

# **Discretionary Housing Payment Policy**

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**Contents:**

Background.....Page 3

Financial Assistance.....Page 3

Housing costs.....Page 3

Policy Aims.....Page 4

Objectives.....Page 4

Decision Making.....Pages 4

What a DHP can be used for.....Page 5

Period of Award and start dates.....Page 5

The Award.....Pages 6

Condition Based Awards.....Page 7

Change of Circumstances.....Page 7

Notification.....Page 7

Cessation of Award.....Page 7

The Right of Review.....Page 8

Overpayments.....Page 8

Monitoring.....Page 8

Fraud.....Page 9

Publicity.....Page 9

Policy Review.....Page 9

Budget Restrictions.....Page 9

Linked policies and documents.....Page 9

Appendices.....Pages 10 - 19

## **Background**

Discretionary Housing Payments (DHPs) were introduced in July 2001. The general provisions for DHPs are contained within the Discretionary Financial Assistance Regulations 2001.

These state – a relevant authority may make payments by way of financial assistance, ("discretionary Housing Payments") to persons who are entitled to: –

- (a) Housing Benefit (HB); or
- (b) Universal Credit (UC); that includes housing costs towards rental liability and
- (c) Has a rental liability; and
- (d) Requires further financial assistance with housing costs

It must be noted that although funded by central government the DHP's are not Benefit payments and are cash limited.

The local authority (LA) must be satisfied that the customer is in need of further financial assistance with their housing costs.

## **Financial Assistance**

There is no definition of the phrase in law. It is up to Luton Borough Council (LBC) to interpret it. However, the level of award may cover:

- All or part of a shortfall in rent or assist with the cost of taking up a tenancy

## **Housing Costs**

Housing costs are not defined in the regulations and this gives LA's a broad discretion to interpret the term as they wish. In general, housing costs means rental liability. However, housing costs can be interpreted more widely to include;

- (a) Rent in advance
- (b) Deposits
- (c) Other lump sum costs associated with a housing need/move such as removal costs.
- (d) A reasonable amount paid to clear qualifying rent arrears if they are preventing a customer from moving to affordable accommodation, subject to no DHP award being made at the new address, unless affected by a relevant change of circumstances.

The main features of the scheme are that:

- Payment is discretionary, there is no statutory right to a payment
- The amount available to the local authority is cash limited in any financial year by the Secretary of State
- The local authority has discretion in determining how to operate the scheme
- The DHP fund is allocated to each LA at the start of each financial year

- HB/UC must be in payment in the benefit week/s that a DHP award is made for

## **Policy Aims**

To ensure that DHPs contribute to the Council's aims and objectives and to promote social and financial inclusion for its residents while not subsidising poor or inappropriate accommodation.

## **Objectives**

The LA will consider making a payment of a DHP to claimants who meet the qualifying criteria as specified in this policy. Each application for a DHP will be treated strictly on its merits and all customers will be treated equally and fairly when the scheme is administered. The following objectives are linked to the council's corporate aims and objectives and seek through the operation of this policy to:

- Prevent homelessness
- Alleviate poverty.
- Support vulnerable young people in the transition to adult life.
- Encourage Luton's residents to obtain and sustain employment.
- Safeguard Luton's residents in their homes.
- Help those who are trying to help themselves.
- Keep families together.
- Support the vulnerable in the local community.
- Help claimants through personal crises and difficult events.

The DHP scheme should be seen as a short-term solution while support/advice is provided to allow the applicant and their household to afford their rent in the medium to long term. It is not and should not be considered as a way around any current or future entitlement restrictions set out within the Housing Benefit / Universal Credit legislation - it should also not be considered a long term fix to a customer's real issues.

## **Decision Making**

An application for a DHP must be made via [www.luton.gov.uk](http://www.luton.gov.uk)

In deciding whether to make a DHP award the council will take into account the personal and financial circumstances of the customer their family and household members.

- The LA reserves the right to request and verify any reasonable evidence in support an application for a DHP claim. The claimant will be asked to provide the evidence on line within one month of such a request although this will be extended in appropriate circumstances
- If the claimant is unable to or does not provide the required evidence, the LA will NOT consider the application.

