

## EK SERVICES POLICIES AND PROCEDURES

# DISCRETIONARY HOUSING PAYMENTS POLICY

Canterbury City Council, Dover District Council and Thanet District Council have entered into a shared service agreement to allow joint working in the Customer Services, ICT, Benefits, Council Tax and Business Rates sections.

Where 'EK Services' and 'EKS' are mentioned this refers to the shared service between Canterbury City Council, Dover District Council and Thanet District Council.

Where references are made to 'EK Services Officers' these services are now being delivered by Civica UK Limited. Civica UK Limited provides benefit services, income collection services, council tax and business rates administration and collection services and customer contact services to the Council.

# Contents

## **Background**

- 1.0 Statement of Objectives**
- 2.0 Making a Claim**
- 3.0 Eligible Groups**
- 4.0 Rent in Advance / Deposits**
- 5.0 Making an Award**
- 6.0 Relevant Time for Claiming**
- 7.0 Period of the Payment**
- 8.0 Maximum Amount of a DHP Award**
- 9.0 Changes in Circumstances**
- 10.0 Repeat Applications**
- 11.0 Method of Payment**
- 12.0 Notification**
- 13.0 Disputes and Appeals**
- 14.0 Fraud**
- 15.0 Overpayments and Recovery of DHP**
- 16.0 Equalities Statement**

**17.0 Policy Review**

**Appendix A - Housing Costs Excluded by Legislation from the DHP Scheme**

**Appendix B - DHP Funding**

**Appendix C - Matters for Consideration**

## Background

The Discretionary Housing Payments (DHP) scheme provides for all Local Authorities discretion to provide additional support for people who are entitled to Housing Benefit (HB) or the Housing Cost Element of Universal Credit (UC). 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; the policy takes note of this guidance.

The main features of the scheme are that:

- The scheme is purely discretionary, a claimant does not have a statutory right to a payment.
- The amount that can be paid out 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 but the funding must be made from the Council's own finances.
- The administration of the scheme is for an individual council to determine with a few specific exceptions which are detailed in appendix A.
- 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 funding for DHPs is made up of four elements to reflect legislative changes to the HB and UC schemes;

1. Core Funding
2. Local Housing Allowance
3. Social Sector Size Criteria
4. Benefit Cap

Although the funding is on the basis of four separate elements it is not ring-fenced to people affected by these reforms. There is discretion to make awards as seen fit however the funding methodology is a factor in the operation of the scheme. Appendix B sets out the funding arrangements for the current financial year.

There is a range of financial and welfare support available to meet a variety of different circumstances and needs for low-income households. The DHP fund is designed to provide

support to secure affordable accommodation and provide short-term support for exceptional and unforeseen pressures affecting a claimant's ability to meet their rent liability.

The short-term nature of the fund is to provide capacity in terms of time for the household to seek further advice and make changes to their circumstances which will achieve longer-term sustainability of their current home or find alternative accommodation which is affordable within the context of the HB and UC schemes.

It is the responsibility of each council to agree a policy. Civica will administer the scheme on behalf of the 3 participating local authorities, Canterbury City Council (CCC), Dover District Council (DDC) and Thanet District Council (TDC). There will be occasion where awards are made based on recommendations made by officers of the individual councils.

## **1.0 Statement of Objectives**

It is the intention of each council that the DHP budget is targeted to provide support to those who are most in need. Each case will be treated strictly on its own merits and all customers will be treated equally and fairly when the scheme is administered. All councils are committed to working with the local voluntary sector, social landlords and other interested parties in the local area to maximise entitlement to all available state benefits and this will be reflected in the administration of the DHP scheme.

The primary objectives of the scheme are;

- Preventing homelessness
- Enabling people to secure new affordable tenancies
- Safeguard residents of the district in their homes
- Provide short-term assistance for those who are trying to help themselves.

In achieving these aims it is anticipated that the operation of the scheme will also help to;

- alleviate poverty
- incentivise people into finding and maintaining employment.

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 HB or UC legislation.

Applications for DHP should only be made as a last resort. Awards will be made where the household demonstrates exceptional circumstances which can only be alleviated by additional financial support from the fund where no other alternatives exist.

It is recommended that all claimants seek independent advice from the Citizens Advice or other similar agency to assist with improving their personal circumstances and maximising their income.

The budget will be carefully monitored throughout the year to ensure the funding is used in the most effective way.

## **2.0 Making a Claim**

A claim for DHP must be made on the prescribed form available on each council's website or a paper alternative available directly from the customer service team at each council. The form is designed specifically to gather all relevant information to enable an officer to make a decision. The form will incorporate a standard income and expenditure sheet and questions designed to provide a consistency of detail to support decision making.

