

## **TANDRIDGE DISTRICT COUNCIL**

### **DISCRETIONARY HOUSING PAYMENTS POLICY**

#### **1. Policy Introduction**

Discretionary Housing Payments (DHP) permit all local authorities to provide additional financial support for people who are entitled to Housing Benefit (HB) or the Housing Cost Element of Universal Credit (UC). They are designed to provide further financial assistance to people in receipt of HB or a relevant award of UC who have a shortfall between their HB or UC housing costs element and their rent. A relevant award of UC means an award that includes a housing costs element.

The legislation governing the DHP scheme can be found in the Discretionary Financial Assistance Regulations 2001 (SI 2001 / 1167) and subsequent amendment regulations.

The Department for Work and Pensions has produced a good practice guide for the administration of DHP. This policy takes this guidance into account.

The main features of DHPs are that:

- They are purely discretionary; a claimant does not have a statutory right to a payment.
- The administration of payments is for an individual council to determine with a few specific exceptions which are detailed in Section 5.
- DHP is not a payment of HB or UC. However, there must be entitlement to one of these benefits in the week a DHP is awarded for.
- The amount that can be paid in any financial year is cash limited by the Secretary of State. Each council receives a grant from the Government that funds part of this amount and has the option to pay over and above this amount. However, any additional funding on this basis would have to be made from the Council's own finances.
- Given the pressures on its budgets and the changes which have been implemented from national government which affect benefit entitlement, Tandridge District Council (the Council) will not in general supplement the DHP budget above the monies granted each year by the Government.

#### **2. Purpose of the Policy**

The purpose of this policy is to specify how the Council will administer DHPs within the District of Tandridge.

The Council will seek through the operation of this policy to:

- Alleviate poverty, prevent homelessness and support domestic violence victims trying to move to a place of safety;

- Keep residents in their own home, provided the home is of an appropriate size at reasonable cost for the needs of the family and there are good reasons why it would not be possible to move;
- Support residents move to suitable alternative accommodation where that provides the best long-term solution to better meeting their housing costs;
- Support the vulnerable or elderly in the local community;
- Support household stability so that children and young people can receive appropriate education and that vulnerable young people are supported in moving to adulthood;
- Keep families together;
- Keep local support mechanisms in place; where either the applicant is in receipt or providing support; and
- Assist people to obtain or retain employment.

In this context it is, however, important to note that the DHP scheme is intended to be a short-term emergency fund.

### **3. Types of Shortfall covered by DHP**

The various types of shortfalls that a DHP can cover include:

- reductions in HB or UC where the Benefit Cap has been applied;
- reductions in HB or UC for under-occupation in the social rented sector;
- reductions in HB or UC as a result of Local Housing Allowance (LHA) restrictions;
- a rent shortfall to prevent a household becoming homeless whilst the housing authority explores alternative options;
- rent officer restrictions such as local reference rent or shared room rate;
- Income tapers.

### **4. What DHPs cannot cover**

There are certain elements of a claimant's rent that cannot be included in costs for the purposes of a DHP because the regulations exclude them.

Excluded elements are:

1. Ineligible charges: service charges that are not eligible for HB or UC as specified by legislation.
2. Increases in rent due to outstanding rent arrears: A rental liability may be increased as a mechanism to recover arrears of rent however this increase does not form part of the rental liability that can be considered eligible for a DHP award.
3. Sanctions and reductions in any welfare benefit: DHPs cannot meet these

because to do so would undermine the effectiveness of the sanctions or reduction in benefit.

4. Benefit suspensions: HB or UC can be suspended either because there is a general doubt about entitlement or because a customer has failed to supply information required for their claim to be assessed. In such cases, it would not be permissible to pay DHPs instead. One of the intentions of the suspension provisions is to act as a lever to ensure that the customer takes the necessary steps to provide the authority with the required information/evidence - paying DHPs could reduce the effectiveness of this lever.
5. Shortfalls caused by benefit overpayment recovery: when recovery of an overpayment is taking place, such shortfalls should not be considered for a DHP.

## 5. Council Tax Support

Following the abolition of Council Tax Benefit from April 2013, DHPs can no longer be made towards council tax liability. However, a separate fund has been set aside by the Council to assist vulnerable people who are struggling to meet their Council Tax payments.

