

Slough's Discretionary Housing Payments Policy 2019-20

1. Introduction

- 1.1 Discretionary Housing Payments (DHPs), are awarded by the Council to provide further financial assistance (outside of the Housing Benefit and Universal Credit regulations) to help customers meet their housing costs.
- 1.2 The regulations covering DHPs are the Discretionary Financial Assistance Regulations 2001, and amendments included in the Council Tax Benefit abolition (consequential amendments) regulations 2013 and the Universal Credit consequential amendments regulations 2013.
- 1.3 In addition the Secretary of State has also released a Guidance Manual and a Good Practice Manual originally in April 2014 and has made regular updates the most recent being in March 2018.
- 1.4 Local Authorities have broad discretion and this policy covers that discretion, however in conjunction, decisions have to be made in line with "ordinary principals of good decision making" e.g. administrative law. All Local Authorities have to act fairly, reasonably and consistently, in addition each case must be decided on its own merits and the decision making should be consistent throughout the year.
- 1.5 SBC has taken into consideration the above, as well as the the DWP Guidance Manual and Good Practice Guide when developing the DHP policy.
- 1.6 This policy overrides the DWP Guidance Manual for the borough of Slough.
- 1.7 DHPs can play an important role in sustaining tenancies, preventing homelessness and, where needed, enabling customers to move to more affordable accommodation.
- 1.8 DHPs may cover all or part of a shortfall in a customer's eligible rent if they are on Housing Benefit provide the damage deposit or other assistance a tenant may need in order to secure a tenancy. DHPs may be awarded as a one-off payment and/or as a series of payments.
- 1.9 If the customer is in receipt of housing element of Universal Credit the DHP may cover the whole housing costs element as determined by the Universal Credit calculation, as long as they are not an owner occupier.
- 1.10 To qualify for a DHP, the customer must have a rent liability, require further financial assistance with their housing costs and have been entitled (defined as in receipt of) to Housing Benefit or the housing element of Universal Credit throughout the period for which they are claiming assistance.

- 1.11 An application will be refused without consideration of the Customers personal circumstances where the applicant is not in receipt of Housing Benefits or the housing costs element of Universal Credit.
- 1.12 In receipt of underlying entitlement is not classed as in receipt of Housing Benefit.

2. Amount of funding available

- 2.1 The Department for Work and Pensions (DWP) makes grants available to local authorities for DHP purposes. In 2019-20, the total DHP grant budget (shared between all local authorities in England and Wales) is £139.5m 53 million, a decrease of 8.8% compared to 2018-19.
- 2.2 The £139.5 million consists of funding for four separate areas of support; Core Funding, Local Housing Allowance (LHA), Removal of the Spare Room Subsidy (RSRS) and benefit cap.
- 2.3 The Core Funding, Local Housing Allowance and Removal of Spare Room Subsidy elements of the overall funding have remained the similar to 2018-19 funding for Slough.
- 2.4 The distribution of the DHP funding is based on the effect of each element on individual LAs.
- 2.5 Slough's share of this £139.5 million grant is **£ 650,504** which is an increase on 2018-19 of £1,110
- 2.6 The Council needs to consider how to allocate this limited DHP resource in a way that is not only fair but also supports those that are in most need of assistance.

3 Slough's DHP scheme

- 3.1 Welfare reform is aimed at encouraging people to move into work, increase their hours and/or move to more affordable accommodation.
- 3.2 Although it is hoped that many people will be able to address and resolve their difficulties without the need for a DHP, the Council recognises that DHPs have an important role to play in providing customers with short term assistance to ease transitions and allow households time to find a way to resolve their difficulties.
- 3.3 The overriding principles of Slough's DHP scheme are as follows:
- All customers will be treated fairly;
 - All DHP applications will be assessed on their individual merits (which includes, where relevant, considerations of equality);
 - All of the options available to the customer (including, for example, reducing household expenditure, maximising income, securing employment and/or moving to alternative, less expensive

accommodation) will be taken into account when the Council assesses the merits of each application; and

- In order to be awarded a DHP, customers must be able to show that their circumstances are exceptional.

3.4 In addition and in line with advice from the DWP Slough Borough Council will assess DHP applications from families who have been temporarily rehoused outside of the borough of Slough (out of borough placements) and are in receipt of Housing Benefits and will expect neighbouring boroughs to support their own out of borough placements who are temporarily residing in Slough and remain in receipt of Housing Benefits.

3.5 However if the customer is required to make a claim for Universal Credit housing costs, within the area that they have been placed, the Local Authority where the customer is now living and claiming UC housing costs should consider the DHP. This is because the allocation of DHP funding is based on the caseload data within each LA area.

3.6 Examples of the shortfalls that DHPs may cover

3.7 The Council is not required to spend its overall grant allocation in any particular way; it is a matter for its discretion.

