# EXPLANATORY MEMORANDUM TO

# THE DISCRETIONARY FINANCIAL ASSISTANCE AND DISCRETIONARY HOUSING PAYMENTS (AMENDMENT AND REVOCATION) REGULATIONS 2026

## 2026 No. 271

## 1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

## 2. Declaration

2.1 The Rt Hon Sir Stephen Timms, Minister for Social Security and Disability at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

2.2 Vicki Kennedy, Deputy Director for Housing Policy, at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Doris Zajer at the Department for Work and Pensions can be contacted by email at the following address with any queries regarding the instrument: Housing.PolicyCorrespondence@dwp.gov.uk.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 This instrument revokes the Discretionary Financial Assistance Regulations 2001[1] ("the 2001 Regulations") and the Discretionary Housing Payments (Grants) Order 2001[2] ("the 2001 Order") in relation to England from 1 April 2026. This instrument does not affect the operation of the 2001 Regulations or the 2001 Order in Wales, except as set out in paragraph 4.2 below.

4.2 This instrument also amends the 2001 Order to remove the reference to 'a relevant authority in England and Wales', and to remove the 2.5 limit (the top-up cap) on the total Discretionary Housing Payments (DHPs) expenditure in any year for Welsh local authorities. (See paragraph 5.13).

***Where does the legislation extend to, and apply?***

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is where the instrument produces a practical effect) for the revocation of the 2001 Regulations and the 2001 Order is England only. The territorial application for the amendments to the 2001 Order is Wales only.

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[1] https://www.legislation.gov.uk/uksi/2001/1167/contents
[2] https://www.legislation.gov.uk/uksi/2001/2340/contents

## 5. Policy Context

***What is being done and why?***

5.1 From 1 April 2026 Discretionary Housing Payments (DHPs) in England will be incorporated into the new Crisis and Resilience Fund (CRF). The CRF will be delivered via local authorities in England only, through a grant under section 31 of the Local Government Act 2003[3]. Under the CRF, housing support will continue to be available to those entitled to a qualifying benefit[4] who face a shortfall in their housing costs.

5.2 Bringing DHPs together into the new CRF supports the Government's ambition for funding simplification and minimises the number of different funding streams provided to local authorities. By combining DHPs within the CRF, the goal is to enable local authorities to deliver a more joined-up and streamlined service for citizens, making it easier for those in need to access support quickly.

5.3 DHPs in England will cease to be funded and delivered under the 2001 Regulations and the 2001 Order and they are therefore being revoked in England only.

5.4 The operation and funding of DHPs will continue in Wales under the 2001 Regulations and the 2001 Order. This allows Welsh local authorities to continue to provide DHPs to those entitled to a qualifying benefit who face a shortfall in their housing costs.

5.5 The Department has worked closely with the Welsh Government and have agreed that modifying the territorial application of DHP legislation is the best way forward to ensure DHPs continue uninterrupted in Wales.

5.6 The 2001 Order is also being amended to remove obsolete wording which refers to 'a relevant authority in England and Wales'. The amendments also remove the top-up cap on total expenditure which will enable Welsh local authorities to top-up their DHP funding from other funding streams. This will ensure there is parity with the new CRF Housing Payments in England which do not have a set limit on total expenditure.

5.7 For the local authorities that submitted awards data, the total number of DHP awards made across England and Wales in 2024/25 was 146,870 of which 13,099 were awarded in Wales.[5]

5.8 For the first half of the financial year ending March 2026, of the local authorities that submitted awards data, for both England and Wales the number of awards was 69,600 of which 6,873 were awarded in Wales.[6]

***What was the previous policy, how is this different?***

5.9 DHPs were available in England and Wales to provide financial support to help those entitled to a qualifying benefit who face a shortfall in their housing costs.

5.10 The 2001 Regulations provided the framework for DHPs, empowering local authorities to make discretionary payments to individuals entitled to a qualifying benefit facing a shortfall in their housing costs.

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[3] https://www.legislation.gov.uk/ukpga/2003/26/section/31

[4] Qualifying benefits for Discretionary Housing Payments are Housing Benefit and the housing element of Universal Credit (UC).

