

Discretionary Housing Payments Policy

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1. Introduction

In 2001 a scheme was introduced granting all local authorities new powers to make Discretionary Housing Payments (DHPs) on top of the Housing Benefit (HB) and Council Tax Reduction (CTB) statutory schemes. The Legislation governing DHPs can be found in the Discretionary Financial Assistance Regulations 2001 (SI 2001/1167).

This Policy is updated to reflect amendments to the Discretionary Financial Assistance Regulations which ensure the scheme covers the abolition of CTB from April 2013.

Amendments to the regulations are covered by the Council Tax Benefit Abolition (Consequential Amendments) Regulations 2013 (which came into force on 1 April 2013).

Gravesham are implementing a program of measures aimed at improving the quality of life for the community. To this end they are committed to ensuring the residents receive the benefit they are entitled to. This Policy specifies how Gravesham's Benefit Section will operate the DHP scheme and highlight the factors we will consider when making awards. Each case will be decided strictly on its own merits and all customers will be treated fairly, reasonably, and consistently, throughout the year.

The Benefit Section is committed to working with the local voluntary sector and other interested parties to maximise entitlement to all available Welfare Benefits and this will be reflected in the administration of the DHP scheme.

DHPs are administered by the Council and provide financial assistance (outside of the HB and Universal Credit (UC) regulations) to help tenants meet their housing costs.

DHPs can play an important role in sustaining tenancies, preventing homelessness and, where needed, enabling tenants to move to more suitable or affordable accommodation.

DHPs may cover all or part of a shortfall in the tenant's eligible rent or provide the rent in advance and deposit a tenant may need to secure a tenancy. DHPs may be awarded as a one-off payment and/or a series of payments.

To qualify for a DHP, the claimant must have a rent liability, require further financial assistance with their housing costs and have been receiving HB or UC throughout the period for which they are claiming assistance.

2. The Discretionary Housing Payment scheme

Welfare reform is aimed at encouraging people to move into work, increase their working hours and/or move to more affordable accommodation.

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 tenants with short term assistance to ease transitions and allow a household time to find a way to resolve their difficulties.

There is only one DHP scheme and it may be awarded when a Local Authority considers that a claimant requires further financial assistance to help with housing costs. The Council is not required to spend its overall grant allocation in any way, however the shortfall that a DHP may cover include the following:

- Reductions in HB or UC, resulting from the application of the Benefit Cap
- Reductions in HB or UC, resulting from the under-occupation of social rented housing
- Reductions in HB or UC, resulting from Local Housing Allowance restrictions, including the shared Accommodation Rate
- Reductions in HB or UC, resulting from non-dependent deductions and the use of income tapers.

The main features of the scheme require that

- The scheme is discretionary; a claimant does not have a statutory right to payment
- The amount that can be paid out by the authority in any financial year is cash-limited by the Secretary of State
- The administration of the scheme is for the Benefits Section to determine
- DHPs are not a payment of HB. However, a minimum amount of £0.50p HB must be in payment in the benefit week that a DHP is awarded for. If UC is in payment the Housing Element must be included in the UC assessment.

3. Objectives

The Benefits team will consider making a DHP to claimants who meet the criteria specified in this policy. They will treat all claims on their individual merits, and seek through the operation of this and associated policies to:

- Help alleviate poverty
- Encourage and sustain residents in employment
- To sustain tenancies and homelessness prevention by safeguarding residents in their homes
- Support the vulnerable and elderly in the local community
- Supporting young people in the transition into adult life
- Supporting disabled people to remain in adapted properties
- Help those who are trying to help themselves
- Support foster carers

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

- Ineligible services or support charges included in the rent charges
- Increases in rent charged to cover rent arrears
- Sanctions and reductions in any benefit (not including the Benefit Cap)

- Council Tax liabilities incurred under the 2013 onwards Council Tax Reduction Scheme

The Benefit Section considers the DHP scheme should be seen as a short-term emergency fund. It is not and should not be considered as a way around any current or future entitlement restrictions set out within the Housing Benefit legislation and Welfare Reforms.