3.8 The types of shortfall that a DHP may cover include the following:

- Reductions in Housing Benefit or Universal Credit, resulting from the application of the benefit cap;
- Reductions in Housing Benefit or Universal Credit, resulting from the under-occupation of social rented housing;
- Reductions in Housing Benefit or Universal Credit, resulting from Local Housing Allowance restrictions, including the Shared Accommodation Rate; or Local Reference Rent
- Reductions in Housing Benefit or Universal Credit, resulting from non-dependant deductions and the use of income tapers;
- Rent shortfalls to prevent a household becoming homeless whilst alternative options are explored up to a maximum of six months, this may be extended in exceptional circumstances as outlined below..
- Income taper reductions
- Any other legislative changes which limits the amount of Housing Benefit payable e.g. the removal of family premium
- Slough Borough Council also wants to support Care Leavers and their status will be considered when assessing a DHP award.

3.9 What DHP cannot cover

3.10 For the purposes of a DHP, the following elements of a customer's rent cannot be included in their claim for housing costs because the regulations exclude them:

- Ineligible service charges
- Increases in rent that are due to outstanding rent arrears;

Other excluded criteria are:

- Sanctions and reductions in Benefit
- Benefit suspensions
- Where there is no rent liability or they are not receiving Housing Benefit or Universal Credit for rent costs i.e. if they are only receiving Council Tax Support.
- Shortfalls caused by recovery of overpaid Housing Benefit or Universal Credit

3.11 Objectives of this DHP policy

3.12 The Council will consider making a DHP award to customers who meet the qualifying criteria. Assessing all applications on their individual merits, it will consider the extent to which the financial assistance requested will meet the Council's objectives of:

- Alleviating poverty
- Encouraging and sustaining people in employment;
- Sustaining tenancies and preventing homelessness;
- Safeguarding Slough residents in their own homes;
- Helping people who are trying to help themselves;
- Keeping families together;
- Supporting victims of domestic violence to move to a place of safety
- Supporting the vulnerable and elderly in the local community;
- Supporting disabled people to remain in adapted properties
- Helping customers 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
- Avoidance of unlawful discrimination

3.13 Support for households affected by welfare reform

- 3.14 DHPs are not generally intended to be used as a long term solution to the customer's financial difficulties. Instead, they should be used to provide short term assistance to ease transitions and allow households time to find a way of resolving their difficulties.
- 3.15 The exceptions being cases which will be determined under caselaw already in place at the time of this policy or caselaw that comes into being during the life of this policy.
- 3.16 All applications will be assessed on their individual merits. However, when considering applications, the Council will take into account not just the cash limitations of what remains in the DHP budget but also the extent to which a DHP can help the customer to overcome temporary difficulties and, if possible, enable them to secure paid employment and/or move to alternative accommodation that they can afford.
- 3.17 The expectation is that DHPs will be awarded in unusual or exceptional circumstances (unless already determined by caselaw) where additional help with the current rent will have a significant effect in alleviating hardship, reducing the risk of homelessness or alleviating difficulties that may be experienced in the transition from long term benefit dependence into work. The Council must see evidence that the customer is working to reduce their rental liability or increase their income in the longer term for DHP awards to continue.
- 3.18 At the discretion of the Council, conditions may be attached to a DHP award.

3.19 Households affected by the Benefit Cap

- 3.20 The purpose of the DHP funding is to provide short-term, temporary relief except where the customer is disabled and affected by recent caselaw to mitigate the most severe effects of the benefit cap until a more sustainable solution is found.
- 3.21 Examples of the groups that are likely to be particularly affected by the benefit cap include (but are not limited to) the following:
- Families living in private rented accommodation
 - Families living in Temporary Accommodation;
 - Individuals or families fleeing domestic violence;
 - Those with kinship responsibilities;
 - Individuals or families who cannot move immediately for reasons of health, education or child protection;

- Households that are moving to or are having difficulty moving to more appropriate accommodation.
 - Families who are affected by the benefit cap and have a disabled member of the family
- 3.22 The intention of the DWP is that the majority of these customers affected by the benefits cap will move into work and therefore become exempt from the cap. Some may chose to move whist others may consider other means by which they might be able to meet any short fall such as trying to negotiate a reduction in their rent or meeting the shortfall from other sources.
- 3.23 Given the limitations of the DHP budget, it is necessary that priority is given to benefit cap customers in order to assist them achieve the above aims.
- 3.24 The Council is unable to provide a prioritised list as it will treat each claim on its own merits and take into consideration the individual circumstances of the customer – the following are the areas where the Council will consider a priority, but other cases depending on the circumstances will not be excluded.
- Households that need to move to alternative, lower cost accommodation but are unable to do so immediately (for reasons of health, education or child protection) and the provision of short-term financial assistance will contribute to the achievement of one or more of the Council's DHP policy objectives
 - Households that need to move to alternative, lower cost accommodation but are working proactively to resolve their situation and the short-term award of a DHP will, prevent the household from becoming homeless or delay homelessness for long enough to enable them to complete a planned move to more affordable accommodation;
 - Households that are, working proactively with Jobcentre Plus and advice / support providers to secure paid employment, claim Working Tax Credit and become exempt from the benefit cap.
 - Homeless households that are residing in Temporary Accommodation (provided by, or on behalf of, Slough Council) and have been assessed, by the Council, as being particularly vulnerable, and needing to remain in the area or they are awaiting an offer of alternative Temporary Accommodation, procured at a lower cost; or are awaiting a decision on their Homeless application
 - Households that have a disabled member of the family where they are unable or unwilling to move due to proximity to healthcare professional etc or to support the disabled family member or where they require an additional room to support their disability.
 - Customers who are newly affected by the benefits cap during 2019-20 due to changes in circumstances (i.e. not those who take on a new property which is over and above the cap rate) will be given priority over those that have received DHP for a number of years and were affected by the original benefits cap.
 - Care Leavers

- 3.25 In the above instances the difference between the benefits cap and the eligible rent will be paid for the first 6 months only of the first DHP claim without taking income and expenditure into consideration in order for the Customer to take actions to review their situation.
- 3.26 In order for the above (3.25) a fully completed DHP application must be made to the DHP office with all the supporting information including that showing how the Customer falls into the above category. (Please see below 4.1 for additional information on Care Leavers)
- 3.27 All DHP applications will be assessed on their individual merits.
- 3.28 Households affected by the benefits cap where it cannot be evidenced that steps have been taken to alleviate the effects of the cap or are not classed as vulnerable (as above) will not be eligible for indefinite DHP awards. Where this is the case awards will be reduced by a taper over a specified period depending on the circumstances of the customer. This will be relayed in the notification letter to the customer.

3.29 Households affected by the benefit cap that will not be entitled to DHP

- 3.30 In the main any household that has taken on a new tenancy, apart from where that accommodation is TA, (as there is limited choice in this accommodation) who does not fulfil the vulnerable criteria outlined above will not be considered eligible for DHP as the Council expects households to consider their income and expenditure when sourcing new accommodation.
- 3.31 The Council will however consider a DHP for up to 6 months in the above instance where the customer can show there was no other suitable alternative accommodation or that they expect their circumstances to change in this period. In this instance the maximum that will be paid will be £30 DHP per week.

3.32 Households affected by the Social Rented Sector Size Criteria

- 3.33 The purpose of the DHP funding is to help those customers who are unlikely to be able to meet the shortfall in the rent payments and for whom moving to a smaller property may be inappropriate or avoidable.
- 3.34 For customers living in significantly adapted accommodation it will be more cost-effective to allow them to live in their current accommodation rather than moving them into smaller accommodation which then needs to be adapted.
- 3.35 In addition, customers who are living in properties which have been significantly adapted for other household members such as for a disabled child or non-dependants the same will apply.
- 3.36 There is no definition of significantly adapted accommodation in the regulations or guidance. This is to be determined on an individual basis taking into account the adaptations that would have to be carried out should the customer be required to move to alternative accommodation.
- 3.37 In addition where there has been no significant adaptation of the property but a member of the household has a long term medical condition that creates difficulties in sharing a bedroom and which has been substantiated as part of

their application then a DHP would be appropriate.

- 3.38 The above group will be proactively encouraged to claim DHP. This claim will not take into consideration income and expenditure but as long as the customer is in receipt of Housing Benefit or the housing costs element of Universal Credit and they have a confirmed adapted property the difference between the benefit award and the eligible housing costs will be paid by DHP.
- 3.39 **Support for disabled children or non-dependants who need an additional bedroom for an overnight carer**
- 3.40 Customers or their partners who require frequent care from a non-resident overnight carer or team of carers are allowed an additional bedroom for that carer under the maximum rent (social sector) size criteria.
- 3.41 This provision does not apply to other members of the household. Therefore, where an additional bedroom is needed for a non-resident carer who is providing overnight care to a disabled child or non-dependant SBC will consider favourably an award of DHP and due consideration will be given as to whether this should be a long term award. This claim will not take into consideration income and expenditure but as long as the customer is in receipt of Housing Benefit or the housing costs element of Universal Credit and they have a confirmed need for an additional bedroom for an overnight carer the difference between the benefit award and the eligible housing costs will be paid by DHP.
- 3.42 **Support for approved or prospective adoptive parents**
- 3.43 Customers who have been approved as adopters are required to have a bedroom for an adopted child. Until the child forms part of the household, removal of the spare room subsidy may apply and DHPs can be used to provide support in the interim period.
- 3.44 Similarly, people going through the approval process to become adoptive parents will need to show that they have a spare room for a child. If a DHP is paid on this basis it will be the responsibility of the customer to inform the LA of any change of circumstances if, for example, they were not subsequently approved.
- 3.45 In some cases the LA will specify that an adopted child should have their own room, and not share with another child. DHPs may be used on an on-going basis to provide support where an additional bedroom is not allowed for housing benefit purposes. This claim will not take into consideration income and expenditure but as long as the customer is in receipt of Housing Benefit or the housing costs element of Universal Credit and they are a confirmed prospective adoptive parent the difference between the benefit award and the eligible housing costs will be paid by DHP.
- 3.46 **Support for approved or prospective foster carers**
- 3.47 Foster Carers are allowed **one** extra bedroom under the size criteria rules providing they have fostered a child or became an approved foster carer within the last 52 weeks.
- 3.48 Some customers may be caring for siblings, or for two or more unrelated foster children, and require additional bedrooms. National minimum standards

for Fostering Services state that a foster child over the age of 3 should generally have their own room. However, the size criteria rules only allow foster carers to have one extra bedroom; therefore a DHP will be awarded to help cover any reduction in housing benefit due the additional rooms that are required.

