

## **Discretionary Housing Payment Policy**

**Live from: 1 April 2024**

**Live until: 1 April 2027**

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## 1.0 Summary

- 1.1 In accordance with the Council's financial regulations and the Discretionary Financial Assistance Regulations 2001 (regulation 4), the policy sets out the legal and regulatory context, the financial assessment process and the review and appeals process applicable to all Middlesbrough residents who apply for the Council's Discretionary Housing Payment (DHP).
- 1.2 The policy sets out the criteria and awarding process and how it aligns to the Council's Welfare Strategy.
- 1.3 It provides a fair and transparent framework consistent with the Council's wider fees and charges and debt management.
- 1.4 Any conflict between the policy and legislation will be resolved by reference to the legislation.

## 2.0 Definitions

<b>DHP</b>	Discretionary Housing Payment – financial assistance to support housing.
<b>DWP</b>	Department for Work and Pensions – Ministerial department within Central government is responsible for welfare, pensions and child maintenance policy.
<b>HB</b>	Housing Benefit – financial assistance to support rent costs if unemployed, on a low income or claiming benefits.
<b>UC</b>	Universal Credit - is a payment to help with living costs.

## 3. Context

- 3.1 Discretionary Housing Payments are awarded under The Discretionary Financial Assistance Regulations 2001 and enable the Local Authority to make payments by way of financial assistance (Discretionary Housing Payments).
- 3.2 In order to qualify applicants must already be in receipt of housing benefit or the housing element of Universal Credit and should be able to demonstrate that more financial support is required for housing costs.
- 3.3 The policy will set out how the scheme operates and the factors to be considered when deciding if a DHP can be awarded. Each case is reviewed and assessed based on this policy to ensure consistency in application.
- 3.4 Funding for the awards is provided by DWP.

## 4.0 Objective

- 4.1 The Council's Discretionary Housing Payment policy has the following objectives:
  - i. to promote a consistent and fair approach to the assessment of eligibility

- ii. to enable awards to be made in a timely and efficient manner;
- iii. sets out the criteria for assessment;

## 5.0 Outcome

5.1 The outcomes expected are:

- i. To ensure Middlesbrough residents clearly understand the eligibility criteria to apply for a DHP; how it can be used and how to access the funding;
- ii. To provide a clear framework to ensure consistent decision making and efficient processing.

## 6.0 Legislative and Regulatory Framework

<b>Local Government Act 1992 (as amended)</b>	Establishes requirements to manage the Council's financial affairs and the appointment of a section 151 officer.
<b>Data Protection Act 2018 Controls the lawful passing of personal data from one part of the Council to another.</b>	Data Protection Act 2018 Controls the lawful passing of personal data from one part of the Council to another.
<b>General Data Protection Regulation 2016 (GDPR) and Data Protection Act 2018 (DPA2018)</b>	The GDPR/DPA2018 place a duty on the Council to comply with the data protection principles relating to processing of personal data: (1)(a) Lawfulness, fairness and transparency; (1)(b) Purpose limitation; (1)(c) Data minimisation; (1)(d) Accuracy; (1)(e) Storage limitation; (1)(f) Integrity and confidentiality (security);
<b>Social Security Contributions and Benefits Act 1992 The primary legislation for the administration of most benefits in the UK</b>	Social Security Contributions and Benefits Act 1992 The primary legislation for the administration of most benefits in the UK.
<b>Social Security Administration Act 1992 The primary legislation for most benefits in the UK</b>	Social Security Administration Act 1992 The primary legislation for most benefits in the UK.
<b>Equality Act 2010 Is an amalgamation of previous antidiscrimination laws. It is a law which protects from discrimination of unfair treatment on the basis of certain personal characteristics such as age</b>	Equality Act 2010 Is an amalgamation of previous antidiscrimination laws. It is a law which protects from discrimination of unfair treatment on the basis of certain personal characteristics such as age.
<b>Freedom of Information Act (FOIA) 2000</b>	Under the FOIA, the Council has a duty to make information available to the public upon request, unless specific exemption(s) apply. It is also obliged to proactively and routinely publish information that has been frequently requested in the past in its Publication Scheme. Information requests frequently include requests for information held in emails.
<b>Fraud Act 2006</b>	Sets out criminal liability for Fraud

