

Discretionary Housing Payments Policy



1. Introduction

- 1.1 Discretionary Housing Payments provide claimants with further financial assistance, in addition to welfare benefits, when the Council considers that additional help with housing costs is required.
- 1.2 The applicant must demonstrate that they are unable to meet housing costs from their available income. The level of payment may cover all or part of a shortfall in rent or assist with the cost of taking up or maintaining a tenancy.

2. Qualifying criteria

- 2.1 To be considered for a Discretionary Housing Payment the applicant must be entitled to:
 - 2.1.1 Housing Benefit; or
 - 2.1.2 Universal Credit, that includes a housing element towards rental liability; and the end of the first assessment period has passed

And

 - 2.1.3 Require further financial assistance with housing costs.
- 2.2 Housing Costs includes the following:
 - 2.2.1 Rental Liability.
 - 2.2.2 Rent in advance.
 - 2.2.3 Rent Deposits or rent in advance for a property yet to be moved into.
 - 2.2.4 Removal costs – this will include helping applicants move to alternative accommodation where their award of Housing Benefit has been restricted following one of the welfare reforms.
 - 2.2.5 Other lump sum costs associated with a housing need.
- 2.3 Shortfalls in rent includes the following:
 - 2.3.1 Reductions in Housing Benefit or Universal Credit where the benefit cap has been applied.
 - 2.3.2 Reductions in Housing Benefit or Universal Credit for under-occupation in the social rented sector (for example, tenants of the Council or Orkney Housing Association).

- 2.3.3 Reductions in Housing Benefit or Universal Credit as a result of Local Housing Allowance reductions.
- 2.3.4 Rent Officer restrictions such as Local Reference Rent or shared room rate.
- 2.3.5 Non-dependant deductions in Housing Benefit, or housing cost contributions in Universal Credit.
- 2.3.6 A rent shortfall to prevent a household becoming homeless whilst the housing authority explores alternative options.
- 2.3.7 Income tapers.
- 2.4 Discretionary Housing payments will not cover:
 - 2.4.1 Ineligible service charges – service charges that are not eligible for Housing Benefit.
 - 2.4.2 Increases in rent due to rent arrears.
 - 2.4.3 Sanctions and reductions in benefit – for example due to non-attendance at work-focused interview; a suspension because there is a general doubt about entitlement; or recovery of a Housing Benefit overpayment.
- 2.5 The Discretionary Housing Payment award will not exceed the weekly eligible rent on the applicant's home, if awarded to meet a shortfall.
- 2.6 Applications can only be considered for a period where linked Housing Benefit is payable, or the Housing Element of Universal Credit, including backdated decisions.

3. Making an application

- 3.1 An applicant must make a claim for Discretionary Housing Payments on a form approved by the Council and submit the application to Enterprise and Resources - Revenues and Benefits Team, Council Offices, Kirkwall.
 - 3.1.1 The Council will offer a face-to-face service at the Council Offices, Kirkwall.
 - 3.1.2 The Council will provide an on-line facility to download the application form.
 - 3.1.3 The Council will work with other external organisations and outlets to provide access to the application process.
 - 3.1.4 The applicant will also be offered or referred for other information or services that the Council thinks they might find useful, such as Citizens Advice Bureau, debt advice, money management, welfare advice, social services, housing services, employability, advocacy.
- 3.2 The application form will request information that the Council needs to make a decision and establish if the applicant requires further financial assistance. This will

include details of income and expenditure, the reasons for the application, and will take into account unavoidable costs that the applicant may have.