3.49 People going through the approval process to become foster carers will need to show that they have a spare room to be approved. If a DHP is paid on this basis it would be up to the customer to inform the LA of any change of circumstances if, for example, they were not subsequently approved.

3.50 **Support for disabled children**

3.51 The Government has amended legislation to allow an extra bedroom for a severely disabled child eligible for the middle or highest rates of Disability Living Allowance (DLA) care who would normally be expected to share a room under the size criteria rules, but is not reasonably able to do so due to severe disability. If the child meets the DLA criteria then the SBC will assess whether or not the child's impairment makes it unreasonable for them to share a bedroom, taking the full facts of the case into consideration.

3.52 In cases where a child is not entitled to DLA care at either the middle or highest rate but the customer advises that their child is unable to share, consideration will be given to whether awarding DHP is appropriate.

3.53 In addition given the limitations of the DHP budget – and on the understanding that the Council and its housing association partners will do everything they can to support customers and prevent them from becoming homeless – the Council will give priority to DHP applications received from the following households:

- Households that contain a person with a disability and are living in 'significantly adapted' accommodation;
- Households that contain a disabled child who is unable to share a bedroom because of their severe disabilities, where regulations do not allow for the extra bedroom;
- Households that contain a disabled child and are living in accommodation that has been adapted to meet the child's needs, where regulations do not allow for the extra bedroom; and
- Households containing someone who has a severe and persisting disability which means that they are dependent on the care and support of relatives and friends who are living in the local community and there is no suitable accommodation available, within the local area, to which they are able to transfer.
- Households where an additional room is needed because of a person or persons disability, which precludes a couple sharing a room or where an additional room is needed to store equipment essential because of a persons disability.
- Households who have been approved as adopters or prospective foster parents within the last 52 weeks or are going through the approval process and need a spare room(s) in order to qualify.

3.54 Depending on the level of demand for DHPs, the Council may also give

priority (albeit slightly less priority than is given to the households affected by the Size Criteria listed above) to DHP applications from the following households:

- Households whose Housing Benefit is restricted by the Size Criteria but that restriction will soon be lifted because the customer (and their partner, if they have one) will reach the age at which they will be able to claim Pension Credit;
- Households whose Housing Benefit is restricted by the Size Criteria but that restriction will soon be lifted because one or more of their children will soon reach an age when they are not expected to share a bedroom;
- Single women who are pregnant (and childless couples containing a pregnancy) who are living in a two-bedroom home but whose Housing Benefit is restricted by the Size Criteria to a one-bedroom home but that restriction will soon be lifted when the baby is born; and
- Households with exceptional need, which are actively and consistently engaging in seeking to downsize to accommodation that matches their need.

3.55 Households affected by the Social Rented Sector Size Criteria will be encouraged (where they are not an exempt or vulnerable category as outlined above) to move to smaller accommodation to reduce the effect of the Social Rented Sector Size Criteria.

3.56 Households who would be expected to move will be informed in their original DHP award letter and will be expected to make all efforts to achieve this.

3.57 The Council accepts that the availability of smaller accommodation is limited and will not reduce or remove DHP payments where the Customer can evidence that they have made attempts to move e.g. joined the Housing Transfer list, made a mutual exchange application or on the home swapper list etc

3.58 However where no attempt to move has been made, where a customer has refused a reasonable offer to move or the Customers wishes to remain in their existing property DHP will not be awarded, unless they fall under the vulnerable criteria above. (A reasonable offer will be defined in conjunction with the Council's Letting service).

3.59 Households affected by the Social Rented Sector Size Criteria that will not be entitled to DHP

3.60 Any household that has taken on a new tenancy who does not fulfil the vulnerable criteria outlined above will not be considered eligible for DHP as the Council expects households to consider their rental liability, income and expenditure when sourcing new accommodation.

3.61 The Council will only consider a DHP for a limited period (generally between 6 and 12 months) for customers who do not fall into one of the vulnerable categories outlined above and have made no attempt to find alternative accommodation or to comply with the requirements of the Welfare Reform legislation in looking for work or working towards looking for work.

3.62 Customers who have refused a reasonable offer of a move, who have made no attempt to go on the Housing transfer list, home swapper etc or have no

wish to move.

3.63 Other households requesting a DHP, including those that are affected by the Local Housing Allowance restrictions

- 3.64 The purpose of the DHP funding is to provide short-term, temporary relief to families and vulnerable people whose Housing Benefit or Universal Credit has been reduced, due to Local Housing Allowance restrictions (including the LHA caps, the Shared Accommodation Rate and changes to the way in which LHA is calculated), income tapers and non-dependant deductions.
- 3.65 DHPs cannot assist with the council tax liabilities that residents incur under the 2013 Council Tax Reduction scheme, known as Local Council Tax Support in Slough.
- 3.66 All DHP applications will be considered on their individual merits. However, the Council will give priority to applications from households that have children and need to move to alternative, lower cost accommodation but are unable to do so immediately (for reasons of health, education or child protection).
- 3.67 Where a customer, remaining in the same property becomes affected by the LHA reforms due to a rent increase 3.64 will also apply, and advice will be provided on moving to cheaper alternative accommodation and or discussions with the Landlord regarding the increase. In this instance the original assessment period will be for no more than 3 months and the claim will be reviewed after this time.
- 3.68 The Council will however consider a DHP for up to 6 months in the above instance where the customer can show there was no other suitable alternative accommodation or that they expect their circumstances to change in this period. In this instance the maximum that will be paid will be £30 DHP per week.