## 7.0 Roles and Responsibilities

<b>Director of Finance / Chief Financial Officer</b>	Under Part 7 of the Council's Constitution, the Chief Financial Officer (Section 151 Officer)
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	<p>is responsible for regulating and controlling the finances of the Council and hence that person will be responsible for the proper administration of the Council's financial affairs.</p> <p>Income relating to all types of debt should be handled in accordance with the Council's Financial Procedure Rules (contained within Section 21 – Debt Collection relating to the responsibilities for Directors, Director of Finance (Section 151 Officer), and Heads of Service.</p>
<b>Head of Service – Resident and Business Support</b>	Overall responsibility for the delivery of the Resident and Business Support Service and the Policy Owner.
<b>Other Heads of Service</b>	Where appropriate, Heads of Service have responsibility.
<b>Service Delivery Manager / Strategic Business Managers</b>	Where appropriate, responsibility for overseeing day-to-day compliance with this policy and the standards set out within it by their staff and other personnel they manage or commission.
<b>All staff, contractors, consultants, interns and any other interim or third parties</b>	Responsible for compliance with this policy.
<b>Data Protection Officer</b>	Responsible for provision of advice and guidance to the Council on its obligations in relation to data protection.

## 8.0 Supporting Policies, Procedures and Standards

- 8.1 The following policies, procedures and standards will be implemented across the Council to ensure that the Council's debts are managed effectively and securely.

<b>Welfare Strategy</b>	This provides a framework (e.g. a number of policies – S13a, Crisis Support, Food poverty, etc.) for a joined up approach to a holistic welfare advice and support service.
<b>Data Protection Policy</b>	This summarises the Data Protection Policy position of Middlesbrough Council and how it will comply with legislation, and associated codes of practice and official guidance in relation to the processing of personal data.
<b>Records Retention Schedule</b>	This defines how long different records should be retained to comply with legal, regulatory or other requirements and the proper arrangements for archiving and destruction.
<b>Records Management Policy and supporting procedures</b>	This provides a framework for ensuring that the Council's records are well kept and that the systems used to hold them are fit-for-purpose.
<b>Information Security and Infrastructure Security Technical Policies</b>	These set out policies and standards for the management and maintenance of the security of Council infrastructure and applications.

<b>Vital Records Standards</b>	This sets out how vital records will be identified and the steps to be taken to ensure their protection and preservation.
<b>Vulnerability Policy</b>	Intended for use by Middlesbrough Council employees when engaging with residents/residents where payment of a collectable debt is being considered.
<b>Corporate Debt Write Off Policy</b>	Sets out how Council will consider writing off debt, the process for doing so and facilitates a fair and consistent approach across all Council services.
<b>Debt Management Policy</b>	This sets out how the Council will manage all of its debt and facilitates a fair and consistent approach to the recovery of debt across all Council services.

## 9.0 What is a DHP?

9.1 DHPs provide financial support towards housing costs and can be paid where the Council is satisfied that a resident needs further financial assistance with housing costs and is in receipt of either:

- i. Housing Benefit
- ii. Housing element of Universal Credit

9.2 Owner-occupiers are not eligible to receive DHPs with the exception of Shared Ownership properties which carry a rental liability.

## 10.0 What can a DHP be used for?

A DHP award can be made to cover the following types of rent shortfall:

- i. Reductions in Housing Benefit or Universal Credit where the benefit cap has been applied;
- ii. Reductions in Housing Benefit or Universal Credit for under occupation in the social rented sector;
- iii. Reductions in Housing Benefit or Universal Credit as a result of local housing allowance restrictions;
- iv. Non-dependant deductions;
- v. Income tapers

10.1 A DHP award can be made to cover lump sum costs associated with a housing need such as

- i. Removal costs;
- ii. Rent in advance;
- iii. Deposits for a new tenancy (the property should be considered both appropriate and affordable).

