

Finance & Corporate Services

Policy for the Award of Discretionary Housing Payment

- Assisting residents in need with their housing rent costs

November 2014

Contents

1. Purpose of the Policy
2. Key Objectives of the Policy
3. Background to Discretionary Housing Payments
4. Application Process
5. Period of Awards
6. Decision Making
7. Backdating
8. Changes of Circumstance
9. Method of Payment
10. Notification
11. Discontinuation of Awards
12. Review of Decisions
13. Overpayments
14. Publicity and Awareness
15. Fraudulent Applications
16. Advice
17. Universal Credit
18. Review of the Policy

1. Purpose of this Policy

- 1.1 This Policy sets out guidelines for the use of the Council's powers to operate a Discretionary Housing Payment (DHP) scheme. It determines the factors the Council will consider when making awards to allow for a fair, consistent and transparent approach to the award of payments in a manner which is affordable and sustainable for the Council.

2. Key Objectives of the Policy

- 2.1 The funding available to the Council for the purposes of DHP awards is very limited and is not sufficient to enable the Council to fund all shortfalls between the Housing Benefit tenants are entitlement too and the amount of rent they have to pay. This Policy has been agreed in order to enable the Council to better prioritise the use of the limited funds available to assist those residents considered to be most in need.
- 2.2 Discretionary Housing Payments are not intended to offer a means to routinely circumvent entitlement restrictions set out within the Housing Benefit legislation or wider welfare reforms. The Council's intention in agreeing this Policy is to provide additional assistance to meet housing rent costs in exceptional circumstances.
- 2.3 The Council's Key Objectives in agreeing this Policy are;
- A. To assist in alleviating hardship* and poverty experienced by residents in the Borough, particularly children;
 - B. To assist in preventing homelessness;
 - C. To assist residents to remain in a home in the community, particularly those residents with a disability who would otherwise have difficult in maintaining a home in the community;
 - D. To help to keep families together, particularly where they are experiencing exceptional pressures;
 - E. To provide short-term assistance to persons or households experiencing unusual or exceptional circumstances that result in them being unable to meet a shortfall between their rent payment and their entitlement to Housing Benefit;
 - F. To provide short-term support with meeting shortfalls between rent payment and their entitlement to Housing Benefit whilst residents take action to achieve a sustainable and affordable housing situation;
 - G. Helping applicants cope with housing costs through a temporary and unforeseen personal crisis;
 - H. Supporting and encouraging residents that are not working whilst they obtain and sustain paid work;
 - I. To support the Council's commitment to the Armed Forces Covenant by ensuring residents are not disadvantaged in terms of financial support with housing rent costs due to service by themselves or other members of their household in the armed forces;

- J. To ensure the limited funds available for this purpose are utilised in the most effective way to assist those residents that are most vulnerable and most in need of assistance with their housing costs;
- K. To ensure annual expenditure by the Council is within the agreed budget;
- L. To assist in minimising demand on other areas of Council expenditure that may arise as a result of residents' difficulty in meeting housing rent costs;
- M. To support and encourage approved foster carers by ensuring they are not disadvantaged in terms of financial support with housing rent costs due to the introduction of size criteria for public sector tenancies.

* for the purpose of this Policy the meaning of 'hardship' is not to be limited to financial hardship

2.4 To achieve the objectives;

- Each application will be considered on its own individual merit and will be subject to a financial assessment to determine eligibility and the amount of assistance required;
- DHP funds will normally only be used to assist applicants in meeting shortfalls between their Housing Benefit entitlement and their rent. Awards will not normally be made to assist with other housing costs, however, in exceptional circumstances awards may be made in accordance with DWP guidance to assist with meeting housing costs to enable the applicant to move to a property that improves the financial sustainability of their housing situation and reduces or eliminates the need for further discretionary housing payments (e.g. to clear rent arrears, assist with a rent deposit or rent in advance);
- Awards will be limited to the minimum amount considered necessary in order to enable persons to meet their housing costs and will be limited to a maximum award period of twelve months (a new application may be made once an award ends).

2.5 In particular a DHP will be awarded to provide short-term assistance to applicants who are adversely affected by the Welfare Reform process including, but not limited to;

- The Benefit Cap, which will restrict the maximum total benefit income to £350, or £500 per week for families, in certain circumstances (there is a provision within this measure to preserve a residual £0.50 of entitlement to Housing Benefit to ensure that DHP can be considered).
- The restriction on under occupation in the social sector, which will reduce the rental liability that can be used in the calculation of Housing Benefit by 14% where a property is under occupied by one bedroom and 25% by two or more bedrooms.
- Reductions in the rental levels set by Local Housing Allowance in the Private Rented Sector.

2.6 It is recognised that there will be certain groups of people who may be disproportionately affected by these changes, such as:

- Larger families, particularly those receiving assistance through the Council's Integrated Family Services team;

- People and families receiving assistance from the Council's Adult or Children's Services;
- People with disabilities who have had their home adapted to enable them to continue to occupy and are now deemed to be under-occupying their property, or due to the nature of their disability an additional bedroom is essential;
- Households subject to the restriction on under occupation in the social sector where there is limited availability of smaller accommodation in the locality;
- Single persons subject to the restriction on under occupation in the social sector reliant solely on Job Seeker's Allowance because the shortfall will represent a higher proportion of their weekly income.

3. Background to Discretionary Housing Payments

- 3.1 The current DHP powers were introduced in 2001 and give local authorities powers to make discretionary payments to residents, in addition to any Housing and Council Tax Benefit entitlement, where it is considered that help with housing costs is needed.
- 3.2 The Department for Work and Pensions (DWP) provides local authorities with ring-fenced grant funding for the purpose of making Discretionary Housing Payments. Any grant funding not spent at the end of a financial year is normally required to be refunded to the DWP. Local authorities may choose to supplement this funding by up to 150% from their own resources.
- 3.3 Council Tax Benefit was abolished from 1 April 2013 and DHP can no longer be used to assist households with meeting the cost of their Council Tax liability.
- 3.4 The Discretionary Financial Assistance Regulations 2001 (S1 2001/1167) (as amended) set out the legal framework of a DHP scheme. It is anticipated that the regulations will be further amended to allow DHP to be awarded when a person is in receipt of Universal Credit, which is expected to begin to replace Housing Benefit after 2013.
- 3.5 The DHP scheme is described by the Government as a key 'safety net' in the current process of Welfare Reform and some additional funding has been allocated to this funding stream as funding has been withdrawn from mainstream Housing Benefit.
- 3.6 The primary aim of the DHP scheme is to assist with shortfalls between rental liability and Housing Benefit entitlement, however, the regulations do allow for payments to be made in respect of other housing costs at the discretion of the local authority.
- 3.7 The main regulatory requirements of a DHP Scheme are that:
- The scheme is discretionary - an applicant does not have a statutory right to a payment;
 - An application has to be made for payments, they cannot be made automatically;
 - The total amount of expenditure by a local authority in any financial year may not exceed the amount determined by the Department for Work and Pensions;

- The administration of the scheme is for the Council to determine;
- DHP is not a payment of Housing Benefit. A minimum weekly amount of £0.50 in Housing Benefit (or, it is anticipated, the Housing Element of Universal Credit) must be in payment in any week for which DHP is awarded;
- The amount of DHP, calculated as a weekly sum, shall not exceed the net weekly rental liability;
- In exceptional circumstances a DHP award can be made for other housing costs at the council's discretion.

3.8 The law does not allow awards to be made for:

- Ineligible services or support charges as defined by Housing Benefit Regulations;
- Increases in rent to cover rent arrears;
- Sanctions and reductions in any benefit;
- For any week where there is no award of Housing Benefit or the Housing Element of Universal Credit;
- Amounts being repaid for overpayments of Housing Benefit.

4. Application Process

- 4.1 A DHP application must be in writing and signed by the claimant or, where appropriate their appointee. Normally this should be in the form of the "DHP Application Form" provided by the Council on request, but a letter requesting a DHP may be considered as a claim at the discretion of the Council.
- 4.2 The application must include a comprehensive financial statement of the applicant's income, expenditure and savings. The applicant is also required to include supporting evidence of their stated income, expenditure and savings, and also documentation relating to any medical requirements or exceptional circumstance which may affect their housing needs.
- 4.3 The Council may request such supporting evidence as it considers necessary in order to determine the amount, if any, of a DHP to be awarded. The information required will vary dependent on the amount applied for and the reason for the application. The Council will only ask for information that is considered relevant to assess the merit of the application and that is proportionate to the value of the application. Applicants must be co-operative in providing information requested in order to evaluate their application. Where any information that is requested is not provided then no further consideration will be given to the request.
- 4.4 Where it is considered necessary to enable a decision to be made, a Council Officer, or another appointed person, may visit the applicant at their home. Advanced notice will be given of an intended visit and visits will be made during reasonable day time hours.
- 4.5 Applicants may withdraw their application at any time before a decision is made by notifying the Council that they wish to withdraw the application.