3.69 Rent-in-advance, damage deposits, admin fee and removals

- 3.70 The DHP budget is insufficient to meet the rent shortfalls of the thousands of customers whose Housing Benefit and Universal Credit no longer cover their full rent.
- 3.71 In order to provide long term solutions, the Council will help and encourage customers to move to alternative accommodation that they can afford.
- 3.72 Instead of providing customers with short term assistance to enable them to maintain the rent payments on a home that they will never be able to afford without a DHP, the Council has decided that it would be better to help those customers to move to somewhere they can afford, at a much earlier stage, by providing them with the help they require to pay the damage deposit. LHA rates will be used in the majority of cases as the ceiling for damage deposits.
- 3.73 The Council wishes to support customers to move to cheaper alternative accommodation and considers a damage deposit equivalent to four weeks rent at LHA rate a reasonable deposit but accepts that there will be instances where the deposit is in excess of 4 weeks. The Council will consider each case on its individual merits up to a maximum of the equivalent of 8 weeks rent at LHA rates.

- 3.74 The Council will consider damage deposit for a property outside of the borough where the customer is currently entitled to Housing Benefits or Universal Credit within the borough and is being supported by the Housing Demand Team due to Homelessness or potential Homelessness and where the Deposit Guarantee Scheme (DGS) cannot be used the Council will consider favourably the application made.
- 3.75 Where the customer is requesting a damage deposit for a property outside of the borough of Slough and is currently entitled to Housing Benefits or Universal Credit within the borough and the move will ensure they are moving to cheaper alternative accommodation or will facilitate the objectives in the Welfare Reform bill this too will be considered favourably
- 3.76 When considering DHP requests for such a purpose, the Council will take into account any damage deposit that is due to be returned to the customers. The Council will also check that the customer's new home will be affordable.
- 3.77 The Council understands that in some instances (mainly because of vulnerability issues) the Customer will have limited choice in the accommodation that they can move to and that the amount of damage deposit may be in excess of the LHA rates, in these instances the Council will take the evidenced reasons into account when making a decision.
- 3.78 The Council will not normally pay rent-in-advance or removal costs.
- 3.79 Customer may make an application for Local Welfare Provision, where assistance with removal costs is required.
- 3.80 Rent in advance payments will not generally be paid as Housing Benefit or housing costs under Universal Credit is available for any period of rent liability, though in line with the regulations it is paid in arrears. Customers may make an application for Housing Benefit or Universal Credit where assistance with rental liability is required.
- 3.81 The Council will consider rent in advance only in exceptional circumstances which include:
- where it is necessary to make such a payment to comply with the authority's legal obligations e.g. to avoid unlawful discrimination
 - where the Customer is vulnerable (see above)
 - the Council will also consider rent in advance if this discharges any future obligation.
 - the Council may offset this rent in advance award from any future HB award for the same period of time.
- 3.82 The guidance from the Secretary of State's issued in March 2018 by the DWP has been taken into consideration.
- 3.83 The Council would not normally pay an Admin Fee for the Letting Agent to carry out the administrative actions of letting the property, however in the Autumn statement 2016 the Chancellor has announced that he will as soon as legislatively possible remove the Admin fee charged by Letting Agents.
- 3.84 In order to support the customers in Slough the Council will consider an application to pay an Admin fee up to a maximum of £150 until the legislation is in place which is expected to be Spring 2019.

- 3.85 Regard will 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.
- 3.86 The 'Gargett' case relates to rent arrears and specifically whether a DHP could 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, the case also discusses the issue of duplication of DHPs and HB. In relation to preventing duplication of provision, part of the decision states "housing benefits already paid for past housing costs must also be deducted. This is implicit in the purpose for which DHPs may be made. Otherwise the applicant would be receiving DHPs for housing costs that have already been met by past payment of housing benefits. It would not be a case for a need for "further" financial assistance to meet "housing costs"".
- 3.87 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 Council must consider whether there is likely to be a duplication of payments for the initial part of the tenancy if the DHP is made; and whether there is any means to avoid this.
- 3.88 When awarding a DHP for a rent deposit or rent in advance, the council must 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.

It will 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.

3.89 DHPs and two homes

- 3.90 The regulations allow an authority to award DHPs on two homes when someone is treated as temporarily absent from their main home, for example because of domestic violence.
- 3.91 The regulations in Housing Benefit and Universal Credit also allow for these benefits to be paid on two homes in exceptional circumstances e.g. Domestic Violence
- 3.92 Where the customer is in receipt of Housing Benefit or Universal Credit it is expected that they will apply for a "two homes payment" via these benefits.
- 3.93 If the customer is of working age the benefit cap will come into operation, the Benefits Service will consider if the customer is treated eligible for benefits on both properties and if there is a total shortfall. If there is a total shortfall DHP may be awarded up to the weekly or monthly eligible rent on both properties.
- 3.94 If the customer is not of working age (or other qualifying circumstances) and therefore the cap does not apply the customer will be treated as liable for rent on both properties and benefit awarded appropriately and there is a shortfall,

it is acceptable to award DHP in respect of both properties subject to the weekly or monthly limit on each property.

