



Lewes District Council and Eastbourne Borough Council Discretionary Housing Payment (DHP) Policy 2019/2020

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Eastbourne Borough Council and Lewes District Council receive separate allocations from Central Government and may only make awards from their separate allocations. Any payments made above the allocation can only be made if Members of the Individual Councils agree to give additional funds. Records for payments made and Government returns must be kept separately for each Local Authority.

1 Background

- 1.1 This scheme began on 2 July 2001. The regulations covering DHPs are The Discretionary Financial Assistance Regulations 2001 referred to as 'the regulations'.
- 1.2 The DHP Policy will follow guidance provided by the Department for Work and Pensions.
- 1.3 The regulations give the Council a very broad discretion. However, decisions must be made in accordance with ordinary principles about good decision making, i.e. administrative law. In particular, the Council has a duty to act fairly, reasonably and consistently.
- 1.4 This updated policy reflects any new guidance issued by the Department for Works and Pensions in response to legislative changes.
- 1.5 The main legislative changes are:
 - Council Tax liability will not be recognised as a Housing cost because Council Tax Benefit will be replaced by a Council Tax Reduction Scheme. Therefore DHP cannot be employed as further financial assistance in relation to Council Tax liability.
 - DHP award is extended to include specific support for those applicants affected by welfare reform. Namely those affected by the benefit cap, the social sector size criteria and the Local Housing Allowance (LHA) reforms
- 1.6 All applications will continue to be considered in line with the policy but the decision to award (or not award) a DHP is discretionary.
- 1.7 Discretionary Housing Payments cannot cover ineligible service charges or deductions from Housing Benefit or Universal Credit Housing Costs to recover an overpayment.
- 1.8 Any reduction due to a Non-dependant deductions will not be eligible to be covered by Discretionary Housing Payment

2 What are Discretionary Housing Payments (DHPs)

- 2.1 Discretionary Housing Payments (DHPs) provide successful applicants with further financial assistance when the Council considers that help with housing costs is needed.
- 2.2 The following objectives are at the heart of the decision making process
 - Promoting and sustaining appropriate tenancies
 - Homelessness prevention
 - Supporting the vulnerable in the local community
 - Helping applicants through personal and difficult events
 - Promoting financial and social inclusion
 - Benefit cap cases will be considered a priority
- 2.3 The Council's specialist teams in Customer First and Homes First will work together and with third parties (landlords, appointees, advice and advocacy groups, etc) to promote DHP and to identify and support applicants whose needs meet the objectives of the scheme.

3 **Housing costs that can be considered**

3.1 Housing costs are not defined in the regulations and this gives the Council a broad discretion to interpret the term. The minimum qualifying criteria is that to award DHP in relation to rent the applicant must be in receipt of:

- Housing Benefit (HB); **or**
- Universal Credit (UC) Housing Costs element; **and**
- has a rental liability **and**
- requires further financial assistance with housing costs.

3.2 In the narrowest sense, if an applicant has entitlement to Housing Benefit (HB), or Universal Credit (UC) Housing Costs element, then housing costs mean rent.

3.3 A wider interpretation can be applied to include rent in advance, deposits and other lump sum costs associated with a housing need such as removal costs.

3.4 The level of award may cover all or part of a shortfall or assist with the cost of taking up a tenancy. In effect this means there are three broad uses of the DHP fund

- to assist an applicant in receipt of HB/UC who has a shortfall between the level of their benefit and their ongoing rental liability (their housing costs)
- to assist with the cost of taking up a tenancy
- To help clear rent arrears to maintain a tenancy

3.5 An award of DHP is at the discretion of the Council and every application will be considered on its own merit.

3.6 Examples of housing circumstances that might be considered for an award of DHP are:

- Local Housing Allowance reforms
- Social size criteria
- The Housing Benefit cap.
- Other cases whose circumstances merit an award

4 Factors we may take into account.

4.1 Some of the factors that may be taken into account when deciding on the eligibility for Discretionary Housing Payments are:

- The level of the shortfall between HB/UC and housing costs.
- Whether there is a genuine risk of eviction because of the shortfall.
- What steps the applicant has taken to alleviate the problem.
- Is there a guarantor for the rent
- Whether the Landlord has insurance to cover rent arrears
- Whether more affordable accommodation is available which the applicant could move to.
- Whether the applicant, or anyone in the household, suffers from a health condition, illness or disability, which means their choice of housing is restricted either temporarily or permanently
- If the applicant has other debts to pay, which make meeting the shortfall more difficult. Discretionary Housing Payments are not to be provided to pay off other debts.
- If the applicant has debts, have they taken advice on how to manage these effectively.
- If the applicant or anyone in their household, has any exceptional expenses which make it harder than normal for them to meet the shortfall (e.g. frequent travel to hospital).
- If there has been a recent change of circumstances, which makes it more difficult to meet the shortfall.
- Could the applicant reduce other expenditure so that they can meet the shortfall?
- The applicant's rent has been increased during a benefit period which cannot be allowed because of the eligible rent rules.
- Is the claimant or member of their household fleeing domestic violence
- The extent of the shortfall between rent and Housing Benefit/UC, including whether the claimant has any capital or disregarded income which can be used to meet it, or whether anyone else is able and willing to help to meet it

5. Making an application

- 5.1.1 Regulations require that an application has to be made for a DHP and that the Council must act consistently.
- 5.2 Applications will only be accepted in writing (email or letter on the prescribed form).
- 5.3 The person who applies for a DHP will be the person entitled to HB/UC or someone acting on behalf of the person concerned, such as an appointee or a landlord, if it is reasonable to do so. The application must be signed by the claimant or the appointee.
- 5.4 Only a Council can accept applications for DHPs. Our policy is that DHPs are administered by a Specialist Officer to ensure consistency of decision making and to facilitate payment alongside the existing HB/UC scheme.
- 5.5 An applicant can make a new application at the end of an award but there is no automatic extension of awards. The new award will be considered on its own merits

6 Assessing an application

- 6.1 Decisions may be made collaboratively between Customer First and Homes first staff. This ensures that due consideration is given to the impact of the decision on issues of homelessness and sustainable housing.
- 6.2 If the application is for a payment to cover rent arrears the Local Authority may take into account whether there is a guarantor or if the landlord has insurance that includes cover for unpaid rent.

7 Limits on the size of an award

- 7.1 Regulations place a limit on the DHP award so that it does not exceed the weekly eligible rent on the applicant's home. The limit only applies where the award is calculated as a weekly sum, for example, to meet a shortfall.

8 Duration of a DHP award

- 8.1 The length of time over which a DHP is awarded is discretionary. In most cases payments will not extend beyond the end of the financial year in which an application is made. The length of time is determined on a case by case basis.
- 8.2 A DHP award is not intended to be an ongoing payment. It is designed to assist on a short term basis to provide applicants with an opportunity to address their housing situation.

8.3 The Council can use DHPs for a rent deposit or rent in advance for a property that the applicant is yet to move into if they are already entitled to HB/UC Housing Element for their present home. If the applicant is moving in to the Local Authority area consideration will be given as to whether an application has been made to the previous authority for a Discretionary Housing Payment for rent in advance.

8.4 There are no rules on backdating other than the duty to act consistently.

9 Notification of decisions

9.1 Applicants will be notified of the outcome of the decision in writing. This includes the amount and duration of the award where applicable and how to dispute the decision.

10 Appeals

10.1 There is no recourse to appeal a DHP decision in law as DHPs are discretionary and do not form part of Social Security legislation.

10.2 The Council's policy is that any request to review a DHP decision will be considered by a different officer from the Decision Maker who will not normally be involved in the original decision making process.

10.3 Where appropriate the applicant's landlord will also be notified of the DHP decision, in accordance with data protection.

11 Paying an award of DHP

11.1 DHPs will normally be paid to the person or organisation in receipt of HB alongside the existing HB payment method. If UC is in payment the payment will be separate from the UC housing costs payment.

11.2 In the case of council tenants and council placements payment would usually be in the form of a rebate to the rent account.

11.3 DHP may be paid to someone other than the applicant if it is considered reasonable to do so. That could be an agent, an appointee or a landlord.

11.4 Where a DHP is used to meet the cost of moving to a new home (rent in advance or deposit) making the payment to the landlord will be considered in most cases.

12 Change of Circumstances

12.1 It is the applicant's responsibility to notify the Council of any change of circumstance which may affect the award of a DHP. For example, if a change in income resulted in an increase in HB/UC which meant the DHP was no longer required.

12.2 DHPs can be stopped where the award was made on the basis of the applicant's misrepresentation or failure to disclose a material fact.

- 12.3 DHPs can be stopped where they have been paid on the grounds of an error.
- 12.4 In all cases DHPs are recoverable from the applicant to the fund, at the discretion of the Council.

13 Recovery of overpaid DHP

- 13.1 The only method of recovery if a DHP is overpaid is to request repayment of the debt from the applicant. This is generally in the form of an invoice. Overpaid DHP cannot be recovered by reducing future Housing Benefit payments.