4. Claiming a Discretionary Housing Payment

The regulations require a DHP to be claimed.

In most cases, the person who claims a DHP will be the person who is receiving HB or UC, or their partner. However, the Council may also accept a claim form from someone who is acting on behalf of that person (such as an appointee or advocate) if the person is vulnerable and requires support.

A claim for a DHP can be made online via the Council's website. Alternatively, you can request a hardcopy form to be sent, and return it. The claimant will be required to return the DHP form and a financial statement with supporting evidence of their income and expenditure.

The supporting evidence should include:

- current bank statements detailing transactions made over the last two months
- proof of any debts or loans they are responsible for
- any arrangements made to repay the debt or loan.

The Benefits team will request any reasonable evidence to support an application for a DHP. This information will be required to be supplied within one month from the date of sending the first request for the specific information. This time limit will be extended in appropriate circumstances and if the claimant has notified the Local Authority of the reasons for the delays in supplying the information requested.

If the claimant is unable to or does not provide the required evidence the Benefits Section will consider the application and make a decision based on the information they have. This would include evidence that is held on file and an average figure for the size and needs of the family. The average expenditures used in assessing an application for a DHP will be gathered from various sources i.e., National Debtline and relevant government departments.

If a declared expenditure seems excessive in relation to the size and needs of the family the Benefits Section have the right to reduce the figure in line with the average size and needs of the family.

The Benefit Section reserves the right to verify any information or evidence provided by the claimant.

The claimant will have the right to dispute the figures used but will need to supply evidence to support this.

Private interview facilities will be available for all customers making a claim if requested.

5. Making a claim in advance

A DHP can only be considered for a period when the claimant is entitled to HB or UC.

However, claims can be made in advance, where the claimant is anticipating a change in their situation, such as the forthcoming imposition of the Benefit Cap and the Social Rented Housing Size Criteria.

6. Period of Award

In all cases the Benefits Section will decide the length of time for which a DHP will be awarded on the basis of the evidence supplied and the facts known.

The start date of any award will normally be the Monday after the receipt of claim, however the Benefits Section will have the discretion to award a DHP for a period prior to receipt of a claim, if they consider the individual circumstances warrant a backdating.

The minimum period of a DHP award will be for one week and the maximum, depending on the claimants' circumstances will be 12 months. The length of each award will be based on the individual circumstances of each claimant but will take into account the date that the tenancy and/or notice period expires.

As an award can only be made for the current financial year, a new application for the next financial year will need to be made even if the claimant's circumstances remain unchanged.

Although all claimants 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 the claimants to apply for another DHP.

As DHPs will not usually be regarded as offering a long-term solution to a claimant's financial situation, the maximum length of a DHP award (or series of consecutive awards) will not normally exceed 12 months. Exceptions may be made, in particular for certain claimants affected by the Social Rented Sector Size Criteria and where the Council continues to regard it as inappropriate for the claimant to have to move.

A DHP shall not be awarded for any period for which the customer has no entitlement to HB or UC and a rental liability.

In the case of a one off payment for a deposit or rent in advance, as the payment is not made in respect of a period, it is only necessary to establish that the customer is entitled to HB or UC and has a rental liability at the point at which the award is made.

Failure to meet the conditions stated in the award notification or to demonstrate a valid reason why the set conditions could not be met, will lead to the withdrawal of any DHP award.

7. Request for backdating

The Council will consider any reasonable request for backdating a DHP award. However, these will be limited to the period in which the claimant has been receiving HB or UC and

will be limited to the current financial year, unless exceptional reasons for a late claim are accepted.

8. Awarding a Discretionary Housing Payment

A DHP should not undermine the purpose and nature of the HB or UC Scheme, nor should it support irresponsible behaviour. The Council expects awards to be made in unusual or extreme circumstances where additional help will have a significant effect in alleviating and reducing the risk of homelessness.

In deciding whether to award a DHP, the Benefits Section will consider:

- The amount of DHP budget at the time of the claim
- The shortfall between the relevant rental liability and the HB / UC Housing Element awarded
- The financial and medical circumstances of the claimant, their partner, dependents and any other persons living within the claimant's home
- The income and reasonable expenditure of the claimant and everyone else living with them in their home
- Any steps taken by the claimant to reduce their rental liability
- Any savings or capital of the claimant and if appropriate their family
- All other special circumstances brought to the attention of the Benefits Section.
- For one off DHP applications consideration should be taken of any deposit or rent in advance that is to be returned to the claimant.

The Council will not normally make allowance for any financial loss resulting from the claimant's failure to claim any benefit in a timely manner. No allowance will be made, either, for any debt relating to an overpayment of HB.

The Benefit Section will decide how much to award based on all of the above circumstances. This may be an amount below the difference between the liability and the payment of HB / UC Housing Element, but cannot exceed the weekly eligible rent on their home.

A DHP will not be awarded where there is excess income or capital sufficient to cover the shortfall in rent, the deposit or rent in advance.

An award of a DHP does not guarantee that a further award will be made later even if the claimant's circumstances have not changed.

9. Awarding one off Discretionary Housing Payments

If the DHP application is for a deposit or rent in advance the following points must be considered:

- Why is the customer moving?
- Are they due to have a deposit or rent in advance in respect of their existing tenancy returned to them?
- If yes, can the returned deposit or rent in advance be used for the new tenancy?

- Have they received or made enquiries about receiving assistance from the Local Authority through a rent deposit guarantee scheme or similar?
- Is the property they are moving from affordable?
- Is the property they are moving to affordable?

When considering affordability for awarding a DHP in respect of a deposit or rent in advance the appropriate Local Housing Allowance (LHA) rate should be referred to. To be affordable the property should be at or below the LHA rate.

10. Prioritisation of awards due to welfare reform

Welfare reform changes will greatly increase the number of customers who face a reduction of HB. In considering a DHP award due to reforms of the benefit system priority will be given to some of the most vulnerable customer base including:

- Social sector tenants affected by the under-occupation size criteria who live in properties that have been substantially adapted to meet needs arising from severe disabilities and to aid independent life. It may be perverse and uneconomic to expect people to move in these circumstances given it would generate greater cost of re-adaptations to an alternative home.
- Social sector tenants affected by the under occupation size criteria who may have long term medical conditions which create difficulty in sharing a room with another person.
- Short term support for families affected by the benefit cap that was introduced in the summer of 2013. Failure to do so could lead to the Council finding emergency and costly temporary accommodation for families far in excess of the savings expected by central government.

It should be noted that this additional help is for a transitional period and generally will only be paid in the short term. Whilst DHPs can be awarded to allow further time for the customer to seek a solution it should not be seen as a way round the changes in legislation or as a long-term solution.

It is important to recognise the government's intention in restricting LHA rates, capping benefit entitlement and seeking to keep rents at an affordable level by not actively assisting customers to move to accommodation that is not affordable in the long term.

11. Change in Circumstances

The claimant must tell the Benefits Section if their circumstances change after a DHP is awarded. This is made clear to claimants in the award letter and application form.

The Benefits Section may need to revise an award of a DHP where the claimant's circumstances have materially changed that would affect their HB / UC entitlement and DHP award.

12. Method of Payment

The Benefits Section will decide whether the DHP should be paid to the tenant, the landlord or a third party.

An award of a DHP due to rent deposits and rent in advance will be made in the first instance to the landlord or agent, however payments may be made direct to the claimant if the Local Authority consider it reasonable to do so.

Payment frequency will normally be made in line with current HB arrangements. For UC claims the DHP payment will be made after evidence of their monthly assessment is received.

Where the DHP is awarded in respect of a Council rental liability any DHP will be credited to the relevant housing rent account.

13. Notification

The Benefits Section will advise claimants of the outcome of their claim within 20 days of receipt of their DHP application or as soon as is practicable thereafter. Notices of a successful award will be issued and will include the following information:

- The weekly amount of DHP to be awarded
- The reasons for an award decision
- The period of award
- Whom it will be paid to
- The requirement to report a change in circumstances
- A financial appraisal detailing income and expenditure used in the calculation.

Where the claim is unsuccessful, the Benefits Section will set out how the decision has been reached. They will enclose a financial appraisal of their income and expenditure. The claimant has the right to ask for any of the figures on the appraisal to be reviewed and must provide documentary evidence to substantiate their figures. The request for a review must be made within one month of the Benefit Sections original decision.

14. Review of Decisions

DHPs are not payments of HB and are therefore not subject to the statutory appeals mechanism. All Local Authorities are expected to set up an appropriate review process.

The Benefits Section will operate the following policy, in dealing with a request for their decision to be reviewed.

A claimant or their authorised representative who disagrees with a DHP decision may request for a review in writing within one month of the original decision and notification being issued. This must be accompanied with all documentary evidence that substantiates the applicants request for a review.

In appropriate circumstances the allowance of one month to request a review may be extended, but must be substantiated with a valid reason and documentary evidence if appropriate.

The Officer who made the original decision will review the financial appraisal and where appropriate revise the original decision if the new documentary evidence provides sufficient information to do so.

Whether the review is successful or not the Officer will explain the DHP decision in writing or at an interview and will include a revised financial appraisal detailing all income and expenditure used in the financial calculation and the reasons for an unsuccessful or successful award decision.

If the applicant still disputes the decision and the disagreement cannot be resolved, the Appeals & Special Payments Team Leader will consider the case. They will review all evidence in respect of the application and will make a revised decision within 14 days of the dispute being received or as soon as is practicable thereafter.

When a decision has been made the Appeals & Special Payments Team Leader will notify the applicant in writing. The decision will be final and binding and may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman.

15. Overpayments

The Benefits Office will make every effort to minimise overpayments of DHP.

If an overpayment does occur, the Officer will decide whether it is appropriate to recover overpayments of DHPs.

Recovery of DHPs will usually be made if the overpayment occurred because of the applicants' misrepresentation or they failed to disclose a material fact, fraudulently or otherwise. The overpayment will be sought from the person who received that payment if they could reasonably have known that they were being overpaid or they contributed to the overpayment.

Once it has been determined who the overpayment is to be recovered from, then an invoice will be issued together with a letter detailing the reasons for the overpayment.

Recovery will not usually be made for any overpayments that occur because of Local Authority error, unless the person who received the payment could reasonably have known that they were being overpaid or they contributed to the overpayment.

Once a DHP has been made to a customer for rent in advance or a deposit and used for that purpose, legislation does not provide for it to be refunded.

16. Monitoring

All DHPs will be recorded on the relevant claim on the Council's computer system.

The total DHPs expenditure will be monitored monthly by the Assistant Revenues and Benefits Manager. The Assistant Revenues and Benefits Manager will ensure that the expenditure is within budget and is correctly accounted for throughout the financial year.

All claims for DHPs will be treated equally and fairly in accordance with Gravesham Borough Council's policies on race, diversity, and equality. Gravesham Borough Council will

endeavor to ensure that no-one who applies for a DHP receives less favourable treatment on the grounds of age, disability, gender, religious beliefs, marital status, nationality, race or sexual orientation.

17. Publicity

The Benefits Section will work with interested parties to publicise the DHP scheme. Information will be provided on the Local Authority's website; applicants will be informed by telephone and information will be provided within our Housing Benefit notification letters. Claim forms will also be made available during tenant and landlord forums and to welfare advice services.

This will develop and establish links of the scheme amongst the residents, external organisations, and internal departments.

18. Fraud

Gravesham Borough Council is committed to fighting fraud. An applicant, who tries to fraudulently claim a DHP by falsely providing a statement or evidence in support of their claim, may have committed an offence under the Theft Act 1968. Where the Benefits Section suspects that such a fraud may have occurred, the matter will be investigated as appropriate, and this may lead to criminal proceedings.

In determining any DHP application Gravesham Borough Council may consider any previous evidence of proven abuse of the HB / UC system prior to considering an award.

19. Review of Policy

The DHP Policy will be reviewed annually and in light of any legislative changes, trends or other factors that impact on the effectiveness of the policy.