Applicants requiring assistance with rent in advance or a deposit will complete a different application form and are required to provide evidence from the prospective landlord of the requirement for and the amount of rent in advance and deposit required to secure the tenancy in addition to the ongoing rent liability.

In some cases additional information or evidence may be requested. Any requests for further details will be made using the most effective method; telephone, email or in writing, shortly after the claim has been made. Where a request for further information is made this must be supplied within two weeks of the request or the claim will be considered as lapsed and no further action will be taken.

## **3.0 Eligible Groups**

Claims for DHP will be considered from all households experiencing financial hardship and finding it difficult to meet their rent liability. Under the DHP scheme council tenants, Registered Social Landlord tenants and tenants living in privately rented accommodation are eligible to apply for assistance.

It is an aim of this policy to ensure that all claimants are able to access this fund if they need to. Appendix C sets out matters for consideration in the decision making process and circumstances where support is more likely to be provided. In addition, in order for any DHP payments to be made, there must be entitlement to HB or UC for the period the DHP is requested for.

Applicants intending to move into the area who are already in receipt of HB or UC will be expected to make an application for DHP to the authority from which they are moving if they are seeking assistance with rent in advance or deposit.

## **4.0 Rent in Advance / Deposits**

Rent in advance and deposit payments is a significant cost to those moving home. **Assistance may be provided by DHP where it will assist the applicant secure long-term affordable accommodation where there is a significant risk of homelessness or ongoing financial hardship.**

The council must be satisfied there is a genuine need to move and there are no other means available to pay the required rent in advance or deposit to secure the tenancy. It is expected that applicants would usually be engaged and supported by the Housing Options team in order to access support under this part of the scheme.

Because of the high monetary value of rent in advance and deposit awards it is recognised that this will place a high level of pressure on the DHP fund. Awards will be limited to households identified as in priority need and where rents are in line with the maximum rent which can be paid under HB and UC schemes for the particular circumstances of the households, and is affordable.

The intention is that by supporting tenants find suitable and affordable accommodation they will not require additional ongoing support from DHP which will reduce future costs of administration.

Single payments for rent in advance or deposit cannot be made more than once in any 12 month period to an individual tenant or to a landlord for the same property.

Appendix D sets out further detail of how each council will operate rent in advance or deposit elements of the scheme.

## **5.0 Making an Award**

Decisions on awards to help meet ongoing rent liability will be made by Payment Officers within Benefit Services.

An officer of the Council's Housing Options team may make a recommendation in relation to DHP claims relating to rent in advance or deposit.

## **6.0 Relevant Time for Claiming**

Applications for DHP should be made as soon as possible where the household falls into difficulty and is unable to manage to meet its rent liability.

Awards of DHP will normally be made from the date of the application. It is possible to pay DHP for past periods however this is at the discretion of the officer who makes the decision.

Applications for rent in advance or deposits must be made prior to the commencement of the tenancy. A DHP cannot be awarded for any period the customer has no entitlement to HB or UC.

## **7.0 Period of Payment**

Each case will be decided on its own merits and there is no minimum period an award will be made for. The period of the award is at the discretion of the officer making the decision based on the individual circumstances of the case.

DHP awards are designed primarily to meet short-term requirements and provide time for customers to make necessary changes to their circumstances to ensure they are able to live within their means in the longer-term. The fund is not an appropriate mechanism to support circumstances which are not time-limited.

In order to meet the objectives of the scheme and the way in which the scheme is funded all awards will have an end date attached to them. This will form part of the award notification sent to claimants along with information of activity which is likely to improve individual circumstances. In some cases it is appropriate to share information with the Council's Housing Options Service in order to provide proactive advice to prevent further rent arrears developing and prevent homelessness.

## **8.0 Maximum Amount of a DHP Award**

The maximum amount of DHP payable on an ongoing basis is prescribed with the Discretionary Financial Regulations;

- For a person in receipt of HB the maximum amount of DHP is limited to the difference between the HB award and the eligible contractual rent after deduction of



any ineligible service charges as defined in appendix A. This is known as the “shortfall”

- For a person in receipt of the housing cost element of UC the maximum award is equal to the level of the housing cost element allowed in the UC assessment for each calendar month assessment period
- Single payments for rent in advance or deposit will not normally exceed an amount equivalent to 4 weeks or one month’s rent, depending on the frequency of rent liability defined in the individual tenancy agreement.