- Where possible, a referral from a housing officer, homeless officer or other designated official may be accepted as a form of evidence. In such instances, additional verification may not be required.

Decisions will be made within 10 days of all the information required being received, or as soon as possible thereafter.

All claims for DHP will be treated equally and fairly in accordance with the council's policy on race, diversity and equality. The council will endeavour to ensure that no-one who applies for a DHP will be treated less favourably than any other person on irrelevant grounds such as age, disability, gender, religious beliefs, marital status, nationality, race or sexual orientation.

### **What a DHP award cannot be used for**

There are certain elements of a customer's rent that cannot be included in housing costs for the purpose of a DHP because the regulations exclude them:

- Ineligible charges; for example:
  - Costs for water
  - Costs for fuel
  - Costs for food
- Increases in rent due to outstanding rent arrears
- Sanctions and reductions in benefit

Please see Appendix A at the end of this policy document for further clarity on what DHP's cannot be used for.

### **Period of award and start dates**

The LA will make a decision on the length of time of the DHP award based on the known facts and the evidence supplied and the date the award is due to commence.

The start date of an award will be the earliest of the following:

1. The Monday following the date of application.
2. If an application is made within one month of the date of a housing benefit decision or universal credit:
  - a. For a new claim, the claim start date
  - b. For a change in entitlement, the date of change
3. A DHP award may be backdated if good cause can be proven for a failure to claim sooner. Good cause is not defined and will be dependant upon individual circumstances.

The minimum award period is 1 day and no award will usually be made beyond 2 years. At the end of any award period, a new DHP request can be submitted but an award will only be extended in exceptional circumstances. The period of award will also be dependant on the conditions attached to it (see conditional awards).

## The Award

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

- Reductions in HB or UC whether the benefit cap has been applied (net of any ineligible service charges)
- Reductions in HB or UC for under-occupation in the social rented sector
- Reductions in HB or UC as a result of local housing allowance restrictions
- Rent shortfall to prevent a household becoming homeless whilst the housing authority explores alternative options
- Rent officer restrictions such as local reference rent or shared room rate
- 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, their partner and any other persons in the household
- Any savings or capital held by the claimant or family members
- The level of debt of the claimant and family
- The possible impact on the council of not making an award e.g. the pressure on priority homeless accommodation
- any other special circumstances brought to the officers attention

This list is not exhaustive

When deciding if a person is entitled, or how much to award, an affordability calculation will be carried out. This will include totalling up income and expenditure for the household and determining what, if any, of the rent charge is affordable. The levels of expenditure which are taken into account are defined by the Association of Housing Advice Services guidelines (AHAS) and are regularly reviewed based on the consumer price index.

The LA will decide how much and for how long to award the DHP based on all of the circumstances. This may be an amount below the difference between the liability and the payment of Housing Benefit and / or Universal Credit.

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

A phased award, when appropriate, will be provided to allow customers to manage their finances and will see a gradual reduction in a payment over a period of time.

Please see Appendix B for details on award amounts, periods and a phased award.

### Condition Based awards

In most instances, Discretionary Housing Payments will be attached to a condition. The LA reserves the right to attach any condition to an award of Discretionary Housing Payments if it will allow the customer to:

- Find employment

- Find alternative affordable accommodation.
- Manage their finances better.
- Reduce their debts.
- Become financially Independent

Such conditions may include:

- Attending a relevant training course
- Receiving debt support and advice.
- Receiving money management support and advice.
- Receiving housing advice and actively seeking alternative accommodation.

Please see Appendix C for more details on condition based awards.

**Failure to comply with any conditions attached will result in the immediate cessation of any Discretionary Support.**

### **Change of Circumstances**

Customers awarded a DHP must notify the LA online of any changes to their or any member of their family or household's personal or financial circumstances. The DHP may be revised up or down as appropriate.

### **Notification**

The LA will notify the customer of the outcome of their DHP application. Where the application is unsuccessful, the LA will set out the reasons why this decision was made and explain the right of review. If the application is successful the customer will be advised of:

- The weekly amount of the DHP awarded.
- The period of the award.
- How, when and to whom the award will be paid.
- The requirement to report a change in circumstances.
- The right to request a review of a decision.
- Award decisions will reflect the fact that customers are expected to make every effort to make adjustments to their circumstances to alleviate the requirement for a further DHP after their current award has ended.