[5] https://assets.publishing.service.gov.uk/media/6874bd7681dd8f70f5de3f12/data-tables-use-of-discretionary-housing-payments-2024-to-2025.ods

[6] https://assets.publishing.service.gov.uk/media/6943de688f4636fa2c547e41/dhp-data-for-april-september-2025.ods

5.11 The 2001 Order sets out the procedures for the Secretary of State to make grants to local authorities to help fund Discretionary Housing Payments (DHPs). The Order details the process for determining grant amounts, making claims, record keeping, audits and payment.

5.12 From April 2026, DHPs in England are incorporated into the Crisis and Resilience Fund (CRF) and will be delivered by way of grant under s.31 of the Local Government Act 2003. This instrument revokes the 2001 Regulations and the 2001 Order in relation to England, so that the DHP legislation applies in Wales only.

5.13 Under the 2001 Order the total amount of expenditure in any year must not exceed the amount of the grant the Secretary of State had determined to make to a local authority multiplied by 2.5. The instrument removes the top-up cap allowing local authorities to top-up DHP funding from their other funding streams.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 This instrument revokes the 2001 Regulations and the 2001 Order in relation to England.

6.2 In relation to the 2001 Order, the instrument omits wording from article 3 to remove obsolete wording. It also omits article 7 so that there is no limit on the expenditure on Discretionary Housing Payments (DHPs) by local authorities in Wales from the financial year commencing 1 April 2026.

***Why was this approach taken to change the law?***

6.3 This is the only possible approach to make the necessary changes.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 In accordance with section 170(3) of the Social Security Administration Act 1992[7] (SSAC) the Department presented a draft of the instrument to the Social Security Advisory Committee ahead of their meeting on 21 January 2026. The committee did not take the regulations on formal reference. The committee was content with the legislation and had no additional areas of concern that needed to be addressed. Reference to this instrument was included in the SSAC minutes.[8]

7.2 The Social Security Administration Act 1992 also states at section 189 (8)[9], that the Department has a statutory duty to seek consent from HM Treasury if amendments are to be made to the 2001 Order. HM Treasury provided their consent through internal correspondence.

7.3 The Department has a statutory duty to consult with all four Local Authority Associations[10] on amendments to regulations that concern local authorities. This was done via correspondence. The Associations were content with this instrument and did not share any comments with the Department.

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[7] https://www.legislation.gov.uk/ukpga/1992/5/section/170
[8] https://www.gov.uk/government/collections/social-security-advisory-committee-minutes-of-meetings
[9] https://www.legislation.gov.uk/ukpga/1992/5/section/189
[10] WLGA (Welsh Local Government Association), LGA (Local Government Association), COSLA (Convention of Scottish Local Authorities), London Councils.

## 8. Applicable Guidance

8.1 Ahead of this instrument coming into force, the Department will update the Discretionary Housing Payment (DHP) guidance manual on Gov.uk[11], so that it is solely for the use of staff in Welsh local authorities. New guidance on the Crisis and Resilience Fund Guidance was published on Gov.uk for staff in English local authorities on 13 January 2026.[12]

## Part Two: Impact and the Better Regulation Framework

## 9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no impact on businesses. The Department has provided the funding to local authorities for DHPs in England and Wales since 2001 and will continue to fund DHPs in Wales. There will be no material change to the funding and maintenance of DHPs in Wales.

***Impact on businesses, charities and voluntary bodies***

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument only applies to local authorities.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the purpose of this instrument is to maintain delivery of DHPs in Wales and ensure the funding for English DHPs is incorporated into CRF.

## 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The approach to monitoring this legislation is to seek continuous insights and data from local authorities. Management information will be collected for internal use on a 6-month basis to ensure the funds are used for the policy intent. The Department will also monitor any points raised by relevant civil society organisations and individuals' correspondence with the Department through official channels.

10.2 This instrument does not include a statutory review clause.

## Part Three: Statements and Matters of Particular Interest to Parliament

## 11. Matters of special interest to Parliament

11.1 None.

## 12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

[11] https://www.gov.uk/government/publications/discretionary-housing-payments-guidance-manual/discretionary-housing-payments-guidance-manual

[12] https://www.gov.uk/government/publications/crisis-and-resilience-fund-guidance-for-local-authorities-in-england-1-april-2026-to-31-march-2029/the-crisis-and-resilience-fund-guidance-for-local-authorities-in-england-1-april-2026-to-31-march-2029

## 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts).