

Ashford Borough Council

## Discretionary Housing Payment Guidance

April 2020

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## **Ashford Borough Council – Discretionary Housing Payment Guidance**

### **Short Term Emergency Fund**

#### **1.0 Introduction**

Discretionary Housing Payments (DHPs) are an emergency fund to be used to alleviate hardship to allow applicants time to find alternative solutions to housing issues and/or shortfalls in income. The availability of DHPs will be promoted by Ashford Borough Council and the Authority will do everything possible to make it easy for potential beneficiaries of DHPs to apply and will assist claimants during the process.

#### **2.0 Background**

On 2<sup>nd</sup> July 2001 the DHP scheme was introduced. It granted all local authorities power to make a discretionary award to top up the Housing Benefits and Universal Credit (HB/UC) statutory schemes. The legislation governing DHPs can be found in the Discretionary Financial Assistance Regulations 2001 (SI2001/1167) and the subsequent amendment regulations.

DHPs can cover shortfalls between eligible rental liability and payment of Housing Benefit/Universal Credit and shortfalls due to means testing and help towards housing costs.

Housing costs can be interpreted more widely to include rent in advance, deposits or other lump sum costs associated with a housing need such as removal costs or storage costs for Bed and Breakfast cases.

Consideration should also be given to the Welfare reform changes introduced with effect from April 2013.

The main features of the scheme are:

- The scheme is purely discretionary and a claimant does not have a statutory right to a payment
- Every year the Government allocate a grant that can be paid out by each local authority in the relevant financial year. Ashford Borough Council is able to pay additional money but this must be funded from our own finances

- The administration of the scheme is for the local authority to determine
- DHP is not a payment of HB/UC. However the minimum amount of HB/UC must be in payment in the benefit week that a DHP is awarded for applicants
- DHP should be seen as an emergency fund. It is not and should not be considered as a way round any current or future entitlement restrictions set out under HB/UC legislation
- It cannot be used to offset overpayment recovery or to cover ineligible service charges
- It cannot be used to cover Council Tax liability or any shortfall in Council Tax Support

### **3.0 Purpose**

The purpose of this guidance is to specify how Ashford Borough Council will operate the scheme from 1 April 2020 to indicate some of the factors that will be considered when deciding if a DHP can be made and to provide guidance on periods of awards and repeat claims. Each case will be treated strictly on its merits and all applicants will be treated fairly and equally. Ashford Borough Council is committed to working with the local voluntary sector, social landlords and other interested parties in the borough to maximise entitlement to all available state benefits and this will be reflected in the administration of the DHP scheme.

### **4.0 Claiming a DHP**

A claim for DHP must be made in writing, preferably using the Ashford Borough Council Online DHP application form.

A referral may be made to Citizens Advice Bureau, Housing Options, Tenancy Sustainment Officer or the Welfare Intervention Officers at the Hub to provide advice, assistance and support in relation to housing issues/financial issues and work towards finding a solution for the household/applicant in addition and/or whilst considering the DHP application. The advice, assistance and support will be holistic in nature and consider all options in relation to alleviating the reasons for the DHP application being submitted. Additionally the local authority will be able to work cooperatively with the applicant in submitting any relevant information required for the application to be considered.

The DHP application form will incorporate an income and expenditure sheet that has been designed to ensure consistency of information and evidence gathering on financial matters. The council reserves the right to request any supporting evidence it deems to be relevant to the application. If the applicant is unable to supply the required evidence, the benefits service will still consider the application and will take into account any other available factors. If the applicant has no valid reason for failing to supply the required evidence, the DHP will be refused.

## **5.0 Statement of Objectives**

It is the intention Ashford Borough Council that the DHP budget is targeted towards those claimants that have the greatest need, the core objectives which should be considered either individually or jointly are:-

- Preventing homelessness,
- Housing the homeless,
- Keeping families together,
- Supporting the vulnerable and elderly in sustaining tenancies,
- Enabling people to secure new affordable tenancies,
- Providing financial help for people in short-term difficulty
- Incentivising people into and maintaining work
- Supporting vulnerable young people in the transition to adult life

## **6.0 Examples of the claimant groups identified as those that are most likely to require assistance and the circumstances in which an award may be considered**

It should be remembered that the allocations of Discretionary Housing Payment only represent a small percentage of the overall reductions to Housing Benefit caused by national legislation. Even if a person falls within one of the following groups there is no guarantee of a payment being made and, even if an award is made, it is very likely to be for a short period to ensure that the scheme remains flexible to meet the greatest need.

