

Revenues Services Section



Gedling Borough Council

Housing and Council Tax Benefit Discretionary Housing Payment Policy

September 2011

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AWARDING DISCRETIONARY HOUSING PAYMENTS (DHP's)

1. BACKGROUND

In July 2001, a new scheme was introduced which granted all local authorities new powers to award Discretionary Housing Payments (DHP's). The scheme provides financial assistance to those claiming Housing and Council Tax Benefit where it appears that they need additional help with their housing costs.

The legislation governing Discretionary Housing Payments can be found in the Discretionary Financial Assistance Regulations 2001(S.I.2001 No.1167).

The DHP scheme covers shortfalls between rental liability and payment of Housing Benefit and shortfalls between Council Tax liability and entitlement to Council Tax Benefit. Every customer entitled to the minimum amount of Housing Benefit and/or Council Tax Benefit and who has a shortfall is entitled to make a claim for help.

Gedling Borough Council has determined that its Benefit Section will be responsible for the administration of the DHP scheme.

The main features of the scheme are that:

- It is purely discretionary and a customer does not have a statutory right to a payment.
- The amount that can be paid out by an Authority in any financial year is cash-limited by the Secretary of State.
- DHP's are completely separate to the Statutory Housing Benefit and Council Tax Benefit schemes. However, the minimum amount of Housing and/or Council Tax Benefit must be in payment in the benefit week that a DHP is awarded for.
- The level of a DHP award cannot exceed the shortfall between rent charged and Housing Benefit paid or Council Tax charged and Council Tax Benefit paid. There are also elements of a person's rent or council tax and shortfalls in benefit that cannot be met by a DHP and these are prescribed by regulations.

2. FINANCIAL IMPLICATIONS

- The overall amount spent on the award of DHP's is subject to a cash limit (permitted total) set annually by the Department for Work and Pensions. Gedling Borough Councils permitted total for 2011/12 is £78,675.00.
- The permitted total is an amount up to which the Council can spend but cannot exceed in a financial year.
- An authority is in breach of the law should it exceed its permitted total.
- The legislation which specifies the overall limit on expenditure is Article 7 of The Discretionary Housing Payment (Grants) Order 2001.
- The Government makes an annual contribution towards the Council's permitted total. Gedling Borough Councils contribution total for 2011/12 is £31,470.00.
- Any spending over and above the contribution, up to the permitted total, will be a charge to the authority's general fund.
- The formula used to calculate the permitted total is 2.5 times each authority's annual contribution from central government.
- Additional funding has been allocated by central government for 2011/12 and 2012/13. The purpose of the additional funding is to provide Local Authorities with more flexibility to help a greater number of new and existing customers who face a shortfall in rent because of changes to Housing Benefit effective from April 2011.
- The authority will be aware of the amounts of DHP awarded during a financial year to ensure it does not exceed its permitted total. However, the amount of funding left from the government contribution will not be a factor in the decision making process for a DHP.

3. PURPOSE OF THE POLICY

- The purpose of this policy is to specify how Gedling Borough Council will operate the scheme and to indicate 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.
- This policy ensures that Gedling Borough Council will act fairly, reasonably and consistently throughout the DHP decision making process.
- Each case will be treated strictly on its own merits and all customers will be treated equally and fairly.
- Gedling Borough Council is committed to working with local voluntary organisations, social landlords and other interested parties within the borough to maximise entitlement to welfare benefits in line with our current Take-Up Strategy. This will be reflected in the administration and publicity of the DHP scheme.
- The DHP scheme should be seen primarily as a short-term emergency fund. Gedling Borough Council recognises the restrictions on DHP contained in the Regulations and cannot make a payment in circumstances where there is no eligibility. In particular, there shall be no award of DHP unless the customer has some entitlement to Housing and/or Council Tax Benefit.

4. STATEMENT OF OBJECTIVES

The Benefit section will consider making a DHP to customers who meet the qualifying criteria as specified in this policy. The Benefit Section will treat all applications on their individual merits and will seek, through the operation of the policy, to help and support the following aims:-

- The alleviation of poverty
- To encourage and sustain residents in employment
- To safeguard residents in their own homes and prevent homelessness
- To help those who are trying to help themselves e.g. where a customer is prepared to move to cheaper accommodation or move home to retain work
- To keep families together
- To prevent child poverty
- To support the vulnerable in the local community such as:-
 - Low income households
 - Older people
 - Customers with severe debt problems
 - Customer who are addicted to drugs and alcohol
 - Customers who have an illness or disability that affects their accommodation requirements
 - Customers who have learning difficulties or mental health issues
 - Customers who have literacy or language barriers
- To help customers through personal crises and difficult times and events

The Shortfalls DHP can cover

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

- Rent Officer Restrictions such as Local Reference Rent, Single Room Rent or size criteria
- Local Housing Allowance does not meet the rental charge
- Non dependant deductions
- Income tapers
- Rent deposit and rent in advance schemes

However there are elements of a customer's rent that cannot be included in housing costs for DHP because the regulations exclude them.

These include:-

- Ineligible service charges
- Increase in rent due to outstanding rent arrears
- Shortfalls in the second adult rebate element of a customer's Council Tax Benefit
- Certain sanctions and reductions in benefit

5. CLAIMING A DHP

In most cases, the person who claims a DHP will be the person entitled to Housing and/or Council Tax Benefit. However, Gedling Borough Council may also accept claims from someone acting on behalf of the person concerned, such as an appointee, where it is considered reasonable to do so. An application from an appointee will be accepted where it is considered the customer is unable to make a claim for themselves. This could be due to age, illness, disability or language difficulties etc.

Gedling Borough Council requires all applications for a DHP to be made in writing using the DHP application form.

Where a customer makes an enquiry about DHP in writing, by telephone or electronically via email, they will be issued with the DHP application form to complete. The initial contact will be treated as their date of claim and DHP will usually be awarded from the Monday following the enquiry.

The customer will be required to return the completed form to the Benefit Section at Gedling Borough Council within one month of its issue.

The Benefit Section may request any reasonable evidence in support of an application and therefore customers are encouraged to provide this evidence at the time of submitting their application form for a DHP. The customer will have one month to supply the requested information.

If the applicant is unable to or does not provide the required evidence, the Senior Clerical Officer will still consider the application and will take into account any other available evidence including that held on the Housing and Council Tax Benefit computer systems.

6. AUTHORISED DECISION MAKERS

A dedicated panel will consider every application made for DHP.

The panel will consist of the Business Development Manager who will be responsible for chairing all meetings, Team Leaders and Senior Clerical Officers from the Benefit Section. They will be responsible for setting the level of award and period of payment.

A Team Leader and/or Senior Clerical Officer will present the case to the panel. The decision to award a DHP will be based on a majority vote by members of the panel. If no conclusive decision can be reached then the Chair will have the casting vote when making the final decision.

7. PERIOD OF AWARD

In all cases, the panel will decide the length of time for which a DHP will be awarded on the basis of the evidence supplied. The DHP scheme should be seen as a short term fund to assist financial hardship and therefore any award made will not normally exceed 6 months.

The start date of a DHP award will usually be:-

- The Monday after the Benefit Section receives the DHP application form or initial request made to the authority, or
- The date on which entitlement to Housing and/or Council Tax Benefit commenced, providing that the DHP claim is made within one month of the Benefit Section notifying the customer of the Housing and/or Council Tax Benefit decision, or such reasonable extension of time as officers may consider appropriate in the particular circumstances of the case, or
- The Monday after a relevant change in circumstances giving rise to the need for the DHP.

Whichever is the most appropriate

A DHP cannot be awarded for any period for which the customer has no entitlement to Housing and/or Council Tax Benefit.

The minimum period for which a DHP may be awarded is one week.

8. BACKDATING A DHP

The panel will look at each claim on its own merits when deciding whether there is “good cause” or not to backdate a DHP. Unlike Housing and Council Tax Benefit, there are no rules on backdating, but the panel has a duty to ensure they act consistently when making their decision. It should be noted that DHP can only be backdated for a period where the linked Housing and/or Council Tax Benefit is payable.