- 3.95 If the customer is only treated as liable for Housing Benefit or Universal Credit on one home, but is having to pay rent on two homes, a weekly DHP could be considered though the maximum award would be up to the eligible rent for the main home.
- 3.96 Where the customer is in receipt of Housing Benefit or Universal Credit and is liable for rent on both properties but does not fall under the criteria above, then consideration will be given by SBC for the reason that they are liable for rent on two homes. If this is due to extenuating circumstances an award will be made and an exception will be made to pay up to the full rent on the properties for a limited period.

4 Assessment of applications

- 4.1 When deciding whether or not to award a DHP, the Council will assess each application on its merits (including considerations of equality) and take into account its objectives and such things as:
- The size of any shortfall that exists between what the customer is receiving in housing costs (from Housing Benefit or Universal Credit) and the eligible housing costs for which they are liable, together with the reasons for this shortfall;
 - The legislation allows for customers in receipt of Universal Credit to have the whole of their Housing costs paid by DHP, however taking into account the limited budget SBC will only pay the difference in the shortfall between Housing Costs element of the Universal Credit award and the total eligible rent as determined by SBC apart from very exceptional circumstances.
 - The financial circumstances (income and expenditure, savings, capital and indebtedness) of the customer, their partner and anyone else living in their home;
 - Any special needs or health and social problems that the customer and/or their family have, and what impact these have on their housing and financial situation;
 - Income from disability-related benefits such as Disability Living Allowance or the Personal Independence Payment, SBC will have regard to the decision of the High Court in R v. Sandwell MBC, ex parte Hardy. In particular, SBC will consider each DHP claim on a case by case basis having regard to the purpose of those benefits and whether the money from those benefits has been committed to other liabilities associated with disability. Where the money from these benefits has been committed to liabilities associated with disability they will be excluded from the calculation. The council will therefore exclude these benefits from any calculation apart from very exceptional circumstances.
 - The Council will also take into consideration unavoidable costs that the customer may have, such as fares for travel to work. This may include,

for example, people who have had to move as a result of welfare reforms.

- The impact that moving home and/or changing schools is likely to have on the family and the educational outcomes of any young people in the household;
- Young people leaving LA care until they reach the age of 25; in this instance the Council acknowledges its role as a Corporate Parent and the responsibilities of keeping our Care Leavers safe and supporting them to have successful lives. Without the family support most young people get as they become adults, Care Leavers often struggle to juggle their household bills and make ends meet. Many find themselves in debt, or having to go without food or other basic necessities. The Council therefore wishes to help give Slough Care Leavers the best start in adult life by supporting their housing costs for the period that the Council has a statutory duty to support them. In this instance as long as the Slough Care Leaver is in receipt of Housing Benefits or housing costs element of Universal Credit and makes a claim for DHP the difference between their eligible rent and their benefit will be paid for by DHP. Slough Care Leavers can be confirmed by the SCST.
- Families with kinship care arrangements.
- Families with a child temporarily in care but who is expected to return home
- The council will also give favourable consideration to mixed aged couples and the change in the legislation from May 2019, supporting them back to their original entitlement for up to 3 months while they review the situation
- The reasons why, compared to other people, the circumstances of the customer and their family should be considered 'exceptional'
- Following the tragic terrorist attacks in Manchester on 22 May 2017 and London on 3 June 2017, compensation schemes ("We Love Manchester Emergency Fund" (WLMEF) and "London Emergencies Trust" (LET)) have been set up to help those affected. From 19 June 2017 regulations came into force which exempt these payments. Both WLMEF and LET are adopting similar principles to the London Bombings Relief Charity Fund (LBRCF) set up in 2005.
- From 19 June 2017 all payments made by either WLMEF or 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. Therefore the Council will be mindful that these payments may be made and not exclude any individuals who have been affected when considering any DHP applications.
- The impact that not awarding a DHP is likely to have on the Council's finances and services, especially homelessness, social care, family support and health;

- The length of time for which a DHP is being sought;
 - Any steps the customer has taken to reduce their rental liability;
 - Any steps that the customer has taken to increase their income;
 - Any steps the customer has taken to be removed from the Benefit Cap
 - Whether the customer has made attempts to move to cheaper alternative accommodation;
 - The amount of money remaining in the DHP budget; and
 - Any other factors that the Council and/or customer consider appropriate.
- 4.2 Regard will 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.
- 4.3 The ‘Gargett’ case relates to rent arrears and specifically whether a DHP could 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, the case also discusses the issue of duplication of DHPs and HB. In relation to preventing duplication of provision, part of the decision states “housing benefits already paid for past housing costs must also be deducted. This is implicit in the purpose for which DHPs may be made. Otherwise the applicant would be receiving DHPs for housing costs that have already been met by past payment of housing benefits. It would not be a case for a need for “further” financial assistance to meet “housing costs””.
- 4.4 The Council will not normally make allowance for any financial loss resulting from the customer’s failure to claim any benefits in a timely manner. No allowance will be made, either, for any debt relating to an overpayment of Housing Benefit or Universal Credit.
- 4.5 When the Council has considered the customer’s needs and circumstances, it will decide how much to award. This may be any amount below the difference between the rental liability and payment for Housing Benefit / Universal Credit. The DHP award cannot exceed the weekly eligible rent for the customer’s home.
- 4.6 The award of a DHP does not guarantee that a further award will be made at a later date, even if the customer’s circumstances remain unchanged.