## **9.0 Change in Circumstances**

If an applicant subsequently fails to meet the eligibility requirements for HB or UC and is not entitled to either benefit any award of DHP made under this scheme will be terminated.

An award of DHP may also be revised where there has been a material change in the customers’ financial household circumstances. It is the customers’ responsibility to notify the council as soon as any change occurs.

Any resulting amendment to the DHP award will be made in line with the termination of benefit or change event and may result in an overpayment of DHP which may be recovered. Section 14 provides further details of how an overpayment of DHP will be recovered.

## **10.0 Repeat Applications**

Awards of DHP are to provide short-term relief and should not be relied upon as an ongoing source of income. Every decision will provide advice on actions the household should consider to improve their circumstances which will enable them to afford their rent in the future without relying on an award of DHP.

Repeat awards of DHP will not be considered unless the claimant is able to demonstrate highly exceptional circumstances and show they have tried to take steps to improve their circumstances.

## **11.0 Method of Payment**

The method of payment will be selected based on the individual circumstances of the case with payment made to the most appropriate person in the best interests of the person claiming.

Payments of DHP are usually made where there is a risk of someone being evicted or to help secure a new tenancy by way of rent in advance or deposit and therefore usually the landlord or their agent will be the person whom DHP is paid to.

Payment would only normally be made to the claimant or their nominated appointee where there is evidence the rent has already paid or paying the landlord could threaten the tenancy.

The method of payment will usually be by BACs transfer or crediting the rent account where this is possible.

The frequency of payment will normally be made in line with how the HB or UC is paid.

## **12.0 Notification**

The outcome of the application will be notified within 14 days of receipt of the claim and any subsequent information requested. Where an application is unsuccessful, the reasons why this decision was made will be set out and explain the right of review.

Where the application is successful, the award notification will set out

- the weekly or total amount of DHP awarded;
- the period of the award;
- how, when and to whom the payment will be made;
- the requirement to report a change in circumstances.

In all cases the decision notice will provide recommended actions the applicant should consider which would help to improve the household circumstances. It is expected that this advice is followed before any future award is made.

## **13.0 Disputes and Appeals**

A DHP is not a payment of HB or UC and therefore it is not subject to the statutory appeals mechanism. If there is a disagreement with the decision this must be notified within one calendar month of the date of the decision letter. This must be made in writing and clearly set out the reasons for the disagreement and provide any additional information which needs to be considered.

Any appeal will be considered by a different officer from within the service who made the original decision. The outcome of the appeal will be notified in writing providing details as set out in section 12. There is no further right of internal appeal should the revised decision be disagreed with.

The only further redress against a decision to refuse an award is by way of Judicial Review in the high Court. The independent Tribunal Service cannot hear appeals relating to DHP.

## **14.0 Fraud**

It is acknowledged that most applications for DHP are genuine; however some applications are made with the deliberate intention to obtain money to which the applicant is not entitled.

The application for DHP should be a true representation of the applicant's circumstances. It is an offence to misrepresent or fail to disclose relevant information in an application for Discretionary Housing Payment.

Where facts are misrepresented or where there is a failure to disclose relevant information in support of their application, this may constitute an offence under the Theft Act 1968. Where it is suspected that such a fraud may have occurred, the matter will be investigated as appropriate and this may lead to legal action being taken against the person who made the claim.

## **15.0 Overpayments and Recovery of DHP**

The Council will seek to recover any DHP found to be overpaid or paid under the rent in advance or deposit scheme to be returned at the end of a tenancy. Normally this will involve issuing an invoice to the claimant or the person to whom the award was paid. If this is not paid further recovery action will be taken.

Careful consideration will be given on recovery of any overpayment and it may be decided not to recover an overpayment where extenuating circumstances exist.

The appeals process set out in section 13 will also apply to decisions on recovery.

## **16.0 Equalities Statement**

Civica are committed to delivering a service that is accessible and fair to all of the communities that we serve and ensure that all people are treated with respect and dignity. The Equality Act 2010 sets out an "Equality Duty" to:

1. eliminate discrimination, harassment and victimisation;
2. promote equality of opportunity between different groups in the community; and
3. foster good relations within the local community.

We give careful consideration to equality issues in our new and existing policies, strategies and services to see what effect they will have on different groups within our communities, including those with protected characteristics.

The protected characteristics covered by the Equality Duty are:

- age;
- disability;
- marriage and civil partnership (but only in respect of eliminating unlawful discrimination);
- pregnancy and maternity;
- gender reassignment;
- race – this includes ethnic or national origins, colour or nationality;
- religion or belief – this includes lack of belief;
- sex (gender);
- sexual orientation

We also recognise that socio-economic status can be a significant barrier to equality of opportunity.