### **Cessation of award**

The LA has the right to cease or suspend an award of Discretionary Housing payments when:

- There is no compliance with a condition based award.
- The original award period ceases.
- Any supporting information/evidence is not provided.
- There is a change in address.
- There is a change in circumstances that affects Housing Benefit/ UC entitlement.

- The LA believe there to be an inaccuracy in the Housing Benefit/ UC/ Discretionary Housing Payment claim.

The date of any cessation or suspension of an award is down to each individual decision maker's assessment of the circumstances and the reason for the change. In some instances, this may mean there has been an overpayment of Discretionary Housing payments and this will have to be paid back. Please see the section on overpayments for more information.

### **The Right of Review**

There is no statutory right of appeal against a DHP decision because DHPs are not payments of benefit. A claimant (or their appointee or agent) who disagrees with a DHP decision may dispute the decision. They can request a review of that decision. A request for a review should be in writing to the LA within one calendar month of the written decision about the DHP being issued to the claimant.

An officer who was not part of the original decision making team will consider the request for a review. The reviewing officer will notify the customer of their decision, which will be final and there will be no further right of review.

Dissatisfied customers have the option of requesting a judicial review and the local government ombudsman is available if the customer believes there has been maladministration.

### **Overpayments**

The LA may seek recovery of any DHP overpaid. If recovery is sought an invoice will be issued to the customer or the person to whom the DHP payment was made.

DHP's cannot be recovered from ongoing HB or UC or any other prescribed benefits.

### **Monitoring**

All payments of DHP are recorded as part of the relevant claim on the council's computer system.

Total DHP expenditure will be monitored on an ongoing monthly basis and is reported both externally and internally. The total awarded will be monitored to check that the expenditure will not exceed any budget that is agreed by the council.

DWP are required to monitor how DHP's are being used to support customers affected by the welfare reforms. In addition to the annual DHP claim form, LA's (LBC) will be requested to provide a broad breakdown of their expenditure.

DWP will be requesting LA's to record the main reason for an award as follows;

- To support customers affected by benefit cap
- To support customers affected by social sector size criteria
- To support customers affected by LHA reforms



- To support customers affected by the transfer from HB to UC
- Any other reason

## **Fraud**

The LA is committed to fighting fraud. Suspected fraudulent DHP applications will be investigated. Submitting a fraudulent claim for DHP is a criminal offence and offenders may be prosecuted.

## **Publicity**

The availability of the DHP scheme is publicised on the council's Internet and in letters advising customers about their Housing and or Universal awards (when implemented)

The LA is committed to working with other departments within the council and the wider community such as the voluntary sector and social landlords to provide an inclusive approach to addressing financial difficulties.

## **Policy Review**

This policy shall be reviewed at least annually to ensure it meets existing customer demands and reflects any changes to national guidance issued by the Department for Works and Pension's.

## **Budget restrictions**

Any award of Discretionary Housing Payment made in accordance with this policy is subject to budget availability. In the event of there being no available budget, Luton Borough Council may refuse an award of Discretionary Housing Payments or amend the award to reflect the budget position.

## **Linked policies/documents**

Other policies/documents that will help in the application and understanding of this policy include:

- Crisis and Support Scheme
- Choice Based letting allocation policy
- Rent Deposit Scheme