5 Claiming a DHP

- 5.1 The regulations require a DHP to be claimed.
- 5.2 In most cases, the person who claims a DHP will be the person who is

receiving Housing Benefit or Universal Credit, or their partner. However, the Council may also accept a claim from someone who is acting on behalf of that person (such as an appointee or advocate) if the person is vulnerable and requires support.

- 5.3 The Council accepts DHP claims in writing and provides an application form for this purpose. The Council will also accept a DHP claim made on-line and in certain circumstances via the telephone.
- 5.4 A claim for a DHP will be considered from the date a DHP is requested, but on condition that all supporting information and documentation is received by the Council within one month of that request.
- 5.5 The application form prescribes the information necessary to support a claim for DHP, for the avoidance of doubt this must include income and expenditure and both must be evidenced. A claim will not be determined without the evidence provided.
- 5.5 If the Council requires additional information and evidence to assess the claim, it will request this from the customer in writing, electronically or verbally (over the telephone, face to face or by visit). The customer must provide this information and documentation within one month of the date of the request.
- 5.6 If the customer fails to provide the information and documentation on time, the Council will make a decision based on any information it already holds, including the information held on its Housing Benefit computer system. More time may be allowed for some individuals, however, if the Council thinks it is reasonable to do so.
- 5.7 Information must be supplied to support the DHP application and customers must not assume that because information has been supplied to other Council departments it will be available to support the DHP application.

6 Period of award

- 6.1 The Council will decide on the length of time for which a DHP is to be awarded.
- 6.2 The start date for an award will normally be the Monday following receipt of the claim. However, the Council does have the discretion to backdate an award for DHP if it considers that the customer's circumstances merit this.
- 6.3 DHPs will normally be paid for a minimum of one week. The length of each award will be based on the individual circumstances of each customer; no award will be made past the end date of the tenancy agreement.
- 6.4 As an award can only be made for the current financial year, any award that is made for the remainder of 2019-20 will have to be followed by a new application for the next financial year even if the customer's circumstances remain unchanged.
- 6.5 Although all customers are entitled to make a fresh claim (for a further DHP) when their existing award comes to an end, the Council will not automatically invite customers to apply for another DHP.

- 6.6 As DHPs will not usually be regarded as offering a long term solution to a customer's financial situation, the maximum length of a DHP award (or a series of consecutive awards) will not normally exceed 12 months. Exceptions may be made, in particular for certain customers affected by the Social Rented Sector Size Criteria and where the Council continues to regard it as inappropriate for the customer to have to move, and the relevant caselaw that is operation at the time of this policy and new caselaw that comes into operation during the life of this policy
- 6.7 Exceptions will also be made in line with recent caselaw, where an award is made to a disabled customer who lives in significantly adapted accommodation in the social rented sector but who is subject to the removal of the spare room subsidy, the award will be made on a longer-term basis, including an indefinite award subject to a relevant change in their circumstances.
- 6.8 DHPs will also be considered on a longer term basis for customers who have a medical condition that makes it difficult to share a bedroom and for disabled children or non-dependants who need an additional bedroom for a non-resident overnight carer or team of carers.
- 6.9 Long term awards will also be made in cases where a disabled child who would normally be expected to share a bedroom under size criteria rules requires a separate room, and provides evidence that this is the case but does not meet the HB criterion of being in receipt of the Middle and Higher rates of DLA Care.
- 6.10 Failure to meet the conditions stated in the award notification may lead to an initial reduction or the complete withdrawal of the award.

7 Request for backdating

- 7.1 The Council will consider any reasonable request for backdating a DHP award. However, these will be limited to the period in which the customer has been receiving Housing Benefit or Universal Credit.
- 7.2 The Council will only consider backdating of awards to the beginning of the financial year when the application was made. This is because the budget is cash limited and any underspent in the previous financial year has to be returned to the DWP, therefore no funding exists for previous years.
- 7.3 In the instance of applying for a damage deposit or rent in advance it is expected that Customers would need the money prior to taking up the tenancy, and where they have borrowed the money either from a friend or relative or from the Housing Department, a claim would be expected to be made within 8 weeks of moving to the premises.

8 Making a claim in advance

- 8.1 A DHP can only be considered for a period when the customer is entitled to Housing Benefit or Universal Credit.

- 8.2 However, claims can be made in advance, where the customer is anticipating a change in their situation, such as the forthcoming imposition of the benefit cap and the Social Rented Housing Size Criteria.

9 Notification of decisions

- 9.1 The customer will be notified, in writing, of the outcome of the DHP claim within 14 days of receipt of the claim and all supporting documentation, or as soon as possible after that.
- 9.2 If a claim is unsuccessful, the Council's decision letter will include an explanation of how the decision has been reached and details of the right of review.
- 9.3 If the claim is successful, the Council's decision letter will include the following:
- The reason for the award;
 - The amount awarded;
 - The period of the award;
 - To whom the DHP will be paid;
 - The customer's duty to report any changes in circumstances and
 - Any conditions associated with the award
 - Details of the right of review

10. Changes in circumstances

- 10.1 The customer must tell the Council if their circumstances change after a DHP is awarded. This is made clear to customers in the award letter and application form.
- 10.2 Customers must report all changes of circumstances that may be relevant to the DHP award to the Housing Benefits service even if they have been reported to other services or departments for example Job Centre Plus because a Universal Credit claim is in payment.
- 10.3 The Council may revise a DHP award if the customer's circumstances have changed.
- 10.4 The Council reserves the right to recover any overpayments relating to DHP (see Section 13)

11. Payment arrangements

- 11.1 The Council will decide whether the DHP should be paid to the tenant, the landlord or a third party.

11.2 The payment will be made within 5 days of the award being assessed once all the information is received.

11.3 The Council will give priority to assessing an award for a Damage Deposit.

12. Right to request a review

12.1 As a DHP is not a payment of Housing Benefit or Universal Credit, it is not subject to the appeals mechanism that operates under those schemes.

12.2 Customers can request a review of a decision to refuse to award a DHP, a decision to award a reduced amount, a decision not to backdate an award for DHP or a decision to seek recovery of an overpayment of a DHP as follows:

- A customer (or their representative) who disagrees with a DHP decision may request a review. This request must be made in writing, within one month of when the notification was issued, and set out the reasons for requesting a review. (The time limit for requesting a review may be extended if the Council considers it reasonable to do so).
- The appeal will be reviewed by an independent officer(s) to those that made the original decision.
- The customer will be notified in writing once the decision has been reviewed, including the outcome of the review and a new decision notification if appropriate.

12.3 This decision will be final. In cases of alleged maladministration by the Council, the customer should follow the Council's complaints process. If a customer is still unhappy, they have a right to contact the Local Government Ombudsman.

13. Overpayments

13.1 The Council will make every effort to minimise overpayments of DHP.

13.2 If an overpayment does occur, the Council will decide whether or not it is appropriate to recover it. If recovery action is appropriate, the Council will send an invoice to the customer (or the person to whom the DHP was made) and a written explanation of how the overpayment occurred and the periods and amounts to which it relates.

13.3 Where the overpayment is a result of an error made by the Council, recovery will not normally be sought, unless the customer or person who received the payment could have reasonably known they were being overpaid.

13.4 DHP overpayments will not be recovered from payments of Housing Benefit and Universal Credit that are due to the customer, but may be recovered from any future awards of DHP.

14 Fraud

- 14.1 The Council is committed to tackling and preventing fraud in all its forms.
- 14.2 If a customer, Landlord or Agent attempts to claim a DHP by making a false declaration or providing false evidence or statements, they may have committed an offence under the Theft Act 1968. Where the Council suspects that fraud may have occurred, it will investigate the matter as appropriate and this may lead to criminal proceedings.

15 Homeless Reduction Act

- 15.1 The Homeless Reduction Act came into effect in April 2018 and the Act imposes a duty to assess, prevent and relieve homelessness.
- 15.2 Homelessness can have a negative impact for the household concerned in terms of health, education and employment prospects, a DHP should be used where possible to prevent the household from being evicted and becoming homeless;
- 15.3 An award of DHP may be central to the person being able to access or maintain employment, education or training and so they are less likely to become homeless; the Council is committed to support the Homeless Reduction Act will prioritise DHP applications via the Housing Demand Team as long as all the supporting information has been supplied
- 15.4 The new duties under the Act include
- A duty to assess and agree a plan to secure and retain suitable accommodation with all eligible applicants who are homeless or threatened with homelessness is imposed.
 - A duty on the LA to prevent homelessness through taking reasonable steps to secure accommodation
 - A duty to take reasonable steps to help applicants, regardless of whether they are in 'priority need', to secure accommodation.
 - For homeless applicants who have a 'priority need' there is a duty to provide interim accommodation whilst the relief duties are carried out.
 - A duty for all public authorities to notify a local housing authority of the homelessness or threatened homelessness of a person (with their consent) and to provide the contact details of the person

16 Publicity

- 16.1 The Council has a responsibility to ensure that it does not limit the legal discretions it may apply, and it is committed to applying this policy fairly and consistently.
- 16.2 It will take steps to maximise take up to make sure that the funds are targeted towards those who are most in need. This policy will be made available on request and via the Council's website: www.slough.gov.uk

17 Debt advice

- 17.1 Anyone experiencing debt problems will be signposted to local debt advice agencies for free, confidential, impartial advice.

18 Policy review

- 18.1 This policy will be reviewed on a regular basis and in light of any legislative changes, trends or other factors that impact on its effectiveness.
- 18.2 The Council may also, during the course of any year, review and reconsider whether it should allocate any of its own resources towards the overall DHP budget.