## 11.0 General Principles

11.1 The general principles adopted within this policy are as follows:

- i. To ensure a professional, consistent, and timely approach to dealing with DHP applications,
- ii. Where Data Protection legislation allows, promote a co-ordinated approach towards sharing information internally and managing multiple awards to support financial hardship,
- iii. To ensure that DHP applications are managed in accordance with legislative provisions and best practice.

## **12.0 Delivering the policy**

12.1 The Benefits Service will work in conjunction with internal services, external organisations and direct with residents to take applications for a DHP.

## **13.0 Considerations for an award**

13.1 A DHP award will be considered for residents who meet the qualifying criteria as set out in this policy.

13.2 DHP's enable the Council to provide residents with financial assistance when they need help to meet their housing costs. All applications will be treated on an individual basis. When making a decision on any application, consideration will be given to the following aims:

- i. Alleviate poverty;
- ii. Prevent and tackle homelessness;
- iii. Support vulnerable young people in the transition to adult life
- iv. Encourage Middlesbrough residents to obtain and sustain employment;
- v. Safeguard Middlesbrough residents in their homes;
- vi. Help those who are trying to help themselves;
- vii. Keep families together;
- viii. Help provide stability to children;
- ix. Support the vulnerable in the local community;
- x. Help residents through personal crises and difficult events;
- xi. Support those who are affected by Welfare Reform

13.3 The Council considers that the support provided through the DHP scheme is on the basis that it is regarded as short-term (26 weeks maximum). There may be exceptional circumstances where the support can be provided longer, however this will be considered on a case-by-case basis.

13.4 The Benefits Service may undertake pro-active exercises to determine specific categories of residents who may be eligible for a DHP.

## **14.0 How a claim can be made**

14.1 A claim for DHP can be made electronically through the Council's website using the Council's DHP application form.

14.2 Where a resident is unable to complete an electronic application without assistance, support will be provided by the Benefits Service to complete the application will routinely be offered via a telephone call or an in-person appointment depending on the needs of the resident.

14.3 The Benefits Service may request any reasonable evidence in support of an application for a DHP. Such requests will normally be made in writing/electronic

methods, although if an urgent application is being considered (such as a resident at risk of homelessness) this can be requested via phone.

- 14.4 The resident will be asked to provide the evidence within one month of a request being made and only in exceptional circumstances can this deadline be extended.
- 14.5 The Council reserves the right to verify any information or evidence provided where this is essential to the decision-making process.
- 14.6 If the resident is unable or does not provide the required evidence the application will only be considered on the information that is confirmed.

## **15.0 Homeless / Housing joint working**

- 15.1 Upon receipt of a completed application form for a DHP, if the resident has stated that they are facing eviction proceedings or have been given notice to leave their property or have requested general housing advice, the processing officer will contact the Council's homeless team and share the relevant details.
- 15.2 Applications with support and evidence from the Homeless team will be given priority and the Benefits Service will liaise closely with the team.
- 15.3 In an effort to try and prevent homelessness wherever possible, all applications, whether direct from resident or via internal referrals, will be treated as an emergency application where this is identified as a risk and will be prioritised.

## **16.0 Period of Award**

- 16.1 The length of time over which a payment is made is at the discretion of the Council and will be based on the known facts and evidence supplied. If a DHP is awarded the resident will be notified in writing and this will include the start date and end date of the award (unless it is to cover a one-off housing cost such as a deposit or rent in advance).
- 16.2 The start date of an award will normally be the Monday after the electronic claim is received; or the date on which entitlement to HB / UC housing element commenced as long as the application for the DHP is received within one calendar month of the claim for HB / UC housing element being awarded.
- 16.3 The minimum period for which an award will be made is one week.
- 16.4 The Council will not normally award a DHP for a period exceeding 26 weeks months, although this period could be extended in exceptional circumstances and considered on a case by case basis.
- 16.5 A DHP award can be paid for a backdated period where the resident can show "good cause" as laid out in the Housing Benefit Regulations as to why there was a delay in making a claim.
- 16.6 DHPs cannot be awarded for any period outside an existing HB / UC housing element period under the statutory schemes.