When deciding whether to award backdated DHP, the panel will consider factors such as the customer’s income and expenditure, health, age, circumstances, make-up of household and the current local housing market.

There is no legal definition of “good cause”. However some examples may include areas such as:-

Difficulty with language

Difficulty with language alone is not good cause, but difficulty in communication may be. Claimants are expected to seek help and good cause should not be accepted unless there was no one else who could have enquired on their behalf.

Health

Ill health is always a consideration when determining if good cause exists. A claim for backdating on grounds of ill health will normally require substantiating evidence, such as medical certificates or a letter from a medical practitioner. Delays in claiming after a serious illness may also be reasonable if the claimant has done all that could reasonably be expected in the circumstances.

Misled by unofficial information

If a claimant acts on unofficial advice (from colleagues, friends or relatives, for example) they will not normally be able to show good cause. However, if they acted on advice from a source that may have been considered official or reliable (welfare rights organisations, Social Services etc) then good cause may be accepted.

Postal delays

Good cause should be accepted if there is:

- Normal postal delay (time taken for delivery of post in normal circumstances);
- Unusual postal delay;
- General postal delay brought about by industrial action, for example.

9. AWARDING A DHP

In deciding whether to award a DHP, the panel will be mindful of the objectives outlined in this policy including the good practice guide at Appendix 1.

The panel will also be required to take into account:

- The shortfall between Housing and Council Tax Benefit and the liability
- Any steps taken by the customer to reduce their rental or Council Tax liability
- The financial and medical circumstances of the customer, their partner and any dependants and any other occupants of the customer's home
- The income and expenditure of the customer, their partner and any dependants or other occupants of the customer's home. Please refer to Gedling Borough Council's Fair Collection and Debt Recovery Policy for details relating to priority debts and essential spending
- The level of savings or capital that might be held by the customer or their family. Where it is established that the customer or their family have savings or capital in excess of £5,000.00 then no award will be made. However, once that customer has less than £5,000.00 in capital or savings, they can then submit another application for DHP if required. Where it is established that a customer or their family has less than £5,000.00 savings or capital, an application for DHP will be considered in the normal way and an appropriate decision made
- The number of significant assets held by the customer or their family. Significant assets may include items such as cars and caravans where the capital asset value is in excess of £5,000.00. The customer will be required to provide evidence of any outstanding loans or finance on such items so the authority can establish if there is any equity available. Where it is decided significant assets are held the panel will not consider an application for DHP.
- There are, however, exceptions. Where it is considered that the customer is unable to realise that asset or it is essential that they preserve their savings/capital and/or asset/s, then an application for a DHP will be considered in the normal way and an appropriate decision made. Examples of this include:-

Where a customer needs to retain their vehicle and/or tools in order to specifically seek and regain employment.

Where savings/capital is held by a customer, specifically to undertake essential or substantial work/repair to their property.

Where a customer is pregnant or has recently had a new born child and can demonstrate they need their savings/capital for the purpose of set up costs and/or expenses incurred in respect of that child.

- The level of indebtedness of the customer and their family. The customer will be required to supply the authority with evidence clearly showing the level and type of debt/s currently outstanding. The table below sets out the important debts that people may face. Priority debts are highlighted in bold and will be taken into account when considering an application for DHP. Other non-priority debts may not be considered by the authority.

<u>Local Authority Debts</u>	<u>Utility Debts</u>	<u>Other Debts</u>
Council Tax arrears	Electr	Mortgage arr
Fines		Income
Rent arrears	W	Secured Loans/Loans
Sundry Debtors	Other Fuel	
Benefit Overpayment	Telephone Bills	Court F
Business Rate arrears	Digital TV	Child Maintenance and Enforcement Commission/ Child Support Agency
	TV Licence	Deductions
		Hire Purchase

- The exceptional nature of the customer and their family's circumstances
- The possible impact on the Council of not making such an award, e.g. the pressure on priority homeless accommodation
- Whether the permitted total has been reached and therefore no award can be made
- Any other special circumstances brought to the attention of the Benefits Section

The panel will decide how much to award based on all of the above circumstances, plus the amount available in the DHP budget at the time of the application with regard to the permitted total. This may be an amount below the difference between the liability and the payment of Housing Benefit and/or Council Tax Benefit. The award could be an amount between 0% and 100% of the shortfall.

