

# **Epping Forest District Council**

## **Discretionary Housing Payment Policy**

# Discretionary Housing Payments – Policy

This policy will be reviewed annually

## Introduction

Discretionary Housing Payments (DHPs) provide customers with further financial assistance in addition to housing benefit where there is an additional need for help with housing costs. The scheme provides an extra fund that the council can use to help those most in need. There is no legal right to a DHP and awards are discretionary. Decisions regarding DHPs will be made in a fair, reasonable and consistent manner in accordance with the principles of administrative law.

## Legal Background and Funding

The regulations covering DHPs are The Discretionary Financial Assistance Regulations 2001. Funding for the scheme is set annually by the Government. Councils are permitted to exceed this funding amount if they wish subject to an overall cap. See annual subsidy circulars for funding levels.

## Criteria that must be met

Before a DHP award can be paid the customer must be entitled to

- housing benefit (HB), or
- universal credit (UC), and
- have a rental liability, and
- need further financial help with housing costs

## Other broad principles of the scheme

- The DHP scheme is discretionary and administered by the Benefits Division of Epping Forest District Council
- There is no statutory right to a payment
- Applications for a DHP are looked at individually and are treated on their own merit
- The amount of award is decided by a panel of officers and is paid with the award of housing benefit
- A DHP is not an award of benefit and there is no statutory appeals process
- Customers can request a reconsideration of a decision in line with this policy
- As payments are discretionary the Council can amend or cancel an award at any time
- The scheme is limited by the size of the fund and awards cannot exceed this amount
- A DHP is generally a short term measure
- Welfare Reform changes introduced from April 2013 make it more likely that DHPs will be awarded for longer periods

## **Purpose of the Scheme**

The Council will seek to apply the scheme in a fair, reasonable and consistent way with the purpose of;

- prevention of homelessness
- alleviating poverty
- helping people through a crisis or difficult event
- keeping families together in suitable accommodation
- supporting vulnerable people in the community
- providing a temporary solution to allow the customer to move
- helping those who are trying to help themselves
- helping people stay in employment
- maximising payments under the scheme where the conditions of entitlement are met

In deciding whether to make an award, consideration will be given to the potential size of any award and the length of time that it is likely to be paid for.

## **Costs that can be met**

The Council can pay a DHP to cover the following;

- reductions in HB or UC where the benefit cap has been applied
- reductions in HB or UC for under occupation in the social sector
- reductions in HB or UC where there is a restriction due entitlement being calculated on the Local Housing Allowance rates.
- reductions in HB or UC due to a rent restriction by the Valuation Office
- reductions in HB or UC due to a non dependant deduction
- reductions in HB or UC due to the application of the income taper
- rent deposit or rent in advance

If the DHP is awarded to cover a restriction in HB or UC it can only be paid up to a maximum of the eligible housing costs, ie rent elements that can be paid in Housing Benefit.

If a DHP is awarded for a rent deposit or rent payment in advance on a new property, the customer must already be in receipt of housing benefit or universal credit.

## **Costs that cannot be met**

A DHP cannot be awarded for the following;

- ineligible housing costs such as water rates, heating charges etc included in the rent
- increases in rent due to outstanding rent arrears
- reductions in HB due to the recovery of overpayments
- reductions in other benefits due to a sanction being applied
- reductions in HB due to suspensions
- other costs not related to housing
- reductions in Council Tax Support

## **Amount of award**

DHPs are discretionary. The Council can decide to pay a DHP to cover all of a person's eligible housing costs; some of that person's housing costs or none at all.

## **How to claim**

A DHP must be claimed using the Council's agreed claim form. The form is available to print from the Council's website or can be requested from the Benefits Division by phone or in writing or in person at any of the Council's offices.

The form asks for information relevant to the DHP scheme and requires the completion of financial information and other personal information to enable the Council to determine a claim.

The form contains a declaration allowing the council to verify the information contained with other agencies and agreeing to repay any DHP overpaid back to the Council. The form must be signed by the claimant and their partner if they have one.

## **Who can claim**

A claim for a DHP can be made by the HB claimant or their appointee. A person or agency acting on behalf of the claimant such as a relative, friend, social worker, Citizens Advice Bureau, Housing Options etc, can complete the form but the form must be signed by the claimant.

## **Administration of Claims**

A DHP claim is forwarded to the Benefits Officer responsible for that case who will prepare the case for presentation to the DHP panel.

The DHP panel will consist of the Assistant Director of Resources (Benefits) and/or the Benefits Manager plus a maximum of 2 of a Benefits officer and/or a representative from the Communities Service when appropriate. Decisions on a claim should be made by a minimum of 2 officers.

A majority decision will be carried and on split decisions the Assistant Director of Resources (Benefits) will have the final say or in their absence, the Benefits Manager.

Decisions will be notified in writing. Awards will contain the amount of award and the length of time it will be paid. The claimant will also have the right to request a review of the decision in writing within one month of the decision letter.

Refusal decisions will contain the reasons for the refusal and the right to request a review of the decision.