## **17.0 Awarding a DHP**



- 17.1 The assessor dealing with the claim shall consider the full circumstances before deciding whether or not to award a DHP.
- 17.2 Income (including savings and capital) and expenditure for the household is a primary consideration when awarding a DHP. For the purposes of a DHP, military compensation or supplementary payments made under the military compensation or pensions scheme is disregarded.
- 17.3 The following income is normally disregarded for benefit purposes but is not disregarded for a DHP application:
- i. Disability Living Allowance
  - ii. Attendance Allowance
  - iii. Personal Independence Payments
  - iv. Child Maintenance
- 17.4 Where residents are in receipt of the income listed at 17.3 (i to iii) exceptional expenditure relating specifically to their disability will be taken into account.
- 17.5 The following will also be considered:
- Whether the household is / has been / or is threatened with homelessness
  - If the resident is unable to take action to improve his / her situation or if reasonable steps are being taken to change their circumstances i.e. commence employment or reduce ongoing expenditure
  - If it is unreasonable to expect the resident / family to move
  - If, by awarding a DHP, this would assist the resident to move to more suitable accommodation,
  - Any medical issues, or other special needs, of the resident, partner or dependents, or other members of their household
  - The effect of the April 2013 size criteria changes for tenants. Priority will be given to those who:
    - Have had a property significantly adapted to meet disability needs
    - Need additional space because of their disability
    - Are taking the necessary steps to either downsize or take on a boarder / lodger
  - The effect of the Benefit Cap on payments of Housing Benefit or Universal Credit. Priority will be given to those who can demonstrate that they are:
    - Taking the necessary steps to help themselves and are working towards finding employment or trying to find additional income to meet the loss in Housing Benefit / Universal Credit;
    - Taking the necessary steps to move to cheaper alternative accommodation.
  - The amount of shortfall between Housing Benefit / Universal Credit and the rental liability (DHPs cannot be paid for ineligible service charges such as personal heating or water charges, increases in rent due to outstanding rent arrears or certain sanctions and reductions in state benefits)
  - Any non-dependant deductions;
  - Caring responsibilities for family members or others reliant upon the resident but not part of their household;
  - Proximity of essential services relied upon by the resident and their partner to their home;
  - Any special reasons, which make it necessary or desirable for the resident to occupy the dwelling in respect of which the liability arises;
  - Any other special circumstances brought to the attention of the Benefits Service. For example, will the payment of DHP keep the family together, will it support a young person in the transition to adult life, or will it assist in the safeguarding of a vulnerable adult?

- 17.6 The amount awarded will take into account all of the considerations at 17.5. How much the applicant receives depends on the individual situation, therefore it is important that each applicant provides as much detail as possible about their financial situation. Each claim is assessed on its own merit; the Council will always act fairly and consistently and clearly set out how the decision was reached. Any amount can only be equal to or less than the difference between rent liability and the Housing Benefit or Universal Credit Housing element award.
- 17.7 An award of a DHP does not guarantee that a further award will be made at a later date, even if the resident's circumstances have not changed. In these circumstances the assessor should review whether the situation is likely to change and what the resident is doing to alleviate the situation.
- 17.8 If a resident has received multiple awards for a period of 12 months the case should be discussed with the Team Leader or Operations Manager before any further awards are made.
- 17.9 Reasons to award or decline an application should be recorded in all instances.
- 17.10 The Benefits Service will seek to maximise a resident's income by checking the availability of state benefits and other sources of financial assistance that may be available to the resident.
- 17.11 Consideration will also be given to reducing the level of overpayment recovery from on-going housing benefit entitlement if this would assist in a resident's financial circumstances.

