



7 July 2022

Circular: Housing 29/2022

To the Chief Executive and each Director of Housing Services

Changes to the HAP Discretion Levels

A Chara,

The purpose of this circular is to inform local authorities of changes in the discretionary flexibility available in respect of the HAP rent limits. Namely:

1. An increase in the HAP discretion rate from the current 20% to a maximum of 35% for all local authority areas. This will apply to both new and existing tenancies.
2. Additional flexibility allowing local authorities to apply a couple rate to a single person household, where required, in recognition of the shared one-bed need. This will apply to **new** tenancies only.

Background

Previous regulations provided discretion to local authorities to allow additional flexibility of up to 20% above the prescribed maximum rent limits to secure suitable accommodation for a qualified household that requires it.

Under Housing for All, the Department was tasked with undertaking an analytical exercise to examine whether an increase in the level of discretion available to local authorities under HAP is required in order to maintain adequate levels of HAP support.

The Housing Agency, at the request of the Department, commissioned an independent review of the discretion levels available to local authorities. The purpose of the review was to provide data and analysis to better understand what level of discretion might be appropriate given the current rental market conditions. The analysis was to outline the impacts of changing the level of discretion to a level between 25% and 35%.



Discretionary flexibility to exceed rent limits

Following receipt and analysis of this review, it is determined that local authorities will now have access to additional flexibility of up to a maximum of 35% above rent limits. This will apply where necessary, to secure suitable accommodation for a household that is qualified for social housing support that cannot find accommodation within the maximum rent limits. Both new and existing tenancies will be eligible for this additional support. Tenants may request that their local authority review the discretion level provided if they consider their tenancy unaffordable or if their landlord increases the rent.

The additional 35% discretion may also apply to Section 43 approvals currently in place. A revised approval for the household composition detailed in the approval is not required.

One-bed need rate

The review identifies that the household type with the largest proportion of tenancies in receipt of discretion are single person households. In addition these households are on average among those requiring the highest levels of discretion. To further assist this cohort, local authorities may apply a couple rate to a new single person tenancy, where required. This additional measure will apply to **new** tenancies only and is a temporary measure.

This additional measure recognises the challenges experienced by single person households and the fact that both single and couple households have a one-bed need. The couple sharing rate may apply to singles entering a new tenancy in shared accommodation.

This flexibility is being provided to local authorities on an administrative basis. The measure should only apply where the application of the 35% discretion to the single rate is not sufficient.

This measure will not apply retrospectively, evidence shows that newer tenancies are at a higher cost than those already in place. Current single person tenancies may request a review of the discretion level available, with local authorities now in a position to amend the level up to 35%.



Guidance in the application of discretion

The application of discretion is a matter for the individual local authority, however local authority staff are reminded to ensure that a consistent and measured approach is taken in applying the discretionary flexibility provided.

Local authorities should ensure that HAP payments for a given household do not exceed the rents for a relevant local area and rent limits along with these discretionary powers should not have any inflationary effect on the market in the area.

Local authorities are also reminded of their responsibility to ensure that tenancies are sustainable and are advised not to provide HAP support to tenancies where the household would not be in a position to meet the rental costs being sought.

Homeless HAP

As the Homeless HAP discretion rate was not part of this review, there is no change to the 50% discretion available in the Dublin region for those households either in, or at immediate risk of homelessness. A separate review of the discretion available to Homeless HAP tenancies in Dublin is currently being undertaken by the Department in conjunction with the Housing Agency. While the application of a couple rate to single person households is available to the Dublin Regional Homeless Executive (DRHE), this will be up to a **maximum 35% discretion**.

Sanction Conditions – Department of Public Expenditure & Reform

Sanction from the Department of Public Expenditure & Reform to allow for these changes is dependant on a number of conditions. The following is now brought to the attention of all local authorities.

Affordability Guidelines

- Local Authorities have the flexibility to apply up to a maximum HAP discretion rate of 35% for new and existing HAP tenancies. Subject to the following considerations:
 - This will be applicable only in cases where the HAP tenant is paying in excess of the affordability guidelines.
 - To the greatest extent possible, the actual discretion rate applied should be set equal to the amount required such that no more than 35% of monthly household income is payable in rental top-ups and differential rent for



households in employment and 30% of monthly income for households solely reliant on social welfare supports.

- This is to be applied prudently but with necessary flexibility in line with the existing approach by local authorities to HAP discretion rates.

Rent Reviews

- Local authorities should follow the good practice for housing management guidelines.
 - Rent reviews must be performed where HAP tenants are seeking a change in their discretion rate to ensure there is demonstrable need.

Implementation

The HAP SSC will be making the required changes to the SUGAR CRM to allow local authorities to implement these measures.

Housing Assistance Payment (Amendment) Regulations 2022 (S.I. No. 342 of 2022) provides for these changes, which will take effect from **11 July 2022**.

These measures will remain in place on a temporary basis for two years up to 1 July 2024, pending further review.

If you have any queries in respect of this circular, please contact HAP@housing.gov.ie

Yours sincerely,

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