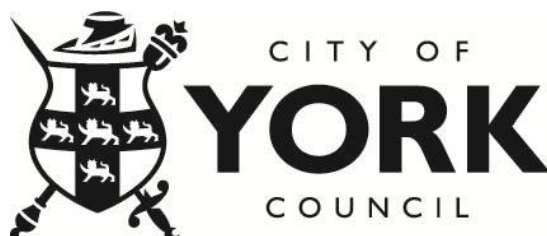


**City of York Council**

**DISCRETIONARY HOUSING PAYMENTS (DHP)  
POLICY & GUIDANCE**

December 2018



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## **Council Responsibilities**

1. This policy (effective from ??) reflects amendments to the Discretionary Financial Assistance Regulations 2001 (the DFA regulations), which ensure the scheme covers the introduction of Universal Credit and also the abolition of Council Tax Benefit. It also reflects updated guidance published by the Department of Work and Pensions in March 2018 taking into account the impact of welfare reforms and any other relevant factors.
2. A DHP may be awarded when the Council considers that a claimant 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: 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.

3. Council tax liability cannot be met by DHPs, even where a claimant is receiving Local Council Tax Support.
4. DHP is not a benefit payment but made in addition to HB/UC.
5. So the annual fund is not exceeded and is spent fairly the Council must ensure that:
  - HB entitlement is calculated accurately and promptly
  - DHP expenditure is monitored effectively taking such action as limiting monthly expenditure to ensure the fund lasts throughout the year.
  - Overpaid DHP is recovered

## **Objectives for DHP awards**

6. The objectives include, but are not limited to:
  - alleviating poverty
  - encouraging and sustaining people in, and into, employment
  - tenancy maintenance and homelessness prevention
  - safeguarding residents in their own homes
  - helping those who are trying to help themselves

- keeping families together
- ensuring that domestic abuse victims who are trying to move to a place of safety are supported
- supporting the vulnerable, including young children and the elderly in the local community
- helping claimants through personal and difficult events
- supporting young people in the transition to adult life
- promoting good educational outcomes for children and young people
- supporting the work of foster carers
- supporting disabled people to remain in adapted properties
- supporting care leavers

### **Application of the Policy**

7. The policy supports the Council's overarching strategic objectives of its Financial Inclusion Strategy, as well as income maximisation and homelessness prevention. It should interact appropriately with the York Financial Assistance Scheme (YFAS) which can be found by clicking [here](#), ensuring that financial assistance is considered from the right source/funding.
8. There is no definition of 'further financial need' nor 'housing costs'. Each case must be considered on its own merits and there should not be rigid criteria which would fetter the council's discretion. The policy must be flexible. Relevant factors that should be taken into account include:
  - Customers' health / financial circumstances.
  - Steps taken by the customer to alleviate their financial position
  - Any unusual or exceptional circumstances relating to housing costs.
9. 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.
10. The policy has regard for the rights of the individuals and obligations of the Council under the provisions of the Human Rights Act 1998.

## Eligibility for Discretionary Housing Payment

11. DHP can only be made where the customer is entitled to

- Housing Benefit (HB) *or*
- Universal Credit (UC) that includes housing costs towards rental liability. This includes where the claimant would have been entitled to UC housing costs were it not for the fact that the person occupies specified accommodation or temporary accommodation.
- **and** requires further financial assistance with housing costs.

12. The shortfalls of HB or UC that a DHP can cover include (but are not limited to):

- reductions in HB or UC where the benefit cap has been applied
- reductions in HB or UC due to the removal of the spare room subsidy
- reductions in HB or UC as a result of LHA restrictions
- rent officer restrictions such as local reference rent or shared accommodation rate
- non-dependant deductions in HB, or housing cost contributions in UC
- rent shortfalls to prevent a household becoming homeless whilst the housing authority explores alternative options
- income taper reduction
- policy to limit benefit to two children and
- any other policy change that limits the amount of HB payable, for example the removal of the family premium.

