



Discretionary Housing Payment Policy

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Introduction

The government has given councils funding to give Discretionary Housing Payments (DHPs) to people who have been affected by welfare reforms.

DHPs provide additional financial support for recipients of Housing Benefit or the Housing Costs element of Universal Credit, who are experiencing significant hardship or who have exceptional circumstances, to meet their housing costs, in part or in full.

The essence of the DHP scheme is that there is no statutory right to a payment. Whether to grant a DHP and, if so, for what amount, is always at the council's discretion. In exercising its discretion, the council considers each application on its own merits while having due regard to the overarching objectives of its DHP policy taken together with its public law duties to act lawfully, reasonably, and fairly.

DHPs can be paid in a lump sum, or as a series of payments to the applicant, or in some cases, to a third party (such as a landlord), at the discretion of Bracknell Forest Council.

In administering DHP the council has to act in accordance with the relevant legislation (the Discretionary Financial Assistance Regulations 2001)¹ and has to take account of guidance the Department for Work and Pensions (DWP) issues.

The policy sets out how DHP claims are decided and the factors the council considers when deciding whether to grant or refuse an award.

The DHP budget

Government sets an annual limit called the "permitted total" the council is able to spend on DHP. Local Authorities can use their own funds to top up their government contribution by an additional 150 per cent in England and Wales. Legislation states that once an LAs overall cash limit is met, no additional DHPs can be awarded in that tax year.²

Resources for DHP are limited and all claims are therefore dependant on the available budget.

Demand for DHP remains high and therefore this policy seeks to provide clarity over priorities for support against a background of demand exceeding the amount of funding available.

¹ <https://www.legislation.gov.uk/ukxi/2001/1167/contents/made>

² Article 7 of the Discretionary Housing Payment (Grants) Order 2001 (S.I. 2001/2340)

Objectives of this policy

The use of DHP funds is intended to support households with further financial assistance to meet the costs of housing in order to meet the following key objectives:

- To prevent homelessness by sustaining tenancies
- To support people experiencing personal crisis or exceptional circumstances who are facing severe financial hardship
- To support people who have demonstrated that they need additional financial support to meet their housing costs due to disability
- To support people who are deemed to be facing significant financial hardship due to wider welfare reform changes
- To support vulnerable young people in the transition to adult life, including young care leavers

What costs can a DHP cover?

- Reductions in Housing Benefit or Universal Credit as a result of the Benefit Cap
- Reductions in Housing Benefit or Universal Credit due to the impact of the spare room subsidy
- Reductions in Housing Benefit or Universal Credit as a result of Local Housing Allowance or Rent Officer restrictions
- Rent shortfalls to prevent a household becoming homeless whilst Bracknell Forest Council explores alternative options
- Department of Work and Pensions policy to limit support to two children
- Rent in advance and/or rent deposits
- Exceptional one-off costs to assist those with a housing need to secure suitable alternative accommodation, such as moving costs.
- Any other policy change that limits the amount of Housing Benefit payable, for example, the removal of the family premium or former Housing Benefit customers who were previously in receipt of the Severe Disability Premium and are now in receipt of Universal Credit
- DHP's can be awarded in certain circumstances in respect of two homes when someone is temporarily absent from their main home where there is a shortfall

What costs can DHP not cover?

- Any amount of Council Tax
- Service charges which are ineligible for Housing Benefit or Housing Cost element of Universal Credit
- Increases in rent due to rent arrears recovery
- Payment of housing costs in connection with a suspension of Housing Benefit or Universal Credit
- To assist in paying for housing costs as a result of a sanction or reduction in Housing Benefit or Universal Credit.
- Housing costs element of Universal Credit that is awarded for mortgage interest payments.
- Rent, when a person is not in receipt of Housing Benefit or housing cost element of Universal Credit
- Rent arrears incurred by a failure to pass on Housing Benefit or Universal Credit Housing Costs received by an applicant to their landlord
- Non-dependant deductions in Housing Benefit or the Housing Cost element of Universal Credit

What costs is it unlikely that DHP will cover?

It is not intended to award DHP in the following circumstances, unless to do so, would strongly support the policy objectives outlined above.

