable accommodation; or
- have not reduced or even increased none essential expenditure

then further applications are likely to be refused. A further award may be made if there is a commitment from the applicant they will take steps to ease their financial circumstances. If after two periods of award the customer has not taken the advice given in previous awards it is unlikely that a future award will be made.

A previous successful award does not guarantee that subsequent awards will be granted.

## **6. Notification**

The Benefits Service will notify the customer of the outcome of their application within 3 working days of making the decision.

Where the application is successful, the notification will advise:

- the weekly amount of DHP or CTSHA award granted, if any
- the period of the award
- in the case of a DHP how, when and to whom the DHP will be paid
- the requirement to report any relevant change
- any steps that the applicant should take in during the period of the award to resolve or improve their personal situation

Where the application is unsuccessful, the notification will state clearly the reasons for the decision.

All notifications of decisions on claims shall offer the opportunity for the customer to seek a review of the decision made.

## **7. Changes in circumstances and overpayments**

It remains the duty of the claimant to notify the Benefit Section of any change in circumstance that may be relevant to the continuation of their DHP or CTSHA award.

A DHP or CTSHA award may be revised where the claimant's circumstances have changed. Overpayments of DHPs can be recovered where the payment has been made as a result of a misrepresentation or failure to disclose a material fact or as a result of an error. The Council will normally recover a DHP or CTSHA award where the claimant's own actions contributed towards the overpayment and recovery of the award would enable us to reallocate those sums within the current financial year. However, we will consider the circumstances of each overpayment on its merits, being mindful of the impact that recovery may have on the ongoing financial vulnerability of the applicant.

DHP overpayments cannot be recovered from ongoing Housing Benefit or Council Tax Support. Overpaid CTSHA awards may be recovered via the person's Council Tax account.

### **Fraudulent claims**

The Benefit Service is committed to the fight against fraud. Any claimant who tries to fraudulently claim a DHP by providing a false statement or evidence in support of their application may be liable for prosecution.

## **8. Officer Roles**

**Decision Maker** (Discretionary Awards Officer or equivalent) – will where appropriate speak with the applicant, either over the phone, in the applicant's home or arrange an office based meeting. They will consider all the information available to them and calculate whether the customer can afford the shortfall between their Housing Benefit / Council Tax Support and their rent / Council Tax liability. The decision maker will also give advice on how the customer can ease their own financial circumstances.

The Decision Maker will decide whether to make an award and the length of any award. They will write to the applicant detailing their decision.

The Benefit Service Delivery Manager has the authority to delegate decision making powers to another suitably experienced officer if there should be a need.

**Appeal Officer** – any appeals received will be decided by the Quality and Assurance and Appeals Team.

The Benefit Service Delivery Manager has the authority to delegate this function to another suitably experienced officer if there should be a need.

## **9. Appeals**

DHPs or CTSHA are not payments of Housing Benefit or Council Tax Support and are therefore not subject to the statutory appeals mechanism, although the route of Judicial

Review is available. The Benefits Service will operate the following policy for dealing with appeals against any decision on a claim: –

- A claimant or person acting on their behalf who disagrees with a decision may dispute the decision or request the full reasons for it. A request for a review shall be made in writing and must be delivered to the council by any method which is acceptable for a DHP or CTSMA claim. Any request for a review must be made within one month of the customer being notified of the decision.
- Where appropriate, council officers will explain the decision to the claimant by telephone, letter or e-mail. The claimant will be advised of their right to request a review of the decision by the Quality Assurance and Appeals Team.
- The decision will be reviewed internally by the Quality Assurance and Appeals Team, who will not have been responsible for the original decision and they will issue their written decision.
- Where the designated Officer carrying out the internal review decides not to revise the original decision, (s)he 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 a dispute to be made.

## **10. Publicity**

The Benefits Service will seek the co-operation of all teams within the Council, , housing associations and voluntary sector organisations to ensure publicity is suitably targeted to ensure it is those who are most in need apply for the extra assistance.