## **17.0 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.

## Appendix A

### Housing Costs Excluded by Legislation from the DHP Scheme

The following elements are specifically excluded by legislation from eligibility for support by the DHP scheme:

1. Ineligible charges: service charges that are not eligible for HB or UC as specified by legislation cannot be covered by a DHP.
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 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 pertinent to their claim. 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 necessary 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.

## Appendix B

### DHP Funding

The DHP funding and maximum expenditure allowed as determined by the Secretary of State for each council for the financial year 2018/19 is:

<b>Local Authority</b>	<b>Amount Funded by the Government</b>	<b>Maximum Allowable DHP Expenditure</b>
<b>Canterbury</b>	£252,547	£631,366
<b>Dover</b>	£246,292	£615,730
<b>Thanet</b>	*£437,080	£1,092,700

\*Thanet District Council have decided to allocate £275,000 of the government funding specifically to fund payment of rent in advance and deposits.

Each authority reserves the right for geographic distribution of the scheme to be uneven across the district in recognition of areas where there is a higher proportion of people in receipt of HB or UC and to support other council objectives.

## Appendix C

### Matters for Consideration

The funding of DHP only represents a small percentage of the money paid in respect of housing costs paid by HB and UC. Even when a person is affected in any of the circumstances identified below or by any of the welfare reforms it will not guarantee that a payment will be made.

Where an award of DHP is made it is likely to be for a short period to ensure the scheme remains flexible. All decisions are subject to the level of funds being available. The fund will be managed to ensure that support can be provided throughout the year.

In all cases the claimant, partner and household members must demonstrate they have insufficient resources, through their income and capital, to meet their ongoing rent liability or pay the required rent in advance or deposit to secure a tenancy which is suitable for their housing needs.

Other factors that may be taken into account are;

- If the inability to meet the rent liability is due to a change in the award of HB or UC due to legislative changes in welfare benefits. In exceptional cases an award of DHP may be made in the short term to help the household adjust;
- The extent of the shortfall and any steps taken by the claimant to reduce their rental liability;
- The likelihood of an imminent change of circumstances that will increase the level of the HB or UC award for example, pregnancy where the addition of a child to the household would change the calculation of HB or UC or a single person whose 35th birthday is imminent;
- If there is a real risk of homelessness due to eviction because of the shortfall. Priority will be given to applicants who are being supported by the council's Housing Options Team or other agency providing similar support;
- The impact of disability needs within the household on the accommodation requirements for which the benefit calculation does not make specific allowances;
- The medical circumstances of the household affecting their ability to move to cheaper alternative accommodation;
- If there has been a recent change of circumstances, which has negatively impacted on the ability to meet rent liability that was previously affordable;

- If the property has been specifically adapted to meet the needs of a disabled member of the household or an additional bedroom is required as a result of health needs and this is supported by the award of Personal Independence Payment or Attendance Allowance
- Where a household has been affected by a restriction under the social sector size criteria it is expected that they are engaging with their housing provider in order to move to appropriately sized accommodation;
- The level of indebtedness of the claimant and their family. DHPs will not be paid in order to finance other debts;
- The exceptional nature of the claimant and their family's circumstances;
- The length of time the DHP is being asked to support. DHP is not and should not be considered as a long term way around any current or future entitlement restrictions set out under legislation.
- The steps the applicant plans to take should their application be successful to alleviate their position in preparation for when the payment ends which may include;
  - applying to the council's housing register and are making bids on suitable homes;
  - making changes to the household budget in order to prioritise their rent payment
  - ensuring they are on the cheapest available tariff for their utility bills in order to increase the level of income which can be used to pay their rent liability
  - engaging with the Department for Work and Pensions with support to find work where it is appropriate to do so.

This above list is not exhaustive or intended to be restrictive, it is intended to provide some guidance on the types of exceptional circumstances where an application is likely to have a greater prospect of success.

### **Additional matters for consideration in relation to rent in advance and deposits**

Awards of rent in advance or deposits will only be made under this where the following criteria are met:

- There must be entitlement to HB or the housing cost element of UC at the beginning of the tenancy;
- The applicant must show they do not have the ability through their own means to pay the required rent deposit;



- The ongoing rent must be affordable without reliance on additional support outside of HB or UC or will become affordable within 3 months due to an imminent change of circumstance which will increase the maximum level of housing costs which can be made by HB or UC;
- Applicants must have a bank, building society, post office or other account capable of making direct debit or standing order payments. If no such account is in place an undertaking must be made to open a relevant account.