- Deductions made from any benefit or earned income as a result of a benefit overpayment. This would include reduced wages due to a Direct Earnings attachment, child support or breaching a community service order.
- Shortfalls in income as a result of unwillingness of applicant to seek assistance or utilise additional forms of support available for them. This would include applicants who have chosen not to apply for Universal Credit due to not accepting the claimant commitment or who have not followed up on a claim for additional disability related benefits such as Personal Independence Payments.
- A move to a property which is unaffordable at the outset
- Where the rent charged is of such an amount that the tenancy would remain unsustainable even if realistic steps to improve the household situation were achieved.
- Any shortfall where capital in excess of £6000 is held by people of working age, or £10,000 for those who have reached pension age. In the case of a couple, it will be the age of the younger partner which will determine the capital limit which applies.
- Any shortfall where fraud or misrepresentation has been admitted or proven, in connection to claims for Housing Benefit, Universal Credit, Council Tax Benefit or subsequent Council Tax Support schemes, or Discretionary Housing Payments

Rent in advance and deposits

In cases where the applicant's current accommodation is unaffordable, a decision will be made as to whether financial assistance with the costs associated with a move to more affordable accommodation may be more cost effective.

Applications, from any eligible applicant, for assistance with rent in advance, rent deposit and or removal costs may be considered. Consideration will be given to the remaining budget in any given financial year, steps already taken to obtain funding from other sources such as charitable grants, the reason for the move and length of tenancy granted as well as any deposit owed back to the applicant for their current property. Any Housing Benefit or Housing Costs element already paid towards the housing costs will be deducted from the overall award to avoid duplicate provision.

Bracknell Forest Council will need to be satisfied that the property is affordable for the applicant, that there is a valid reason to move and the rent deposit or rent in advance is reasonable for a payment to be made.

Any award of DHP to cover rent in advance or rent deposit will normally be paid directly to the new landlord. Bracknell Forest Council will seek to provide funding through a Rent Bond or Tenancy Deposit Scheme wherever possible to establish a longer-term financial option for customers seeking a DHP for this purpose. This means that rent deposits will only be paid in exceptional circumstances.

Assessment of DHP applications

In determining whether to award a DHP, consideration will be given to:

- The reasons why the applicant's circumstances should be considered exceptional
- The shortfall between the Housing Benefit or Housing Cost element of Universal Credit and the rental liability and reasons for it
- The number and duration of previous DHP awards
- Any steps taken by the applicant to reduce their rental liability
- Any steps taken by the application to find work, or increase their hours or salary
- The financial and medical circumstances of the applicant, their partner or dependent children (including ill health and disability)
- The income and expenditure of the applicant, their partner and any dependents. Where it is considered that expenditure is unreasonable or otherwise incompatible with the award of a DHP, the applicant will be referred for debt advice or signposted to other means of support
- Any savings or capital that may be held by the applicant, their partner or anyone else living as part of the household.
- Whether funding remains available within the legally permitted maximum levels
- What impact not awarding a DHP may have on Bracknell Forest Council, for example, the pressure on homelessness accommodation
- Any other special circumstances made known to Bracknell Forest Council by the applicant or their representative. This may include additional information provided by other departments of Bracknell Forest Council, such as Children's Social Care, or by a landlord or other third party.

Date, amount and conditions of an award of DHP

Each application for DHP will be considered on the individual circumstances and with consideration to wider policy intention.

The length of any successful award will be determined by the applicant's scope to reduce reliance on DHP funding in the future and the circumstances which have led to the application. In some cases, awards may be made on a very short-term basis pending an imminent change in circumstances, such as the birth of a child. In others, where the applicant has limited options to make changes in their circumstances, an award may be made for up to 12 months or to the end of the appropriate financial year. New applications would be required for any new financial year and repeat applications will not automatically be successful.

DHP is a cash limited fund and should not be relied upon as a means of maintaining a tenancy.

Amount of a DHP award

The maximum DHP award which can be paid will normally be;

- The difference between the Housing Benefit award and weekly eligible rent. For calendar monthly rents, the calculation will be as follows (monthly rent x 12 / 52)
- For applicants in receipt of Universal Credit, the monthly housing cost element of Universal credit and may include any additional money required to cover a shortfall between that and the eligible rent

For rent deposit / rent in advance / removal costs, the costs will be reviewed on a case by case basis and may be met in full or in part or via a Rent Bond or other mechanism.