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

10. METHOD OF PAYMENT

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

The customer or 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.

An award of DHP will be paid by the most appropriate means available in each case.

This could include payment:-

- By cheque or electronic transfer (e.g. BACS)
- By crediting the customer's Council Tax account

Payment frequency will normally be made in line with how the Housing Benefit and/or Council Tax Benefit are paid.

11. NOTIFICATION OF THE DECISION

The panel will inform the customer in writing of the outcome of their application. Where the application is successful the notification letter will advise the following:-

- The weekly amount of DHP and the relevant period of the award
- How, when and to whom the DHP will be paid
- The requirement to report any relevant change
- A reminder that DHP should be seen as a short-term emergency fund
- Details of other agencies providing additional help and advice.

All notifications of decisions on DHP claims will offer the opportunity for the customer to seek a review.

12. THE RIGHT TO SEEK A REVIEW

DHP's are not payments of Housing or Council Tax Benefit and are therefore not subject to the statutory appeals process.

The Benefit Section will operate the following policy for dealing with any requests for a review relating to a refusal to award 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 customer, or person nominated by the customer to act on their behalf, such as their appointee or agent, who disagrees with a DHP decision may dispute the decision. A request for review must be delivered in writing to the Benefit Section within one calendar month of the written decision about the DHP being issued to the customer.
- For a review to be considered it is not enough to simply disagree with the decision, the customer will need to provide specific reasons for disagreeing.
- Where appropriate, officers from the Benefit Section will explain the DHP decision to the customer by phone, interview or in writing and will seek to resolve the matter.
- Where an agreement cannot be reached, the case will be referred for review to the Revenues Services Manager and Housing Benefit Manager. They will examine all the evidence held and make a decision within 14 days of the referral or as soon as practicable.
- Where the Revenues Services Manager and Housing Benefit Manager decide not to revise the original decision, the customer will be notified in writing with the reasons for their decision.
- The decision will be deemed as final and binding and may only be challenged via the judicial review process.
- In exceptional circumstances the above time periods may be extended. In deciding whether to extend, the Benefit Section will take into account the customers individual circumstances on a case by case basis. This could include where there is delay in seeking independent advice that was outside the control of the customer.

13. CHANGES IN CIRCUMSTANCES

The Benefit Section may need to revise an award of a DHP where the customer's circumstances have materially changed.

14. OVERPAYMENTS

The Benefit Section will seek to recover any DHP found to be overpaid. Normally this will involve issuing an invoice to the customer or the person to whom the award was paid. There are no legislative provisions to allow recovery to be made from any amounts of Housing and/or Council Tax Benefit due to the customer. The decision letter that notifies a decision that there is an overpayment will also set out the customer's right of review.

Overpayments of DHP caused by a Local Authority error will not be recovered from the claimant unless it is reasonable for the customer to have known that an error had been made on receipt of the DHP notification or at the time when the customer becomes aware of the payment.

15. FRAUD

Gedling Borough Council is committed to the fight against fraud in all its forms. A customer 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 Benefit Section suspects a fraud may have been committed, the matter will be investigated. If fraud is found to have occurred, the DHP will be recovered and the Benefit Section may consider imposing a formal sanction or instigating criminal proceedings.

16. PUBLICITY

Gedling Borough Council will publicise the DHP scheme. Leaflets are available on request and are also available from the reception area at the Civic Centre, Arnold, Nottingham. Information regarding the scheme is on Gedling Borough Council's website and notification letters. The authority will actively work closely with partners and stakeholders such as Gedling Homes, Other Registered Social landlords, Citizen's Advice Bureau and our own Homelessness section to ensure the DHP scheme is advertised and promoted accordingly.