## **Appendices**

**Appendix A – What DHP's cannot cover**

**Appendix B – Award periods, amounts and phased approach**

**Appendix C – Condition Based Awards.**

## Appendix A: What DHPs cannot cover:-

- Ineligible charges: service charges that are not eligible for HB cannot be covered by a DHP. These are as specified in Schedule 1 to the Housing Benefit Regulations 2006 and Schedule 1 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Nor can DHPs cover charges for water, sewerage, and environmental services – as defined and calculated under the HB provisions.
- Increases in rent due to outstanding rent arrears: Regulation 11(3) of the Housing Benefit Regulations 2006 and Regulation 11(2) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 refer. This refers to those cases where a customer's rent is increased on account of outstanding arrears which are owed by the customer in respect of their current or former property.
- Sanctions and reductions in benefit: DHPs cannot meet these because to do so would undermine the effectiveness of the sanctions or reduction in benefit. These are:
  - I. any reduction in Income Support (IS) or income-based Jobseeker's Allowance (JSA(IB)) due to a Reduced Benefit Direction (RBD) for failure to comply with the Child Support Agency in arranging maintenance. The RBD is a reduction in benefit of 40% of the personal allowance and only applies to IS or JSA(IB)
  - II. any reduction in benefit as a result of non-attendance at a work-focused interview. This applies both where the person's HB/CTR is reduced and when any other benefit that the person is receiving, such as IS is subject to a sanction
  - III. any reduction or loss of benefit due to a JSA employment sanction. JSA is not payable for the period of sanction if they have contributed towards their unemployed status, for example, by leaving employment voluntarily or failing to attend a prescribed training scheme. In such cases, it may be possible for a reduced rate of JSA to be paid under the JSA hardship provisions
  - IV. any reduction in benefit due to a JSA sanction for 16/17 year olds – for certain young people who receive JSA under a Severe Hardship Direction. JSA is not payable for the period of the sanction if they have contributed towards their unemployed status, for example, by leaving unemployment voluntarily or failing to attend a prescribed training scheme, or
  - V. any restriction in benefit due to a breach of a community service order
- Benefit suspensions: HB/UC can be suspended either because there is a general doubt about entitlement or because a customer has failed to supply

information pertinent to their claim. In such cases, it would not be permissible to pay DHPs instead. One of the intentions of the suspension provisions is to act as a lever to ensure that the customer takes the necessary steps to provide the authority with the necessary information/evidence - paying DHPs could reduce the effectiveness of this lever

- Rent, when the person is getting council tax reduction but not HB or help with housing costs in UC: in other words, when a person is only getting local council tax reduction, you should not take into account any financial assistance that they may require with their council tax, when considering the award of a DHP.
- Shortfalls caused by HB/UC overpayment recovery: when recovery of an HB/UC overpayment is taking place, such shortfalls should not be considered for a DHP
- DHP can not be awarded for a rent deposit where there is a resident landlord – for example if an applicant applies for a rent deposit to secure a room in a shared house where there is a resident landlord. This is because a person living in a house with a resident landlord is a 'licensee' and has no security of tenure. In these circumstances we will accept applications for rent in advance only.

## Appendix B– Award periods, amounts and phased approach

### Award periods and amounts

Please note, the follow is a guide and actual awards and the period of an award may vary depending on individual circumstances:

<b>Group</b>	<b>Period</b>	<b>Reason</b>	<b>Maximum award</b>
Those approaching pension age and currently affected by the under occupancy reductions.	Up to a maximum of 2 years before pension date	Once of pension age, the customer is exempt from the under occupancy reductions. It is therefore not cost effective to move them.	Full shortfall between Housing Benefit award and the eligible rent
Someone under the age of 35 and renting in the private sector who is currently subject to the Single Room Rent	Up to a maximum of 2 years before their 35 <sup>th</sup> Birthday.	As soon as the customer is 35 years old, they will no longer be subject	Shortfall between the Single Room LHA rate and the one bedroom LHA rate.
Someone of any age who has a large repayment of a debt that will end shortly.	Up to a maximum of 18 months before the debt is due to end	Once the debt is clear, the customer will have the ability to pay more of their rent.	Each award based on affordability so will vary.
Someone on training	Up to a maximum of 12 weeks	Once the training has finished they will be able to find work	Each award based on affordability so will vary.
Someone who will be guaranteed an affordable property	The period of time in which a property will be offered, up to a maximum of 52 weeks.	The rent is affordable so DHP's will not be needed.	Each award based on affordability so will vary.
Someone with a disability whose home as been significantly	Maximum of 2 years	DHP award can not be indefinite so 2 years should be	Each award based on affordability so