Claimants who could afford their property based on the LHA rate when they took on the tenancy, but have now had their Housing Benefit reduced due to the changes in legislation.

Claimants with an imminent threat of homelessness, priority will be given to those applicants who are supported by the Council's Housing Options Team or another agency. Each case will be considered on its own merits and an award will only be made where it removes the immediate threat of homelessness and enables the claimant to secure long term affordable accommodation.

Claimants who are homeless and require support to enable them to secure accommodation. Support may be in the form of rent in advance, deposits or assistance with removal costs.

Claimants who have received the '13 week protection' because they could previously afford their rent. It is recognised that this client group is likely to suffer financial hardship when the 13 week protection ends. These claimants will be invited to apply for a DHP and subject to their circumstances may be awarded DHP to immediately follow the end of the protection period. The maximum award under this approach should be 13 weeks, which would give the customer a

total of 26 weeks 'protection' in terms of how long their full contractual rent liability is met. It is intended that this extended protection will help them seek and obtain increased financial independence.

Claimants moving from Income Support, Employment and Support Allowance or Jobseekers Allowance into employment who require short term financial assistance to make the transition into employment.

Claimants who require an extra bedroom, or bedrooms, for 'visiting' children where there is shared custody and it is part of an official order that the child stays for an average of three or more days per week.

Claimants who require larger accommodation due to disability or whose accommodation has been specifically adapted to meet disablement need. Where an extra bedroom is required because of the health needs of a member of the household.

Claimants who are experiencing financial hardship because of a delay in the processing of their Personal Independence Payment application where an award of PIP would lead to higher Housing Benefit entitlement.

Claimants under the age of 35, whose HB is restricted due to the 'single room rent' restriction, or is a 'young individual' under the Local Housing Allowance scheme. Awards will be prioritised to applicants who will reach their 35th birthday in the near future or whose circumstances will change within three months such that the Shared Accommodation Rate of LHA will no longer apply.

Claimants who move to a property larger than their current LHA size category in preparation for a future change in circumstances. DHP awards will normally be limited to a period of up to three months prior to the date of the predicted change of circumstances. DHP awards will not help meet rents above the future LHA level.

Claimants who are experiencing financial hardship because their Housing Benefit is restricted as a result of the Social Housing Size Criteria.

Claimants who require larger accommodation due to disability or whose accommodation has been specifically adapted to meet disablement need.

Claimants whose circumstances will change within 12 months such that the size criteria will no longer apply. It is expected that other social housing tenants affected by the size criteria requesting assistance through Discretionary Housing Payment will be engaged with their housing provider in order to move to appropriately sized accommodation.

## **7.0 Matters for consideration**

In considering whether to make a DHP award, the applicant's financial situation will be looked at. Some other factors that may be taken into account are:

- Is the reason for the shortfall due to welfare reform?