## Rent Deposits and Rent in Advance

13. DHPs can be paid for rent in advance for a property

14. The [Private Rented Scheme](#) run by the Council provides a [bond guarantee](#). This should be used wherever possible; DHP should be used as a 'last resort to provide rent deposits'.

15. DHPs can be paid for rent in advance or rent deposits for a property that someone has yet to move into if they are already entitled to HB/UC at their present home, but some regard needs to be given to the new property's affordability. The normal weekly limits do not apply when such lump sums are awarded.

16. Large lump sum payments of DHP for these kinds of expenditure could place an intolerable burden on the capacity of the fund to meet demands of other customers. Close co-operation with Housing Options who manage the Private Rented Scheme is therefore essential.
17. Regard should be given to the Court of Appeal's decision in *R v. LB Lambeth, ex parte Gargett* which sets out that any HB already paid towards 'housing costs' must be deducted when calculating the amount of a DHP to avoid duplicate provision.
18. The case does not prevent the use of a DHP for rent in advance but indicates that when making such a decision on whether DHP can be used, the following should be considered
  - whether there is likely to be a duplication of payments for the initial part of the tenancy if the DHP is made; and
  - If so, is there any means to avoid this.
19. If the Council decides there is no way to avoid a duplication of the payment and the claimant is entitled to a DHP in respect of housing costs (specifically a rent payment in advance), then a DHP may be still awarded.
20. When awarding a DHP for a rent in advance or rent deposit, the Council should be satisfied 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.
21. A DHP can be used to pay a lump sum towards rent arrears (the Court of Appeal found that a DHP could be used for this purpose). However, in relation to preventing duplication of provision, housing benefits already paid for past housing costs must be deducted.
22. When making the decision it should be remembered that it may not always be possible for the claimant to seek the most affordable accommodation, for example, when someone fleeing the home due to domestic abuse needs to seek a place of safety such as a refuge service.

23. The Council will also consider if the claimant:
- are due to have a deposit or rent in advance in respect of their existing tenancy returned to them; or
  - have received assistance from another department within the Council towards a rent deposit, for example, a rent deposit guarantee scheme or similar.
24. When making the decision it should be borne in mind, however, that tenants will typically not receive a returned deposit until they have vacated a property and begun a new tenancy. Therefore a refund may not be readily available at the time the DHP is requested.
25. Using DHPs to help with a rent deposit or rent advance may be particularly appropriate to help claimants move to alternative accommodation where their award of HB has been restricted following one of the welfare reforms. The regulations are wide enough to permit this on the basis of a claimant's entitlement to HB or UC at their current home. A DHP can therefore be made towards housing costs or a property other than the one for which benefit has been awarded.

### **DHPs and Two Homes**

26. A DHP can be awarded in respect of two homes when someone is treated as temporarily absent from their main home, for example, because they have had to leave their main home because they are a victim of domestic abuse.
27. In such cases of temporary absence - if the claimant is treated as liable for rent on both properties, and in both cases there is a shortfall, it is possible to award a DHP in respect of both properties subject to the weekly or monthly limit on each property.
28. If the claimant is only treated as liable for HB or UC on one home, but is having to pay rent on two, a weekly DHP could be made to cover costs of the second home; the HB or UC eligible rent for the main home is the maximum award. For example, a claimant may be temporarily absent from their main home to stay near a child receiving treatment in hospital. They are incurring costs on their temporary dwelling but their housing costs are covered for their main home. A DHP could be considered to help cover costs on the claimant's temporary dwelling.

## **DHP cannot cover**

29. There are certain elements of a claimant's rent that the HB and UC regulations exclude.

30. Excluded elements are:

- ineligible service charges
- increases in rent due to outstanding rent arrears
- certain sanctions and reductions in benefit.