## **18.0 Method of Payment**

- 18.1 The Benefits Service will decide the most appropriate person to pay based upon the circumstances of each case. This could include paying:
- i. The resident;
  - ii. Their partner;
  - iii. An appointee;
  - iv. Their landlord (or an agent of the landlord); or
  - v. Any third party to whom it might be most appropriate to make payment.
- 18.2 DHP's are paid by bank transfer and the payment frequency will be in line with the Housing Benefit / Universal Credit awards.
- 18.3 For one-off costs a payment will be made to provide immediate assistance.

## **19.0 Notification**

- 19.1 The Benefits Service will aim to inform the resident in writing of the outcome of their application within two weeks of receipt of all information being received.
- 19.2 Where an application is unsuccessful, the letter will set out the reasons for this decision and the right of review. Details of where residents can go for further support will also be provided.
- 19.3 For successful applications the notification will include the following:
- i. The one-off amount or the weekly amount of DHP awarded;
  - ii. The period of the award;

- iii. How, when and to whom the award will be paid;
- iv. The requirement to report a change in circumstances;
- v. The right to request a review / how further assistance can be obtained.

## **20.0 When DHP's Cannot Be Awarded**

20.1 DHPs cannot be awarded in the following circumstances:

- i. 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. Examples include water charges, personal utility costs or charges for food etc
- ii. Rent arrears accrued whilst not in receipt of HB or UC Housing element
- iii. Reductions in any benefit as a result of a sanction
- iv. Where HB or UC Housing element is suspended
- v. To cover deductions from on-going HB due to an overpayment

## **21.0 Change in Circumstances**

21.1 If a resident's circumstances have changed they must notify the Benefit Service so that the award can be reviewed.

21.2 Reviews will be conducted where information is provided to the Benefit Service from third parties such as DWP.

21.3 It is a requirement for residents to remain in receipt of HB or UC Housing element, and where that ceases the DHP will be cancelled accordingly.

## **22.0 Overpayments**

22.1 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 the Benefits Service will seek to recover any DHP found to be overpaid. Normally this will involve issuing an invoice to the resident or the person to whom the award was paid.

22.2 Any decision to not recover the overpayment will be taken in line with the Council's Debt Write Off Policy.

22.3 Under no circumstances will recovery be made from any amounts of Housing Benefit or Universal Credit due to the resident. The decision letter that notifies an overpayment decision will also set out the right of review.

## **23.0 Decision Reviews**

23.1 DHPs are not subject to the statutory appeals procedure, however, reviews of any decision can be requested. The process is detailed below.

23.2 The resident (or their appointee) should make a written request to the Benefit Service within one calendar month of the written DHP decision being issued to the resident (address details are in the notification letter).

- 23.3 An appeals officer, independent of the original decision will then be appointed to consider the request and review the decision made to ensure it was made in line with the DHP policy.
- 23.4 The resident (or their appointee) will be informed of the appeals officer's decision within 20 working days. This decision is final and binding and may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman.
- 23.5 The appeals officer may extend the time periods for review in exceptional circumstances.

## **24.0 Fraud**

- 24.1 Middlesbrough Council reserves the right to verify any application or associated evidence, and any applicant falsifying their records to gain relief may face prosecution.
- 24.2 Where it is alleged, or the authority suspects that such a fraud may have been committed, the matter will be investigated and if fraud is found to have occurred, action will be taken including the recovery of overpaid monies and, if appropriate, criminal proceedings.

## **25.0 Monitoring and review arrangements**

- 25.1 The implementation and effectiveness of this policy and its supporting procedures will be checked and monitored by the Head of Service and associated management team.
- 25.2 The policy for the first 12 months will be subject to quarterly review, followed by a full review every 3 years.