- The extent of the shortfall, including whether the applicant has capital or disregarded income which can be used to meet it, or whether anyone else is able and willing to help meet the shortfall?
- Is the DHP application for a rent deposit, rent in advance or other housing costs such as removal costs. Applications for rent deposits and rent in advance should be submitted before committing to a new tenancy. Any Discretionary Housing award for a rent deposit or rent in advance may be linked to the appropriate Local Housing Allowance rate for the claimant's household.
- Is there a real risk of eviction because of the shortfall, or will the landlord accept a reduced payment?
- If the applicant has recently taken up the tenancy, did they make enquiries with the local authority or any other service providers about how much benefit they could be expected to get prior to signing up? Could the recently signed tenancy agreement be considered as affordable in relation to the applicants' income?
- What steps has the applicant taken to try to reduce their rental liability?
- What steps has the applicant taken to alleviate the problem?
- Does the applicant, or anyone in the household, suffer from a health problem, illness or disability, which means that their choice of housing is restricted?
- Does the applicant have other debts to pay, which make meeting the shortfall more difficult? An Income and expenditure form should be completed along with evidence of any debts. Budgeting advice and Debt advice where applicable should be offered.
- DHPs are not to be provided to pay off other debts. The dates the debts were incurred are relevant, particularly where arrangements were entered into when rent is being restricted. Applicants should take some responsibility for their level of debt, and the amount they can afford to pay from their income?
- Are there service charges which are ineligible for Housing Benefit and cannot be covered by DHP.
- If the applicant has debts, have they taken advice on how to manage them effectively?
- Does the applicant or anyone in the household have any unusual or unusually large expenses which make it harder than normal for them to meet the shortfall?
- Has there been a change of circumstances, which makes it more difficult to meet the shortfall?
- Could the applicant reduce other outgoings so that they can meet the shortfall?

- Is this a repeat request for a DHP? If it is, what steps has the applicant taken to try to alleviate the problem since the last application?
- Is the situation short term? It is not and should not be considered as a long term way around any current or future entitlement restrictions set out under legislation.
- If the DHP application is successful, what steps does the applicant plan to take during the payment period to alleviate their position in preparation for when the payment ends?

## **8.0 Rent in Advance**

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 to secure long-term affordable accommodation where there is a significant risk of homelessness or ongoing financial hardship.

Ashford Borough Council must be satisfied that there is a need to move and there are no other means available to pay the required in advance or deposit to secure the tenancy. In most cases the applicants would usually be engaged and supported by the Housing Options team.

Due to 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 to those 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 and is affordable.

Payments for deposits and rent in advance will not be paid until the applicant has moved into the property, however a DHP application must be made in advance and written confirmation/e-mail will be provided to confirm that a DHP will be paid on the condition that the applicant qualifies for HB or Housing Costs within their UC.

## **9.0 Period of award**

The benefit service will decide the length of time for which a DHP will be awarded on the basis of the known facts and evidence supplied. A sample of DHP awards will be reviewed to monitor the impact and effectiveness of DHP awards.

The start date of a DHP award will usually be:

- The Monday following receipt of the DHP claim, or
- The date on which entitlement to HB/UC commenced (providing the claim is received within one calendar month of the HB/UC decision)

- The Monday after a relevant change in circumstances giving rise to the need for the DHP

A DHP shall not be awarded for any period for which the customer has no entitlement to HB/UC.

Awards will be short term and will usually be made for 3 or 6 months; although in some circumstances 9 or 12 month awards may be made.

In exceptional circumstances ongoing long term awards may be made.

Awards for customers affected by the Benefit Cap may be reduced on a periodic basis to reduce dependency on DHP.

The benefits service may need to revise or revoke a DHP award where the applicant's circumstances have materially changed. It is the applicant's responsibility to notify the council as soon as any change occurs. Any amendment to the claim will be effective from the date of change.

In exceptional circumstances the benefits service will consider a request for backdating a DHP application. Such backdating will only be considered with other relevant benefit legislation.

## **10.0 The Decision**

The Benefit service aims to deal with all applications for DHP within 28 days of receipt of the claim form, and all accompanying information being received.

All decisions relating to awards of DHP will be made by senior benefit staff. Awards of less than £20 per week will be decided by the DHP Officer. All awards greater than £20 per week and all repeat awards will need to be approved by the Senior Revenues and Benefits Officer.

Applicants will be notified in writing of the outcome and the letter will state the reasons for the decision.

Ashford Borough Council will visit a random sample of DHP applications prior to consideration of the award or after an award has been made.

Where the application is successful the notification will advise:

- The weekly amount of the DHP award
- The period of the award
- How, when and to whom the DHP will be paid
- The requirement to report any relevant change
- Details to sign post to advice agencies/Referrals direct to Welfare Intervention Officers

- All notifications of decisions on DHP claims will offer the opportunity for the customer to seek review.
- The landlord will also be advised in all cases where the payment will be made to them

A sample of successful awards will be reviewed to establish any changes that may impact on the award and the steps the claimant is taking to improve their financial situation. Welfare Intervention Officers may contact the customer before their DHP award expires.