See Appendix A for more details

## **Amount of the Award**

31. No DHP can be made if the annual fund has been exhausted.

32. If the purpose of the DHP is to meet an on-going rental liability the actual amount awarded will depend on each case. Regulation 2 of the DFA regulations states that DHPs are specifically for people who require further assistance with housing costs and it would be difficult to argue that an award of anything greater than the rent shortfall was necessary.

33. The amount of the award cannot exceed

- the weekly HB eligible rent in the case of an HB claimant, or
- the amount calculated in accordance with Schedule 4 of the UC regulations (i.e. the value stated for housing costs on a UC award notice) in the case of a UC claimant.
- except if for rent advance/deposits

34. In the case of a UC claimant, the maximum DHP award is also affected by reductions in the UC housing costs for items such as a maximum LHA rate or housing cost contributions as these form part of the housing costs calculation in Schedule 4 of the UC regulations.

35. Where a claimant is in receipt of UC, the maximum DHP award that can be made is established by looking at their UC award notification. Their UC award notice will identify housing costs, and this is the same as the maximum DHP that can be made when calculating a DHP as a monthly award.



36. The weekly or monthly limit does not apply to a DHP for rent in advance or a deposit because a lump sum is being awarded to meet an immediate housing need.
37. A DHP to assist the claimant with securing a new tenancy may be paid to the landlord rather than the claimant.
38. As a lump sum payment for a deposit or rent in advance is not made in respect of a period, the Council only need to be satisfied that the claimant is entitled to HB or UC at the point the award is made.
39. If the deposit or rent in advance is for a property outside of area this does not prevent a payment being made if the claimant is currently in receipt of HB or UC within City of York area.
40. Once a DHP has been made to the claimant for a deposit or rent in advance, the regulations do not permit the Council to recover the DHP award at the end of tenancy. A DHP may only be recovered from a claimant in specific circumstances – see Overpaid DHPs later in this guidance.

### **Length of the Award Period**

41. The length of time over which a payment is made is at the discretion of the Council. The period of the award and, importantly, any specific end date, should be made clear to the claimant.
42. Awards can start from any date but would normally be linked to the date it was requested (paid from the Monday following) and/or the date that a reduction in HB started. There are no backdating rules as long as the criteria for entitlement are met.
43. Payments to meet a weekly or monthly rental liability will be made at the same frequency as the HB or UC payment, unless the Council considers there to be exceptional circumstances.
44. Most awards will be for a maximum period of 13 weeks but can be for shorter or longer periods depending on individual circumstances. Expected changes in circumstances which will affect HB/UC in the future must be

taken into account when considering the period of the award. Such factors include whether:

- the need is likely to be short or long term
- the tenant is likely to need help as long as they remain in the property (for example a long term medical condition)
- there is an event that would increase HB/UC in the future thereby reducing the shortfall (e.g. a significant age being reached, birth of a child)

45. It may be more appropriate to make a long term award in cases where a claimant's circumstances are unlikely to change, and making a short term award will cause them undue distress.

46. If the DHP is to meet a one off housing cost such as a deposit or rent in advance there is no requirement to specify the period of the award.

### **Backdating a DHP**

47. When deciding whether or not to backdate a DHP, each application should be considered on its own merits. There are no restrictions on the length of the backdating period beyond any date prior to 2 July 2001, but the council has a duty to act consistently.

48. A DHP can only be considered for a period where the relevant award of HB/UC is payable. This is of particular relevance to requests for a period of backdated DHP.

49. DHPs are usually made in respect of an immediate need rather than a past period, however, you may consider it appropriate to make a backdated DHP award in some cases. For example, where a claimant is subject to a rent shortfall due to welfare reforms and has accrued rent arrears during the transition period between a reduction in benefit and moving into employment. In this case it may be prudent for you to award a backdated DHP to meet those arrears so as not to undermine the claimant's move into employment. In other cases, a DHP could be used to facilitate a move of home (such as through a mutual exchange) where a landlord will not allow a move for someone who is in arrears.