- 4.6 An applicant's financial needs will be assessed by reference to the Common Financial Statement facilitated by the Money Advice Trust. Normally only essential expenditure will be taken into account in assessing the applicant's financial means. The inclusion of an item of expenditure in an applicant's stated expenditure will not necessarily be accepted as essential (in particular expenditure on repayment of credit debts, premium television packages, tobacco, alcohol, and expensive mobile telephone charges will not normally be taken into account).
- 4.7 In determining the applicant's income for the purpose of a DHP application, income which would be disregarded for the purposes of Housing Benefit (for example Disability Living Allowances or Child Benefit) will also be disregarded for the purpose of DHP. The income is disregarded to ensure that a person with additional financial requirements due to, for example, disability or caring for a child is not disadvantaged when considering an application for DHP due to the additional income provided to meet these additional needs. Additional expenditure that should be met from the disregarded income shall be similarly disregarded.
- 4.8 The Council reserves the right to verify any information or evidence provided by the applicant. This may involve the sharing of data with other Council Departments or with other external bodies in accordance with the Data Protection Act 1998

5. Period of Award

- 5.1 In all cases the Council will determine the period of time for which a DHP will be awarded based on the evidence supplied and the facts known.
- 5.2 All awards will be for a fixed-term but in some circumstances it may be appropriate for the award to be reviewed at the end the period and a further award made. Reapplications may be made for a further period.
- 5.3 Awards shall normally be for a maximum of 13 weeks from the date of application, for example to provide:
- assistance when starting work/self-employment;
 - assistance following changes in household, for example temporary under occupation;
 - assistance whilst the applicant is seeking alternative cheaper suitable accommodation;
- 5.4 In exceptional circumstances awards will be made for a maximum of one year from the date of application, for example where there is a longer-term need, such as:
- severe illness or disability, when there is no suitable alternative accommodation available;

- under occupation restrictions where there is no prospect of the applicant being able take action to prevent a restriction (e.g. where a person is considered to be over accommodated for the purposes of Housing Benefit but due to a medical condition or disability an additional bedroom is considered to be essential);
- the applicant is the parent of a child in respect of whom the Family Court has made a shared residence order, but for the purposes of Housing Benefit the child is considered to have their main home elsewhere.

5.5 The Council cannot award a DHP for any period outside an existing Housing Benefit period granted under the statutory scheme. The minimum period of a DHP award will be for one week and the maximum, depending on the applicant's circumstances, will be one year. An award will automatically end if entitlement to Housing Benefit ends. A new application may be submitted when an award ends.

6. Decision Making

6.1 In making a decision under this Policy the decision maker shall give consideration to the following;

- The legal requirements for a DHP Scheme
- The requirements of this Policy;
- The existence of resources from which the shortfall may be met;
- The possibility that some other person or body may wholly or partly meet the need;
- Any guidance or procedures provided by the Council.
- Guidance issued by the Department for Works and Pensions

6.2 A person making a decision under this Policy shall:

- Clearly and fully document the reasons for the decision;
- Exercise respect for the applicant;
- Use discretion to the extent allowed by the Policy;
- Be sensitive to circumstances which may justify the provision of an award but which are not explicitly referred to in the Policy or explicitly excepted by the Policy.