Details of the scheme are contained in the **Council Tax Support Discretionary Fund Policy**.

## 6. Making a Claim

- A claim for a DHP must be made in writing, preferably on the Council's specific DHP application form. This can be downloaded on-line. Alternatively, a claim may be made by letter or by email
- On request, the Council will issue the claimant with a DHP application form.
- The Council may request evidence/ further information in support of an application
- The Council reserves the right to verify any information or evidence provided by the claimant.
- The Council may also accept claims from someone acting on behalf of the person concerned, such as an appointee or advocate if the person is vulnerable and requires support.

## 7. Awarding a DHP

Tandridge District Council will decide whether or not to award a DHP and how much any award might be. This decision will be made by a specialist within the Council's Resident Support Service.

When making this decision, the Council will take into account:

- the shortfall between HB / UC housing costs element and rental liability;

- the steps taken by the claimant to reduce their rental liability;
- the medical circumstances (including ill health and disabilities) of the claimant, their partner, any dependants and other occupants of the claimant's home;
- the income and expenditure of the claimant, their partner, any dependants or other occupants of the claimant's home;
- any savings or capital that might be held by the claimant or their family;
- the level of indebtedness of the claimant and their family;
- any exceptional nature of the claimant or their family circumstances;
- the length of time they have lived in the property;
- the amount available in the DHP budget at the time of the application
- the possible impact on the Council of not making such an award, e.g. the pressure on statutory homeless accommodation.

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

The DHP may be less than the difference between the liability and the amount of HB or UC housing costs element.

It is important to recognise that a key aim of this policy is to support people finding long term, sustainable solutions which reduces or prevents dependency on DHPs.

There can however be no blanket policy or exemptions, each case will be considered strictly on its merits, and all claimants will be treated equally and fairly

## **8. Priority Criteria**

As the fund is cash-limited, awarding a DHP to meet each and every shortfall is not likely to be a viable option. The Council has considered how best to prioritise the funding, whilst remembering that each case must be considered on its own individual merits.

The Council may assist the following priority groups to stay in their home

- Families with children at a critical point in their education
- Young people leaving local authority care
- People going through the approval process to become foster carers who may need to show that they have a spare room to be approved. If a DHP was paid on this basis it would be up to the claimant to inform the LA of any change of circumstances if, for example, they were not subsequently approved.
- Families with kinship care arrangements. Children who go into the care of family and friends are often extremely vulnerable and will usually benefit from the stability of remaining in a familiar area and continuing to attend their local school
- Families with a child temporarily in care but who is expected to return home. What is considered to constitute 'temporarily' will be at the Council's discretion
- Families with a social services intervention, for example highly dependent adults, children at risk or involvement in a family intervention project

- People who have had to flee domestic abuse or have moved because of the threat of violence in another area
- Where someone in the household is expecting a baby (including those currently in shared accommodation or subject to an under-occupation reduction)
- Ex-homeless people being supported to settle in the community;
- People with health or medical problems who need access to local medical services or support that might not be available elsewhere
- People with disabilities who need, or have had, significant adaptations made to their property, or where they are living in a property particularly suited to their needs.
- Where the claimant or someone in their household has a disability which requires them to have a larger property than would usually be the case for the size of their household due to, for example, a medical condition or where a child has a particular disability that might mean they are unable to share a bedroom
- People with disabilities who receive informal care and support in their current neighbourhood from family and friends which would not be available in a new area. This could also include families who have a child with a disability who rely heavily on local support networks
- Households with disabled children who require an overnight carer
- Frail elderly people who have lived in the area for a long time and would find it difficult to establish support networks in a new area
- People who need to live near their jobs because they work unsocial hours or split shifts; or where moving home may mean living in an area where public transport would be inadequate to enable them to sustain their current job.
- People with families who were previously members of the Armed Forces and who are being assisted to settle in the local community

## **9. Additional Features of the Council's DHP Scheme**

- 9.1 **Spare Room Subsidy Restriction** - Renewals of DHP granted to offset the cost of the loss of the Spare Room Subsidy will be reduced by half, i.e. from 14% of rent to 7%; and 5% of rent to 12.5% where, after three months, claimants cannot demonstrate they have actively sought employment (where they are out of work), alternative employment or more appropriate accommodation. Further reductions will be considered as an option if the tenant takes no action to seek employment or more suitable accommodation.
- 9.2 **Income** - Applications for support will be turned down if it is evident that the claimant has sufficient income or capital to pay their housing benefit shortfall, or if it is considered that they would not comply with any of the conditions attached to an initial award.