50. When backdating an award you may wish to consider:

- the claimant's age, health and personal circumstances

- make-up of the household
- the local housing market
- whether the claimant has taken up a mitigating option.

### **Review of the Award / Recovery of Overpaid DHP**

51. A claimant receiving a DHP must notify the Council of any change of circumstances which may be relevant to their DHP application or award.

52. DHP can be stopped or amended if

- A change in circumstances alters HB/UC entitlement, or
- a claimant has misrepresented or failed, fraudulently or otherwise, to disclose a material fact; and/or
- a claimant has been paid as a result of an error

53. Recovery will be sought via a sundry debtor invoice.

### **Publicity and Identification of Potential Claims**

54. The Council recognises the importance of publicising DHP arrangements especially in the current environment. Steps taken will include:

- leaflets and posters
- giving advice on DHPs when people contact the Council to discuss a claim
- proactively assisting vulnerable claimants to make applications by, for example, visiting them in their own homes
- ensuring that domestic abuse victims who are trying to move to a place of safety through contact with external welfare organisations and refuges are supported
- informing external and internal bodies that give advice (money advice, welfare rights, homelessness, housing etc.) of the existence of DHPs
- establishing and maintaining links to ensure awareness of the scheme among staff working in housing options, homelessness and adult and children's services
- including DHP advice as part of general welfare advice services
- making landlords aware of the scheme (private landlords, housing associations and Registered Providers)
- establishing links with social housing tenants and residents' organisations to ask them to help raise awareness of the scheme

- raising awareness by having information of the scheme available at tenants and residents' forums
- information on the Council website and/or arranging to include information on partner housing association websites
- information on Choice Based Lettings scheme websites
- information within literature or communications relevant to housing allocations policies or placements
- raise awareness through interviews with local radio, including stations targeting different ethnic groups
- targeted communications aimed at those likely to be affected - by telephone, text message or social media such as Twitter.
- ensure information on DHPs is included in HB entitlement letters
- offering advice on DHP where relevant when customers contact benefits staff to query entitlement
- identify / assist affected customers and work with partners to raise awareness and encourage take up
- having up to date information on the Council's website
- work actively with relevant partners to ensure that alternative advice and action is considered as necessary (e.g. referral to Housing Options, signpost for debt or benefit advice).
- proactive consideration of potential entitlement to DHP.

### **Information Required From Customers**

55. An application should normally be made in writing via the Council's online form and can be accepted from anyone who is acting on a customer's behalf.

56. When someone applies for a DHP they must provide:

- information the Council requires to make a decision or look at a decision again; for example, details of income, capital and expenditure. - see appendix B
- any other information considered reasonably necessary in connection with their application.

57. The Council may request reasonable evidence to verify the claim (e.g. medical evidence, proof of debts).

- If a claimant is receiving HB, the information already held by The Council regarding a person's income and rental liability can be used to assess DHP applications.
- If a claimant is in receipt of UC, any information held for Local Council Tax Support may also be used to process a DHP application.
- If the Council does not hold this information, data sharing powers provide a gateway for the Council to obtain relevant information from the DWP.
- Evidence of steps taken to mitigate their financial position may be sought e.g. searching for cheaper accommodation, reducing non-priority expenditure such as premium TV/mobile/broadband subscriptions.

58. The Council should have regard to the purpose of disability related benefits and whether the money from those benefits has been committed to other liabilities associated with disability.

59. Unavoidable costs that the claimant may have can also be taken account, such as fares for travel to work. This may include, for example, people who have had to move as a result of welfare reforms.

60. From 19 June 2017 all payments made by either We Love Manchester Emergency Fund WLMEF or London Emergencies Trust" LET are fully disregarded for the purposes of calculating HB, and applies to existing and new claims. This covers the injured, deceased person and their spouse, partner, civil partner and child.

## **Payments**

61. For HB claimants payments are made at the same time and by the same method as HB payments. For UC claimants, the Council may consider paying it at the same time as the monthly UC payment.