The start date of a DHP award will normally be:

- The Monday following the date that the application form for DHP is received by the Welfare and Housing Team of Bracknell Forest Council. Applications submitted to other departments may mean that DHP's start later than anticipated; or,
- For Universal Credit customers a DHP can only be awarded after the end of the first Universal Credit assessment period where the award includes a payment of housing cost element or
- The date on which entitlement to Housing Benefit starts
- Another date, where this more adequately meets the objectives of this policy

Backdated applications for DHP

Backdated DHP applications will not usually be considered in line with the policy unless significant exceptional circumstances prevented an application being made at an earlier date. Examples of when a backdated DHP application may be considered are as follows;

- Where an application was delayed due to significant and evidenced ill health or capacity issues
- Where an applicant has been misadvised by a member of the Welfare and Housing Service
- Where a backdated DHP would assist with the transition into work and failure to make an award may jeopardise the move into work

This is not an exhaustive list and applications will be considered on their merits and the circumstances surrounding the application.

DHP's can only be considered for a period where the linked Housing Benefit or relevant award of Universal Credit is payable.

Conditions attached to an award of DHP

Bracknell Forest Council may stipulate conditions for an award of DHP to be successful. Failure to adhere to any conditions stipulated may result in any subsequent applications being determined as unsuccessful.

Conditions which may be attached to any successful award may include;

- Taking steps to move into work or increasing hours at work
- Working with an accredited debt advice service provider
- Making changes to items of expenditure as advised by the Welfare and Housing Team with a view to reducing items considered non-priority or excessive
- Actively seeking cheaper alternative accommodation
- Maintaining and actively bidding on properties available through the Housing Register
- Applying for and maintaining claims to other welfare benefits e.g., Universal Credit, Employment and Support Allowance, Personal Independence Payments or Pension Credit
- Making and maintaining payments towards any rent arrears

The intention of applying conditions to any award of DHP is to assist the customer to identify ways in which they may improve their circumstances, whilst seeking to support them through the limited funding available for DHP. It is not intended to be a punitive measure and in certain exceptional cases, no conditions would be applied to an award. However, where a condition is considered a reasonable outcome for a customer, taking into account all the support that is available, or has been offered, it will be applied to each case.

Where any such conditions have been attached to an award of DHP, the applicant will be asked to provide evidence of activity related to them during the period of award for those of 6 months or more for any subsequent application if an award was for less than 6 months to be considered. It may also be necessary for the applicant to attend a meeting with a Welfare and Housing Caseworker, or equivalent, to consider what steps could be taken to reduce reliance on further DHP funding.

Repeat applications

In the majority of cases, the award of a DHP is intended to provide customers with time to explore options to assist them to improve their financial or personal circumstances.

In a case where a repeat application is received, the applicant will be asked to provide evidence of activity related to any conditions in connection with the previous award. It may also be necessary for the applicant to attend a meeting with a Welfare and Housing Caseworker, or equivalent, to consider what steps could be taken to reduce reliance on further DHP funding in the future, or to explore options other than DHP to assist them.

A DHP award does not automatically entitle an applicant to a future application being successful and a subsequent DHP application may not be successful even if circumstances have not improved in line with the policy objectives and any conditions which were in place.

Administration of DHP awards

A DHP will normally be paid to the person receiving the Housing Benefit payment or Housing Costs element of Universal Credit, unless the policy objectives would be better served paying another party.

Payments will be made by the most appropriate method available which may include alongside the Housing Benefit, or by credit to a rent account.

Decisions regarding DHP's will be notified to the applicant within one calendar month or as soon as reasonably practicable after receipt of the last piece of information needed to finalise the application. It is anticipated that the majority of customers should be notified within 14 days from the receipt of the last piece of information.