- 9.3 **LHA new claim shortfall** - DHP will not be payable where the tenancy was not affordable at the start as the claimant should be aware of the maximum rent used in the calculation by looking at the LHA rates, it would not be usual for a claimant to be awarded a DHP in this situation. However, if the claimant could afford the property before they claimed then consideration could be given for a DHP after the 13 weeks rule expires.
- 9.4 **Non-dependant deductions** – DHP will not usually be awarded to help cover the shortfall made by non-dependant deductions. A shortfall caused by these deductions would usually be expected to be met by the non-dependant(s) within the household.
- 9.5 **Fraudulent claim history** - DHP will not usually be awarded where fraud has been admitted or proven in relation to claims for housing benefit, Council Tax Support, or Discretionary Housing Payments.
- 9.6 **Exceptional circumstances** - Officers will have authority to pay DHP even where the above criteria would mean that it is not due or should be reduced where applicants have limited scope to change their accommodation. For example, where the household contains children in a school year which would make it undesirable for the family to move at this point or where disabled people who are affected by spare room subsidy have had adaptations made to their home, in which case it would not be cost effective for them to move.
- 9.7 Where a HB or UC claim has been reassessed for a period for which DHP was initially awarded to cover shortfall, the DHP award could be cancelled and the claimant will be required to repay the DHP. This will prevent having to pay twice for the same period.

## 10. The level of a DHP award

If the purpose of the DHP is to meet a rental shortfall it is entirely up to the Council to decide how much of the shortfall to meet. However, in the case of a shortfall the level of DHP must not exceed the weekly eligible rent on the home.

Eligible rent means all of the payments specified in Regulation 12(1) of the Housing Benefit Regulations 2006 or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 except those specified in Regulation 12(3)(b)(i) to (iii) of those regulations, i.e. deductions in respect of certain specified service charges.

Following the introduction of UC, the Council is required to consider claims from claimants who are not receiving HB. Claimants receiving UC will not, necessarily, receive a specific amount towards housing costs. Therefore, the Council can decide on the amount of DHP to award, providing it does not exceed the weekly eligible rent.

For lump sum payments such as deposits or rent in advance this limit does not apply, but the Council will need to have regard to its overall DHP budget.

## **11. Length of award**

- The length of time for which a DHP will be awarded on the basis of the evidence provided and the known facts.
- The start date of an award will usually be the Monday after the written claim for a DHP is received by the Resident Support Service
- The Council will consider any reasonable request for backdating an award. However, these will be limited to the current financial year.
- The DHP will normally be paid for a minimum of one week.
- The maximum length of award will usually be to the end of the tenancy or a period not exceeding 12 months, whichever is the shorter.

## **12. Rent in Advance and Tenancy Deposits**

- When making a DHP to assist the claimant with securing a new tenancy The Council will consider whether it is appropriate to make the payment to the landlord rather than the claimant.
- As a lump sum payment for rent in advance is not made in respect of a period, the Council does not have to be satisfied that the claimant is entitled to HB other than at the point the award is made.
- If the rent in advance is for a property outside the District of Tandridge this does not prevent a DHP payment being made if the claimant is currently in receipt of HB or UC in the District.
- Before awarding a DHP for rent in advance or a deposit, the Council may wish to establish with the claimant whether they:
  - are due to have a deposit or rent in advance in respect of their existing tenancy returned to them
  - have received assistance from the Council through a rent deposit guarantee scheme or similar scheme
- Once a DHP has been made to the claimant for rent in advance or a deposit and used for that purpose, legislation does not provide for it to be refunded.
- The regulations do not say that DHPs can only be paid in respect of one property; they just limit the weekly amount that can be paid when the DHP does relate to rent on a person's home.
- Unless there are exceptional circumstances, DHPs will not normally be awarded, in relation to rent in advance and tenancy deposit costs, where the applicant is moving into the District from another local authority area.