17. MONITORING

All DHP payments will be recorded on the relevant claim via Gedling Borough Council's in-house computer system.

Total DHP expenditure will be monitored to ensure expenditure does not exceed the annual permitted total.

All claims for DHP will be treated equally and fairly in accordance with Gedling Borough Council's Equality Policy. Gedling Borough Council will endeavour to ensure that no-one who applies for DHP receives less favourable treatment on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. All policies are subject to regular Equality Impact Assessments.

FURTHER EXAMPLES OF GOOD PRACTICE WHEN CONSIDERING A DHP AWARD

The following are examples of good practice (in the form of questions the authority may wish to consider or facts that may be taken into account). The panel will consider these examples in conjunction with Section 9 – Awarding a DHP, contained within this policy. Each case will be treated individually.

Prevention of homelessness

Homelessness can have a negative impact for the household concerned in terms of health, education and employment prospects. Also, temporary accommodation used to house the homeless can be expensive. Therefore, early intervention to prevent homelessness should be a key issue for Local Authorities.

- A DHP would prevent the household from being evicted and thus becoming homeless.
- An award of DHP would be central to the person being able to access or maintain employment, education or training and so they are thus less likely to become homeless.
- Paying DHPs to households, who have previously been homeless, would help to increase the long-term sustainability of their accommodation.

The tenancy

- Is there scope for the landlord to reduce the rent?
- Can the housing options or homelessness prevention team help the customer to negotiate a lower rent if the customer feels unable to attempt to do so themselves.
- Does the customer have a fixed term tenancy and if so when does this end?
- Can the tenant leave the tenancy without incurring a financial penalty?
- Could the tenant afford the tenancy before they took it on?

The household's financial circumstances

Although there are no rules on the financial issues to be taken into account when considering the award of DHPs, an authority may wish to think about the following.

- Does the customer have other debts to pay?
- Have they sought advice on how to clear their debts?
- Can the customer re-negotiate non-priority debts, such as credit card agreements?
- Is the customer entitled to other welfare benefits and not claiming them?
- Do they have any capital or disregarded income that they could use to make up the shortfall (bearing in mind its intended purpose)?
- Is there anyone else willing to make up the shortfall?
- Can the customer change their spending pattern on non-essential items?
- Is the customer taking long-term action to help their problems in meeting their housing costs?
- Can the customer increase his hours or do any overtime?
- Is the customer in work but with high travel costs, because of split shifts for example?

The household's medical circumstances

An authority may wish to consider whether the following apply.

- Does the household have health or support needs which require them to remain in a particular property?
- Does the household have a health problem which means that the choice of housing is restricted either temporarily or permanently?
- Does the customer require an extra room because of a health problem that affects them or a member of their household?
- Does the household have to live where they do because of the need for access to medical or support services – for example a particular hospital?
- Does the household have extra health-related expenses, such as the need for therapeutic classes or non-prescription medicine?

Other circumstances

There may be other circumstances applying to the customer or a member of their household which an authority may need to take into account.

- Is the customer fleeing domestic violence so they do not have time to shop around for a reasonably priced property?
- Does the household have to live in a particular area because the community gives them support or helps them contribute to the district?
- Is the customer expecting a child and had her Housing Benefit restricted to that of smaller accommodation until the child is born?
- Is the customer a single person who is expecting a child and who would thus no longer be subject to the Single Room Rent once the child is born?
- Is the customer a single person living in an area where there is a shortage of shared accommodation?
- Is the customer a care leaver who has a reduction in their Local Housing Allowance rate after becoming 22 years old?
- Is there a particular reason that the customer chose to live in this accommodation?
- Is the property the cheapest available in the area for the household's needs?
- Does living in the area mean a better chance of employment?
- Would it be helpful to pay DHPs when a training scheme is almost, but not yet, complete?
- Would it be helpful to pay DHP where the household includes children at a critical point in their education?
- Is someone in the household undertaking care duties for relatives in the neighbourhood?
- An authority could consider paying the DHP to those returning to the workplace as an encouragement for others to do the same.