6.3 Factors to be taken into account in deciding whether to award a DHP will include:

- The shortfall between Housing Benefit and the relevant rent liability as a proportion of the applicant's income (including any income from a partner);

- The reason(s) for the shortfall (an award will not normally be made where a shortfall is due to excess income or a non-dependant deduction)
- The amount available in the DHP budget at the time of the claim;
- The amount and period of any previous DHP awards;
- The steps taken by the applicant to either reduce their rental liability or to restructure their finances to be able to afford the accommodation they currently occupy;
- The steps that have been taken by working-age applicants in receipt of Job Seeker's Allowance or the work component of Employment and Support Allowance to secure paid employment;
- Whether an applicant's Job Seeker's Allowance is subject to a disallowance or sanction (DHP will not normally be paid for any period during which a disallowance or sanction applies);
- The availability of other affordable properties in the area in the same rental sector;
- The financial and medical circumstances of the applicant, their partner, any dependants and anyone else living in the applicant's home;
- The income and reasonable expenditure of the applicant and everyone else living with them in their home;
- Any savings or capital of the applicant and if appropriate their family;
- The documentary evidence provided by the applicant in support of their application;
- Any relevant information held by other Council departments, including costs that may be incurred in providing alternative provision, should a DHP not be paid;
- Whether any sanctions have previously been imposed for the fraudulent claiming of benefits or Council Tax Support;
- The amount of the shortfall in proportion to the household income;
- The needs of any children resident in the household, including, but not limited to, needs arising as a result of disability;
- Whether the applicant would otherwise be disadvantaged as a result of service by themselves or a member of their household in the armed forces;
- Pregnancy (in particular where a pregnant woman is currently resident in premises that are considered to be larger than her needs but will not be larger than her needs following the birth of the baby);
- Any other special circumstances brought to the attention of the Council.

6.4 The decision maker will decide how much to award based on all of the above circumstances, and any other information which may be considered relevant. The amount of any award shall not exceed the shortfall between the weekly eligible rent and the weekly Housing Benefit entitlement.

6.5 Where an applicant has a severe disability and, in the Council's opinion, an additional room is essential due to the nature of the disability then a DHP should be awarded equivalent to the shortfall arising as a result of the additional room, unless there are other factors which strongly weigh against an award. An example would be where a couple reside in a two bedroom property but because of disability it is not reasonable for them to share a bedroom.

6.5 An award of a DHP does not guarantee that a further award will be made at a later date even if the applicant's circumstances have not changed. Where an award has previously been made, a new application is submitted and a further award is considered appropriate; then the further award should normally be for a lesser amount so that support through DHP is phased out to encourage the applicant to take steps to achieve an affordable housing situation. However, where there are very exceptional circumstances and the applicant is unlikely to be able to improve their circumstances a further award may be made for the same amount.

7. Backdating

7.1 Where a DHP is awarded it should normally apply from the Monday following the receipt of an application. A request for an award for a period prior to the date of application may be considered but awards may only be made for periods during which there was an entitlement to Housing Benefit. Requests for an award to be backdated should normally only be considered where the applicant can demonstrate that they had continuous good cause not to have applied during the period for which the request is made, or where there are other exceptional extenuating circumstances which, in the Council's opinion, justify a backdated award.

7.2 The Council will actively publicise the availability of Discretionary Housing Payments, therefore, requests for backdating on the grounds that the applicant was not aware of the availability of Discretionary Housing Payments will not normally be considered to show good cause.

8. Changes of Circumstances

8.1 The applicant is required to inform the Council of any changes of circumstances that the original award was based on. This is in addition to their statutory duty to report changes under the Housing Benefit regulations.

9. Method of Payment

9.1 The Council will normally pay an award of DHP in the same way as the award of Housing Benefit is paid. However, payment may be made direct to the landlord where it is considered by the Council to be in the tenant's interest to do so.

9.2 The Council will ensure that the payment of Housing Benefit and DHP can be differentiated and that there is a clear record of payments.

10. Notification

- 10.1 Where an application is received and further evidence or clarification is required the Council will contact the applicant to request the required information. Contact may be made by telephone where appropriate but written requests will always be made where information is requested.
- 10.2 The Council will aim to advise applicants of the outcome of their application within four weeks of receipt of their application and all necessary evidence, or as soon as is practicable thereafter.
- 10.3 When the application is determined, the Council will advise the applicant as follows;
- The outcome of the claim;
 - If successful the weekly amount of the DHP award;
 - The period of the award;
 - The method of payment;
 - The requirement to report a change of circumstances;
 - If not successful, the reasons why;
 - The process by which they may request a review of the decision.