- 3.3 Information received from an applicant may be supplemented by details already held by the Council for Housing Benefit purpose or provided as part of an application for Universal Credit.
- 3.4 In most cases, the person who makes a claim will be the person entitled to Housing Benefit or Universal Credit.
- 3.5 Claims will also be accepted from someone acting on behalf of the person concerned, such as an appointee or advocate if the person is vulnerable and requires support or if the person has requested someone to act on their behalf.
- 3.6 As a guide, a Discretionary Housing Payment for any purpose can be backdated up to 12 months, longer under exceptional circumstances and if the LA budget allow. When deciding whether to backdate a Discretionary Housing Payment, each application should be considered on its own merits.
- 3.7 Usually, Discretionary Housing Payments are made in respect of an immediate need rather than a past period, however, consideration needs to be given to see if it is appropriate to make a backdated award.
- 3.8 It should be noted that a Discretionary Housing Payment can only be considered for a period where the linked Housing Benefit or relevant Universal Credit is payable. This is of particular relevance to requests for a period of backdated Discretionary Housing Payments, since backdating cannot cover arrears accrued whilst not in receipt of these benefits.
- 3.9 The applicant must notify the Council of any changes in circumstances that may be relevant to their Discretionary Housing Payment claim.

4. Payments

- 4.1 There is no limit to the length of time over which a Discretionary Housing Payment may be made. However, awards will generally be for a time-limited short-term period to give a claimant time to sort out their financial or housing circumstances; particularly if they are trying to find alternative accommodation or gain employment. A time-limited award may also be appropriate when an impending change of circumstances will result in an increase in benefit.
 - 4.1.1 Longer-term awards will be considered for applicants who live in significantly adapted accommodation in the social rented sector (the Council or Orkney Housing Association Limited) but who are subject to a reduction in Housing Benefit entitlement due to under-occupancy.
 - 4.1.2 Longer-term awards will also be considered for foster carers who are subject to a reduction in Housing Benefit entitlement due to under-occupancy but who need to maintain an extra bedroom for a foster child.

- 4.2 In most cases, the person who makes the claim will be the person entitled to receive payment.
- 4.3 If Housing Benefit is already paid to the landlord the Discretionary Housing Payment may also be paid to the landlord. This may also apply where a person is getting Universal Credit and some element of that is being paid to the landlord in respect of housing costs.
- 4.4 Discretionary Housing Payments are not payments of Housing Benefit and are treated separately. The payment can be made alongside Housing Benefit payments but they do not constitute a Housing Benefit payment.
- 4.5 The Council can recover a Discretionary Housing Payment if it is determined that that a payment has been made as a result of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise; or the payment has been made as a result of an error made when the claim was determined.
 - 4.5.1 Discretionary Housing Payments may not be recovered from ongoing entitlement to Housing Benefit or Universal Credit or from other prescribed benefits.
 - 4.5.2 In the event of an overpayment the Council will request repayment of the debt from the claimant and recover the debt in accordance with the Council's debt recovery procedures, including the issue of an invoice and using a debt collection agency or the courts.

5. Decision and Review process

- 5.1 The Council's Enterprise and Resources – Revenues and Benefits Team will advise the applicant in writing of the Discretionary Housing Payment decision and provide reasons as soon as reasonably practical.
 - 5.1.1 The applicant must be made aware of the changes in circumstance that they should report to the Council.
- 5.2 In reaching a decision, the Council will treat claims on their own individual merits whilst also treating all claims fairly and consistently.
- 5.3 Discretionary Housing Payments are not payments of Housing Benefit or Universal Credit and are treated separately. The decision notice will clearly how much is Housing Benefit and how much is Discretionary Housing Payments.
- 5.4 An appeal against a Housing Benefit decision is not an appeal against a Discretionary Housing Payment.
- 5.5 If the applicant is unhappy with the outcome of their application for Discretionary Housing Payments they may ask for a review of that decision.
 - 5.5.1 The request for a review of that decision should be made in writing to the Council's Enterprises and Resources - Revenues and Benefits Team, Council Offices, Kirkwall within 28 days of the date on which the Council made the decision on which a review or re-determination is being requested.

5.5.2 The review will be undertaken by the Council's Enterprises and Resources – Revenues and Benefits Team and will be considered by a different decision-maker, not involved in the original decision.

5.5.3 In the event that the applicant remains unhappy about the outcome of that review they should ask for another review of the decision which will be undertaken by the Head of Finance. There will no further right of appeal.

6. Monitoring and Reporting

6.1 This policy will be reviewed on an annual basis and more frequently if required by changes to legislation or good practice.

Policy adopted by the Council on 19 February 2013 at the meeting of the Policy and Resources Committee.

Document reviewed and revised June 2015

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