62. They can be made to a landlord or their agent after consulting with the tenant.

63. Payments of DHP must be recorded separately from payments of HB for management information and subsidy purposes.

64. If a DHP is paid with HB, notifications to the claimant must clearly show how much is the HB and how much is the DHP.

## **Decision Notices**

65. Notifications will be issued to the customer to confirm the start, review, end and refusal of a DHP award giving information about the decision, including
- The start date and end date of the award.
  - The amount of the award.
  - How the payment is to be made.
  - The reasons for award decision
  - A reminder to report relevant changes in circumstances.
  - Details of dispute handling
66. For HB claimants the information about the DHP decision can be included on the HB notification but it should make it clear that a DHP is not HB and does not attract appeal rights. For UC claimants they will have to be notified separately regarding any DHP decision.

## **Disputes**

67. There is no legal right of appeal but the council will review decisions if the customer requests us to do so in writing within one month of the decision giving reasons for the dispute. Any additional information or material affects should be provided.
68. The review will be carried out by a different decision maker preferably within 14 days of the receipt of the request. The outcome and reasons will be confirmed to the customer in writing.
69. Where maladministration is an issue the Councils complaints procedure can be used. If this process is exhausted referral to the Local Government Ombudsman or Judicial Review is available.

## **Management Information**

70. Suitable management information arrangements will be in place to monitor and manage expenditure as well as to make the necessary returns to the DWP. Including recording:
- whether the claimant has been affected by
  - benefit cap
  - removal of spare room subsidy
  - local housing allowance restrictions
  - combination of reforms

- none of the above
- the intended outcome by value of payments made
- To help secure and move to alternative accommodation (E.G. rent deposit)
- To help with short-term rental costs until the claimant is able to secure and move to alternative accommodation
- To help with short-term rental costs while the claimant seeks employment
- To help with short-term rental costs while the claimant seeks to increase their hours of employment enough to become exempt from the benefit cap
- To help with on-going rental costs for a disabled person/s in adapted accommodation
- To help with on-going rental costs for a foster carer
- To help with short-term rental costs for any other reason

### **Key Welfare Reform Changes**

71. In response to the pressures experienced by customers as a result of the changes below, the guidance reflects the expected increase in demand from those changes.
- Overall benefit cap (mid-2013)
  - The introduction of size criteria for the social sector - 'bedroom tax' (April 2013)
  - The removal of the 5-bed LHA rate and the cap of property size LHA rates (April 2011)
  - Restriction of general LHA rates to the 30th percentile rather than the median (April 2011)
  - The extension of the shared room LHA rate for single people aged <35 (Jan 2012)
  - Planned below inflation increases in LHA rates and welfare benefit amounts.
  - Above inflation increases in non-dependant deductions (2011 to 2014)
  - Universal Credit Regulations 2013 (April 2013)

## Appendix A: What DHPs cannot cover

Legislation precludes the following elements of rent, and shortfalls in HB or UC, from being met by a DHP.

1. **Ineligible charges:** service charges which are ineligible for HB cannot be covered by a DHP. These are as specified in Schedule 1 to the Housing Benefit Regulations and Schedule 1 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations. Nor can a DHP cover charges for water, sewerage, and environmental services – as defined and calculated under the HB provisions. The service charge rules for UC can be found in the UC Regulations 2013, Schedule 1.
2. **Increases in rent due to outstanding rent arrears:** under Regulation 11(3) of the Housing Benefit Regulations and Regulation 11(2) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations, where a claimant's rent is increased on account of outstanding arrears owed by the claimant in respect of their current or former property, the shortfall cannot be covered by a DHP.
3. **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 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);
  - reduction in benefit as a result of non-attendance at a work-focused interview. This applies both where the person's HB is reduced and when any other benefit that the person is receiving (such as IS) is subject to a sanction;
  - 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 unemployment 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;