### **13. Method and Frequency of Payment**

The Council will decide the most appropriate person to pay based upon the circumstances of each case. This could include paying:

- the claimant
- their partner
- an appointee
- their landlord (or an agent of the landlord) or
- any third party to whom it might be most appropriate to make payment

The Council will pay an award of DHP by the most appropriate means available in each case. This could include payment:

- to a bank account
- In the case of a TDC tenant, by crediting the claimant's rent account

If Housing Benefit is in payment, payment frequency will be in line with Housing Benefit payments.

If the claimant is receiving the housing costs element of Universal Credit, the method of payment will be decided on a case by case basis.

### **14. Notification**

The Council will inform the claimant in writing of the outcome of their application within 14 days of receipt or as soon as reasonably practicable after that. Where the application is unsuccessful, the Council will set out the reasons why this decision was made and explain the right of review. Where the application is successful, the Council will advise:

- the weekly amount of DHP awarded or amount of lump sum
- whether it is paid in advance or in arrears
- the period of the award
- how, when and to whom the award will be paid
- the requirement to report a change in circumstances
- any actions expected of the claimant before consideration of a further award

### **15. Change of circumstances**

- A claimant receiving DHPs is required to notify the Council of any changes of circumstances which may be relevant to their continuing to get DHPs.
- The Council may revise the award of a DHP where the claimant's circumstances have materially changed

### **16. Stopping a DHP award**

There are instances, other than a change of circumstances, in which DHPs can be stopped.

The Council can stop making DHP payments where:



- The Council decides that DHPs are being, and/or have been made because someone has misrepresented or failed to disclose a material fact, fraudulently or otherwise; and/or
- DHP has been paid as a result of an error.

## **17. Overpayment**

- The Council will normally seek to recover any overpaid DHP that is recoverable by the legislation.
- The Council will make every effort to minimise overpayments of DHP.
- An invoice will be issued to the claimant or the person to whom the award was paid.
- The letter that notifies a decision that there is an overpayment will also set out the right of review.
- The Council can recover DHPs if it has been decided that payment has been made as a result of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise. The Council may also recover DHPs if it decides they have been paid as a result of an error made when the claim was determined.
- Where a claim has been reassessed for a period for which DHP was awarded to cover shortfall, the DHP award will be cancelled and the claimant will be required to repay the DHP. This will prevent having to pay twice for the same period.

## **18. Fraud**

The Council is committed to the fight against fraud in all its forms. A claimant who tries to fraudulently claim a DHP by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under the Fraud Act 2006. Where the Council suspects that such a fraud may have occurred, the matter will be investigated as appropriate and this may lead to criminal proceedings being instigated.

## **19. Publicity**

The Council will publicise the scheme appropriately and will work with all interested parties to achieve this. A copy of this policy will be made available for inspection and will be posted on the Council's web site. Information about the amount spent will not normally be made publicly available except at the end of the financial year.

## **20. Rights to Seek a Review**

DHPs are not payments of HB and are therefore not subject to the statutory appeals process.

The Council will operate the following policy for dealing with a review request following a refusal to award a DHP, a decision to award a reduced amount of DHP, a decision not to backdate a DHP or a decision that there has been an overpayment of a DHP.

- A claimant (or their appointee or agent) who disagrees with a DHP decision may request a review. This should be delivered in writing to the Resident Support Service within one calendar month of the written decision about the DHP.
- A Resident Support Specialist who was not previously involved in making the decision under review, and who is at least of equal seniority to the officer who made the previous award, will review the case. They will review all the evidence held and will make a decision within 14 days of receipt of the request for a review or as soon as practicable, thereafter.
- Where the reviewing officer decides not to revise the original decision, they will notify the claimant in writing, setting out the reasons for their decision.
- The decision made by the reviewing officer will be final, subject only to an application for Judicial Review.
- In exceptional circumstances only, any of the above time periods for review may be extended by the reviewing officer. In deciding whether to grant an extension, they will take into account any delay in seeking independent advice that was outside the control of the claimant.

## **21. Policy Review**

The policy will be reviewed on an annual basis or in line with any major changes to the HB, UC or Financial Assistance regulations to ensure it remains valid, relevant and effective in achieving the policy objectives