11. Discontinuation of Applications

- 11.1 Applications will normally be discontinued where evidence that has been requested by the Council has not been received within one calendar month. The applicant will be informed in writing when an application is discontinued.

12. Review of Decisions

- 12.1 DHP's are not payments of Housing Benefit and therefore, are not subject to any statutory appeals process.
- 12.2 In accordance with the Discretionary Financial Assistance Regulations (2001) as amended and DWP guidance, an applicant dissatisfied with a decision may request that it be reviewed as follows;

- An applicant who disagrees with a DHP decision may dispute the decision. A request for a review must be made in writing within one calendar month of the formal notification being issued to the applicant.
- The request for a review must set out the reasons that the decision is disputed and may be accompanied by further documentary evidence to support the request.
- The decision, along with any new evidence from the applicant, will be reviewed by an officer other than the original decision maker.
- The Council will aim to complete reviews within four weeks of receipt and the applicant will be notified of the outcome of the review in writing.
- An applicant who remains dissatisfied following a review may submit an appeal against the decision. An appeal must be made in writing within one calendar month of the formal notification of the outcome of the review being issued to the applicant.
- The appeal will be considered by a suitably senior and experienced manager whose decision shall be final.
- In exceptional circumstances the above time periods for review and appeal may be extended.

13. Overpayments of DHP

- 13.1 The Council will review a decision at any time where it receives new information relevant to the application, for example where it receives information regarding a change of circumstances or where information is received which indicates that the information considered at the time of the applications was inaccurate, incomplete, or there was misrepresentation.
- 13.2 Where a review results in a revised decision this will be applied from the appropriate date which may be the date from which the DHP was first awarded. An overpayment of a DHP may, therefore, occur where the recipient does not inform the Council promptly of changes in circumstances or information is received in respect of a retrospective period.
- 13.3 The Council will normally seek to recover all overpayments of a DHP. An invoice requesting repayment will be issued together with a letter detailing the circumstances of the overpayment, and sent to the applicant or the person to whom the award was made.
- 13.4 Where the invoice is not paid the Council will take action to recover the amount in accordance with its Fair Debt Collection Policy.

- 13.5 In the event that an overpayment was made due to error on the part of the Council and the applicant could not reasonably have been aware at the time of the error, the Council will not seek to recover the overpayment.

14. Publicity and Awareness

- 14.1 The Council will work with interested parties to publicise and raise awareness of the scheme and this Policy will be made available throughout the Council, and to third parties and members of the public.
- 14.2 DHP information, guidance and relevant application forms will be made available on the Council's website and from the Council's Customer Service Centre at Horne Lane, Bedford.

15. Fraudulent Applications

- 15.1 Bedford Borough Council is committed to protecting public funds through taking action to prevent and detect fraud. An applicant who fraudulently applies for a DHP by falsely declaring their circumstances, providing a false statement or evidence in support of their application, or by other means may have committed an offence under the Fraud Act 2006 or Theft Act 1968.
- 15.2 Where the Council suspects that such a fraud may have occurred, the matter will be investigated in accordance with the Council's Anti-Fraud Strategy and may lead to criminal proceedings.
- 15.3 Legal action will be taken to recover sums paid as a result of fraud in accordance with the Council's Fair Debt Collection Policy.
- 15.4 The Council may use information provided in connection with an application for DHP for the purposes of prevention and detection of other forms of fraud.

16. Advice

- 16.1 In the process of determining an application for a DHP it is important that any underlying issues are addressed by signposting the applicant to appropriate agencies for resolution. For example:
- The Council's Job's Hub and the Council's Housing Options team;
 - The landlord, particularly for tenants of social landlords where the landlord may provide advices such as debt management or rehousing advice;

- Applicants experiencing debt problems/budgeting issues will be advised to contact the Citizens Advice Bureau (CAB), Salvation Army or other advice agencies for free, and independent advice.
- Applicants may also be directed to other third sector organisations offering advice or support relevant to the applicant's particular circumstances.

17. Universal Credit

17.1 Subject to any legislative requirements, references to Housing Benefit throughout this Policy shall also be construed as reference to the Housing Element of Universal Credit

18. Review of Policy

18.1 The Policy will be reviewed periodically in light of any legislative changes, trends or other factors that impact on the effectiveness of the Policy.