Decisions regarding DHP awards will be notified to the applicant and will include;

- Reasons for the decision
- The start and end date of any award
- The amount of the award
- Any conditions attached to the award
- The applicant's right of review
- Advice that future applications may not be successful

Customers may be asked to provide evidence of any items set out in the application such as bank statements, payslips or self-employed accounts, evidence of expenditure and any documentation in respect of expenditure such as car loans, contracts or subscriptions

DHP disputes

DHP is not subject to the same right of review as Housing Benefit or Universal Credit and so is not included in any reconsiderations or appeals made against those entitlements. However, it is important that applicants have a clear understanding of how to dispute a decision they believe is incorrect.

Requesting a review

Where an applicant is dissatisfied with a decision, they must write to the Welfare and Housing Service within one calendar month of the date of the notification of decision stating that they wish to request a review.

The written request for a review must state the reasons the applicant disagrees with the decision and if necessary, provide any information or evidence to support their case.

The review will be considered by a Senior Officer. Where no further evidence or information is provided, the review is unlikely to be successful although each case will be considered individually.

The decision will be notified to the applicant and will explain the reasons for either revising the decision and any subsequent conditions relating to the award, or that the decision has remained unchanged and the reasons for this.

There will be no further right to request a review but in cases of alleged maladministration, the applicant may wish to follow the Council's Corporate Complaints process.

Changes in circumstances

It is anticipated that an applicant may have changes in circumstances which may impact on their DHP award and any other benefits or discounts claimed and that as a result, the DHP award and any associated benefits may need to be adjusted.

Applicants are required to notify the Welfare and Housing Team of any and all changes to their circumstances which may have an effect on their entitlement or the period of a DHP.

This duty extends to the applicant even if a third party receives the DHP payments directly and the change must be notified to the Welfare and Housing Service. A change notified to another section of Bracknell Forest Council such as the Council Tax section or another agency such as the Department of Works and Pensions or the landlord of their property, does not constitute notification.

Ending a DHP award

A DHP award may be terminated during the period of an award when:

- A change in circumstances means that the DHP is no longer applicable or appropriate. A new application may be sought in certain circumstances
- Entitlement to Housing Benefit or the Housing costs element of Universal Credit ceases
- DHP is paid due to official error and this error is identified and put right
- The financial year comes to an end
- It is determined that the applicant misrepresented, or failed to disclose a relevant material fact in relation to their award of DHP, or where fraud has been admitted or proven, in connection to claims for Housing Benefit, Universal Credit, Council Tax Benefit or subsequent Council Tax Support schemes, or Discretionary Housing Payments

Fraud

Bracknell Forest Council is committed to fighting against fraud in all its forms. An applicant who tries to fraudulently claim DHP by falsely declaring their circumstances or providing false statement or evidence in support of their application, may have committed an offence under Section 2 of the Fraud Act 2006. Where it is suspected that such a fraud may have occurred, the matter will be investigated and this may lead to the instigation of criminal proceedings.

Failure to co-operate with such an investigation, such as providing documentation considered reasonable to establish your circumstances, or failure to attend an interview without reasonable explanation may also lead to the refusal of an application for Discretionary Housing Payments.

Overpaid DHP

Where an overpayment of DHP occurs, Bracknell Forest Council will determine if it is appropriate to recover the monies overpaid.

In a case where the overpayment is as a result of misrepresentation of a relevant material fact or where there has been a change in circumstances which was not notified to the authority, recovery will always be sought.

In a case where a DHP was paid due to an error made when the application was first determined, recovery will also be sought.

Where recovery of overpaid DHP is considered appropriate, an invoice will be issued to the person who was paid the DHP monies,

A DHP will not be recovered from payments of Housing Benefit or the Housing Costs element of Universal Credit but may be recovered from any future DHP awards.

Where the applicant disagrees with a decision to recover an overpayment of DHP, they will need to request a review as set out above.

Governing Legislation

Discretionary Financial Assistance regulations (S.I.2001/1167) as amended by the Council Tax Benefit abolition (Consequential Provisions) Regulations 2013 (S.I.2013/458), which came into force 1 April 2013.

Article 7 of the Discretionary Housing Payment (Grants) Order (S.I.2001/2340)

Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I.2013/630) which came into force 29 April 2013. The Discretionary Financial Assistance Regulations as amended.