### **11.0 The right to seek a review**

DHPs are not payments of Housing Benefit or Universal Credit and are therefore not subject to the statutory appeals mechanism.

The benefits service will operate the following policy for dealing with appeals against any decision on a claim for DHP:

- An applicant, or person nominated to act on their behalf, who disagrees with a DHP decision may dispute the decision in writing, within one month of the notification letter
- An alternative Benefits Officer will consider the dispute. They will review all of the evidence held and make a decision within 14 days with assistance from the Benefits Manager if appropriate
- Their decision will be deemed as final and the customer will only be able to make representations through the council's corporate complaints procedure, seek a judicial review or by complaint to the Local Government Ombudsman.

### **12.0 Method of payment**

The DHP Officer will, with guidance from the Senior Revenues and Benefits Officer decide the most appropriate person to pay, based upon the circumstances of each case. This could include paying:

- The applicant
- Their partner
- An appointee
- Their landlord or agent
- Any third party to whom it might be most appropriate to make payment

We will pay an award of DHP by the most relevant means available in each case. Payment frequency will normally be made in line with the HB award. For UC claimants awarded a DHP payment will be made on the next payment run following the award.

### **13.0 Overpayments**

Where appropriate the benefits service may seek to recover any DHP found to be overpaid. Normally this involves issuing an invoice to the applicant or the person to whom the award was paid. Recovery will not be made from any ongoing benefit entitlement. The overpayment notification letter will also set out the right of review.

### **14.0 Monitoring**

All DHPs will be recorded on the benefits service software system (Northgate). Total DHP expenditure will be monitored on a monthly basis by the Senior Revenues and Benefits Officer who will ensure expenditure is within budget and correctly profiled throughout the year.

Quarterly reports will be completed to reconcile DHP expenditure.

A six monthly and annual return must be submitted to the DWP to verify expenditure.

All claims for DHP will be treated equally and fairly in accordance with Ashford Borough Council's policies on race, diversity and equality. Ashford Borough Council will endeavour to ensure that no-one who applies for DHP receives less favourable treatment on the grounds of any irrelevant consideration including age, disability, gender, religious beliefs, marital status, nationality, race or sexual orientation.

### **15.0 Fraud**

Ashford Borough Councils' Benefit Service is committed to prevent any fraud and error, and to investigate and detect any fraud within the system.

An applicant 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 Ashford Borough Council's Benefit Service suspect that a fraud may have occurred, the matter will be investigated, and this may lead to criminal proceedings being instigated.

### **16.0 Review**

This guidance will be reviewed and revised to take into account any changes in legislation and to improve effectiveness. The effectiveness of this guidance will be regularly monitored and updated where applicable. An interim review will take place after 6 months and a comprehensive review will take place after 12 months.

Ashford Borough Council reserves the right to adjust the way this guidance operates from time to time, in all aspects, in the light of experience, prevailing economic climate and national benefit changes.

## **17.0 Equalities Statement**

Ashford Borough Council are committed to delivering a service that is accessible and fair to all residents that we serve and ensure that all people are treated with respect and dignity. The Equality Act 2010 set out and “Equality Duty” to:

1. Eliminate discrimination, harassment and victimisation
2. Promote equality of opportunity between different groups in the community
3. Foster good relations within the local community

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

The protected characteristics covered by the Equality Duty are:

1. Age
2. Disability
3. Marriage and civil partnership (but only in respect of eliminating unlawful discrimination)
4. Pregnancy and maternity
5. Gender reassignment
6. Race - this includes ethnic or national origins, colour or nationality
7. Religion or belief - this includes lack of belief
8. sex (gender)
9. sexual orientation

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

## **18.0 Appendix A- DWP Discretionary Housing Payment Grant Allocation 2020/21**

DWP Circular S1/2020 details the Grant Allocation.

### **Ashford Borough Council**

For the financial year 2020/21, the DWP grant to Ashford Borough Council is £352,710.00. Ashford Borough Council aims to spend its whole grant during the year.