adapted.		sufficient to work with that individual to manage their finances and help their rent become affordable.	will vary.
Households with adults who are unable to share a bedroom due to a disability/condition	Maximum of 2 years	DHP award can not be indefinite so 2 years should be sufficient to work with that individual to manage their finances and help their rent become affordable.	Each award based on affordability so will vary.
Persons for whom relocating would prove particularly difficult or detrimental to themselves or to others whom they support .	Maximum of 2 years	DHP award can not be indefinite so 2 years should be sufficient to work with that individual to manage their finances and help their rent become affordable.	Each award based on affordability so will vary.
Persons fleeing domestic violence	Maximum of 52 weeks	DHP award can not be indefinite so 1 year should be sufficient to work with that individual to manage their finances, help their rent become affordable and to find them suitable accommodation.	Each award based on affordability so will vary.
Households with shared parenting, needing bedroom(s) for visiting children	Maximum of 26 weeks	DHP award can not be indefinite so 26 weeks should be sufficient to work with that individual to manage their finances and help their rent become affordable.	Each award based on affordability so will vary.
Those in sheltered accommodation but under pensionable age.	Up to a maximum of 2 years before pension date	Once of pension age, the customer is exempt from the	Full shortfall between Housing

		under occupancy reductions. It is therefore not cost effective to move them.	Benefit award and the eligible rent
Expectant mothers affected by the under occupancy change.	Up to a maximum of 9 months or when the baby is born.	Upon birth of the child, an additional room rate may apply therefore HB will increase.	Each award based on affordability so will vary.

Phased award

Any award of Discretionary Housing Payments for the first 12 weeks can be awarded for up to a maximum amount of the shortfall calculated, subject to an affordability calculation and any exceptional circumstances that a customer may have.

Any awards that exceed 12 weeks in duration will be tapered to reduce the amount of shortfall that is covered, as follows;

Period	Maximum award (%)
1-12 weeks	100 %
13- 26 weeks	75%
27- 39 weeks	50%
40- 52 weeks	25%

The above will be used as a guide. If there are exceptional circumstances the DHP officer may use discretion in deciding the period or percentage of an award.

## Appendix C – Condition Based Awards

Discretionary Housing Payments are short term awards to allow people financial reprise while they tackle their real issues, which a view to making them financially independent in the medium to long term. In view of this, to ensure the right support is provided and customers do not repeatedly claim or rely on Discretionary Housing Payments, conditions will be attached to awards. The following describes the conditions attached:

<b>Reason for DHP award</b>	<b>Condition attached</b>	<b>How it will be monitored</b>
Moving costs	Customer must be moving to affordable accommodation where no DHP claim needs to be made.	Checking for any DHP claims at the new address.
Reasonable Payment of Rent Arrears to allow the customer to move to affordable accommodation.	New accommodation must be affordable and if downsizing to reduce costs, further DHP support may be required short term	Checking for any DHP claims at the new address.
Rent is too high	Customer must look to find more affordable accommodation	Close working with housing and DHP decision makers to ensure customer is doing all they can to find alternative affordable accommodation.
Expenditure is too high due to debts	Customer must agree to work with Luton Access to manage their debts and to create affordable repayment plans	Close working with the Luton Access to ensure customers have contacted them and are actively working with them to reduce debts. Case management of individuals may be required.
Customer has money management issues, unable to prioritise expenditure, manage income etc.	Customer must agree to work with the Luton Access and accept any training offered to allow them to manage their finances better.	Close working with the Luton Access to ensure customers have contacted them and are actively working with them to manage their money better. Case management of individuals may be required.
Alcohol, Drug and Mental Health issues.	Customer to seek help, support and advice on their condition via a referral.	Close working with the professional service to ensure they have sought advice and support.

<b>Reason for DHP award</b>	<b>Condition attached</b>	<b>How it will be monitored</b>
Unable to work/ seeking work	Customer must be actively seeking employment and attend any courses available to remove any barriers, i.e. language courses.	Close working with the Luton Access to ensure customers are actively seeking work and removing barriers. Case management of individuals may be required.
Under Occupancy reduction in HB	Customer must be working with housing to seek more suitable accommodation in any sector or looking at ways to ensure they are not under accommodating, i.e. letting out of a room.	Close working with housing and DHP decision makers to ensure customer is doing all they can to find alternative affordable accommodation.
Benefit Cap	Customers must be working with Housing, Luton Access and/or JCP to seek cheaper accommodation, employment and/or to receive support with debts and money managements	Closer working with all sectors to chase and check on customers' progress. Case management of some individuals may be required.