Decisions are recorded on a spreadsheet to ensure that awards are reviewed and monitored. The reasons for the award will also be recorded. The Council is required to make returns to the DWP twice a year recording the following reasons for DHP awards;

- DHP awarded because of benefit cap
- DHP awarded because of social sector size criteria
- DHP awarded because of LHA reforms
- DHP awarded because of other reasons

## **Disputes**

There is no statutory right of appeal against a DHP decision. However, the Council must be fair, reasonable and consistent in its decision making and should allow for disputes to be heard. If a person disagrees with the decision made on their DHP claim they can request that it be looked at again. The request must be made in writing and be received within one calendar month of the written decision. It must be signed by the claimant or their appointee and contain reasons why the decision should be reconsidered and any further evidence to support the claim.

Reconsiderations will be heard by a panel with at least one different officer than made the original decision.

## **Awards**

An award of a DHP is normally paid from the Monday following the date the DHP claim is received. However, the award is discretionary and there may be other factors that would determine that a different date should be used. The start date of a DHP is not bound by any law save that the person must have been entitled to HB or UC from the date the award starts.

## **Length of award**

The length of a DHP award will be based on the following factors

- the end of the current tenancy agreement
- an expected change in circumstances, eg birth of child, reaching pensionable age, etc
- end of HB claim
- a date appropriate to the case to allow the tenant to consider their options
- exhaustion of funds
- next rent officer referral or LHA review

DHPs will not be paid indefinitely. If there is still a need for a DHP following the end of award, the claimant must renew their application which will then be considered on its own merits again. DHPs are short term solutions to a housing problem and should not be seen as a way to manage financially in the long term. However, this scheme acknowledges that people's needs are different and that some cases might be deserving of awards paid for a longer term. Longer term awards will be dependent on the claimant taking steps to resolve their predicament for the future.

## **Payments**

Payments of a DHP will be made with the payment of HB. In cases where UC is in payment the frequency of payment will be decided by the panel who agrees the award.

## **Changes in Circumstance**

Claimants must report in writing any changes that might affect the amount of DHP they receive. These changes are the same as those that must be reported for HB purposes. Examples include;

- change of address including room changes if the claimant only occupies a room
- absences from home
- changes in income or capital
- changes in the household eg a partner/nondependent either leaving or joining

Failure to report changes in circumstances could result in a DHP being overpaid.

## **Overpayments**

The Council may seek recovery of an overpaid DHP if the overpayment arose from

- A misrepresentation or failure to disclose a material fact, either fraudulently or otherwise
- An error made when the claim was determined

DHPs cannot be recovered from ongoing payments of housing benefit or any other benefits. If a decision is made to recover a DHP an invoice will be sent to the person overpaid.

## **Guidance for awarding a DHP**

Certain criteria outlined earlier in this policy must be met before a DHP is considered. Once the criteria are met then the panel will decide whether a DHP should be awarded. Not all cases that meet the criteria can be paid, so the panel must exercise its discretion in deciding which claims should receive a DHP. The following guidance should be considered as part of the decision making process.

- Has the claimant been adversely affected by the April 2013 welfare reform changes
- If HB has been reduced because of under occupation, is there a medical need for the 'spare' bedroom. For example, if 2 children are expected to share, but one of the children needs their own room due to a medical condition.
- If a member of the household is disabled, has there been any extensive adaptations that now make the home particularly suitable

- Are there any health problems within the family that would prevent the family from moving home.
- What steps has the claimant taken to resolve their predicament
- Has the claimant contributed to their predicament by failing to act on advice given, committing to the tenancy irresponsibly etc.
- Is the bedroom requirement likely to change in the foreseeable future. eg birth of a child
- Are there any compelling reasons why the person should stay in their current home. This could be where one of the children is in a crucial school year for example and moving home, either at that time or in the near future, could have a detrimental effect on their education.
- Is there any evidence that the claimant would have particular difficulty finding new accommodation
- Is there a guarantor for the tenancy or someone else who can help financially
- Does the claimant have any other priority debts
- Is the income of the household more than the outgoings
- Is there any savings/capital
- Is there disregarded income for Housing Benefit that would be reasonable to use for a rent shortfall
- Are there additional income opportunities that would help the situation eg, increase hours of work, maintenance payments, claiming other benefits that they would be entitled to, etc
- Has all HB due to the claimant been paid. eg 13 week protection
- Are there rent arrears
- Has the landlord taken action to repossess the property
- What will be the consequences if a DHP is not paid. eg homelessness, destitution, or would the claimant remain in the property
- Would there be a further demand of council services if a DHP were not paid
- Are the homeless prevention team already working with the family
- Is the claimant making an effort to pay their rent
- Would a DHP paid for a new deposit or rent in advance on a more affordable property help the situation.

- Is the claimant a foster carer who needs an extra room but is currently in between fostering
- Will the claimant soon be of pensionable age
- How affordable is the home in the long term
- Would a DHP help them to remain in the property or would they be asked to leave anyway

The above are considerations only. In any one case there may be many factors involved some of which would favour a DHP and others not. The panel will decide, taking all factors into consideration, whether a DHP should be awarded, at what rate and for how long.