- 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 employment voluntarily or failing to attend a prescribed training scheme;
  - restriction in benefit due to a breach of a community service order, or
  - reduction in UC due to a sanction as specified under regulations 100 to 114 of the UC Regulations 2013
4. **Benefit suspensions:** HB or UC can be suspended either because there is a general doubt about entitlement or because a claimant has failed to supply information pertinent to their claim. In such cases, a DHP cannot be paid. One of the intentions of the suspension provisions is to act as a lever to ensure that the claimant takes the necessary steps to provide the authority with the required information/evidence - paying a DHP could reduce the effectiveness of this lever.
  5. **Rent, when the person is getting Local Council Tax Support but not HB or help with housing costs in UC:** in other words, when a person is only getting local Council Tax support, you cannot award a DHP towards a rental liability.
  6. **Shortfalls caused by HB or UC overpayment recovery:** when recovery of an HB or UC overpayment is taking place, such shortfalls should not be considered for a DHP

## Appendix B: Example income & expenditure budget sheet

### Income

Income Type - Amount How often?	Amount	Weekly/ monthly/ annually
Your wages		
Your partner's wages		
Private Pension		
Your Partner's Private Pension		
Income Support		
Job Seekers Allowance		
Universal Credit		
Attendance Allowance		
Disability Living Allowance (Care Component)		
Disability Living Allowance (Mobility Component)		
Personal Independence Allowance (Daily Living)		
Personal Independence Allowance (Mobility)		
Child Benefit		
Working Tax Credit		
Child Tax Credit		
Incapacity Benefit/Employment and Support Allowance		
Pension Credit		
Bereavement benefit		
Carers Allowance		
Other state benefit (State which)		
Maintenance		
Money from anyone who lives with you		
Housing Benefit		
Council Tax Support		
Student loan/grant/bursary		
Insurance payments		
Other (Please specify)		
<b>Total per month</b>		

<b>Capital - Type Amount</b>	<b>Amount</b>	<b>Weekly/ monthly/ annually</b>
Main Bank Account		
Bonds/Shares		
Building Society		
ISA		
Savings		
Additional Bank Accounts		
Additional Bank Accounts		
Additional Bank Accounts		
Additional Bank Accounts		
Additional Bank Accounts		
<b>Total</b>		

### **Expenditure**

<b>Expenditure Type - Amount How often?</b>	<b>Amount</b>	<b>Weekly/ monthly/ annually</b>
<b>Housing Costs</b>		
Rent (including service charge)		
Council Tax		
Ground rent		
Mortgage payments		
Mortgage protection policy		
Life assurance or endowment policy		
Second mortgage/secured loan		
Buildings and contents insurance		
<b>Utilities</b>		
Water charges		
Gas		
Electricity		
Other fuel or heating costs		
<b>Other</b>		
Children's activities		
Cigarettes/Alcohol		
Social activities		
Groceries		

Household items/toiletries		
School meals/meals at work		
Maintenance payments		
Clothing and shoes		
Prescriptions, dental and glasses		
Bus fares		
TV Rental		
TV Licence		
Sky/cable TV package		
Landline telephone (including rental)		
Mobile telephone		
Internet		
Child minding fees		
<b>Insurance</b>		
Appliance Insurance		
Life insurance		
House contents (if not included with buildings cover)		
Pet insurance		
Private pension		
<b>Running a vehicle</b>		
Loan		
MOT/repairs		
Car tax		
Insurance		
Petrol usage		
<b>Other regular outgoings</b>		
<b>Outstanding debts/arrears - Housing Costs</b>		
Rent arrears		
Mortgage arrears		
Unpaid Council Tax		
<b>Outstanding debts/arrears - Utilities</b>		
Gas		
Electricity		
Other fuel costs		
Water rates		

Credit/Store cards (name and amount of repayment)		
Catalogue debts		
<b>Loans (name and amount of repayment)</b>		
<b>Total per month</b>		

SAMPLE