

Folkestone & Hythe District Council Discretionary Housing Payment Policy



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1.0 Introduction

- 1.1 Discretionary Housing Payments (DHPs) are an emergency fund to be used to alleviate hardship to allow customers time to find alternative solutions to their shortfall in income.
- 1.2 Whilst the majority of DHP awards will provide short term support recent welfare reform changes mean that there are some exceptional cases where DHP will be required in the longer term. However, DHP should never be considered as a permanent solution.
- 1.3 The availability of DHPs will be actively promoted by the benefits service and the council will do everything possible to make it easy for potential beneficiaries of Discretionary Housing Payments (DHPs) to apply for them.

2.0 Background

- 2.1 On 2 July 2001 the DHP scheme was introduced. It granted all local authorities powers to make a discretionary award to top up the Housing and Council Tax (HB/CTB) statutory schemes. Since that time changes have been made to the regulations and the scheme has been updated in accordance with DWP legislation and guidance. The legislation governing DHPs are the Discretionary Financial Assistance Regulations 2001.
- 2.2 From 1 April 2013 CTB has been abolished and replaced by a local Council Tax Reduction (CTR) scheme. DHP cannot be used to top up CTR.
- 2.3 DHPs can be used to cover housing costs which in general means shortfalls between eligible rental liability and payment of Housing Benefit. In addition, Local Authorities have the discretion to make payments of DHP for rent in advance or a deposit and other one off housing related costs such as help with removal costs. Whilst DHP applications for rent in advance or deposits will be considered on their own merits as Folkestone & Hythe District Council operates a rent deposit scheme it would only be in exceptional circumstances that such a payment would be considered.
- 2.4 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 an amount that can be paid out by each local authority in any financial year. Folkestone & Hythe District Council is able to pay additional money, but this must be funded from its own finances. Folkestone & Hythe District Council will endeavour to ensure this amount will not exceed the budget that has been agreed by the full council.
 - The administration of the scheme is for the local authority to determine.
 - DHP is not a payment of Housing Benefit (HB).
 - To qualify for an award the customer must be entitled to:
 - Housing Benefit (HB); or

- Universal Credit (UC) housing element; *and*
- have a rental liability; *and*
- require further financial assistance with housing costs.

2.5 The types of shortfalls DHP can cover are:

- Reductions in HB or UC as a result of local housing allowance restrictions.
- Rent Officer restrictions.
- Rent shortfall to prevent a household becoming homeless whilst alternative options are explored.
- Reductions in HB or UC where the benefit cap has been applied.
- Reductions in HB or UC for under-occupation in the social rented sector
- Non-dependant deductions.
- Income tapers.

2.6 DHP should be seen as a short-term emergency fund. DHP is not and should not be considered as a way round any current or future entitlement restrictions set out within the Housing Benefit or Universal Credit legislation.

3.0 Purpose

3.1 The purpose of this policy is to specify how Folkestone & Hythe District Council will operate the DHP scheme; to indicate some of the factors that will be considered when deciding if a DHP can be made and to provide guidance on period of awards and repeat claims.

3.2 It is important to note that whilst this policy details the basic principles that Folkestone & Hythe District Council will follow when considering an application, DHP is a discretionary scheme and each individual case will be considered on its own merits, in accordance with DHP legislation and DWP guidance and good practice.

3.3 Folkestone & Hythe District Council is committed to working with the local voluntary sector, social landlords and other interested parties in the district to maximise entitlement to all available state benefits and to ensure that all customers are treated equally and fairly, this will be reflected in the administration of the DHP scheme.

4.0 Claiming a DHP

4.1 A claim for DHP must be made in writing, including email and online forms. Where a DHP enquiry is made, either verbally or in writing, and it is identified that the customer meets the basic criteria for making a successful DHP claim the customer will be invited to complete an online application. A home visit will be made to those customers who have mobility problems and are unable to access our offices or online services.

4.2 The Council Tax, Benefits & Welfare Service may request any reasonable evidence in support of an application for DHP. The Council will ask for the latest bank statements for all accounts held to help make a decision. If this

information is not provided an award will not be paid. The Council will also ask for details of other payments that do not impact upon a benefit awards, such as child maintenance payments. If additional information is required, the customer will be given one month to provide the outstanding evidence. Where possible a reminder for outstanding information will be sent after 14 days. If the customer is unable to provide the required evidence the Council Tax, Benefits & Welfare service will consider the application taking into account any other available evidence held by the Council Tax, Benefits & Welfare service. If the customer has no valid reason for failing to supply the required evidence DHP will be refused.

- 4.3 The Council Tax, Benefits & Welfare Service reserves the right to verify any information or evidence provided by the customer.

5.0 Matters for consideration

- 5.1 In considering whether to make a DHP the customer's financial situation will be looked at. Some other factors that may be considered are:

- The extent of the shortfall, including whether the customer 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 there a real risk of eviction because of the shortfall, or will the landlord accept a reduced payment?
- If the customer has recently taken up the tenancy, did they make enquiries about how much benefit they could be expected to get prior to taking up the tenancy?
- What steps has the customer taken to try to reduce their rental liability?
- What steps has the customer taken to alleviate the problem?
- Does the customer, or anyone in the household, suffer from a health problem, illness or disability, which means that their choice of housing is restricted?
- Has the property been adapted to accommodate the needs of a disabled person? If yes consideration should be given to the cost effectiveness of the customer moving to cheaper alternative accommodation which would then need adaptation.
- Does the customer have other debts to pay, which make meeting the shortfall more difficult? DHPs are not to be provided to pay off other debts. The date the debts were incurred is relevant, particularly where loan agreements were entered into while the rent is being restricted. Customers should take some responsibility for the level of their debt, and the amount they can afford to repay from their benefit or wages.
- If the customer has debts have, they taken advice on how to manage them effectively?
- Does the customer, or anyone in the household have any unusual or unusually large expenses which make it harder than normal for them to meet the shortfall? (e.g. frequent travel to hospital)
- Has there been a change of circumstances, which makes it more difficult to meet the shortfall?

- Could the customer reduce other outgoings so that they can meet the shortfall?
- Is this a repeat request for DHP? If it is, what steps has the customer taken to try to alleviate the problem since the last application?
- Is the situation short term?
- If the DHP application is successful, what steps does the customer plan to take during the payment period to alleviate their position in preparation for when the payment ends.
- If the DHP application is for a deposit or rent in advance –
 - Why is the customer moving?
 - Are they due to have a deposit or rent in advance in respect of their existing tenancy returned to them?
 - If yes, can the returned deposit or rent in advance be used for the new tenancy?
 - Have they received or made enquiries about receiving assistance from the Local Authority through a rent deposit guarantee scheme or similar?
 - Is the property they are moving from affordable?
 - Is the property they are moving to affordable?

This list is not exhaustive, and awards are at the discretion of the Local Authority. For further circumstances that can be considered under the scheme please refer to the Department for Work and Pensions guidance:

<https://www.gov.uk/government/publications/discretionary-housing-payments-guidance-manual>

- 5.2 When considering affordability for awarding a DHP in respect of a deposit or rent in advance the appropriate Local Housing Allowance (LHA) rate should be referred to. To be affordable the property should be at or below the LHA rate.
- 5.3 If the claimant is currently residing outside of The Folkestone & Hythe District Council area and makes an application for rent in advance and/or deposit, the claimant will in the first instance be referred to their existing Council for DHP, as supported by guidance:
- If the deposit or rent in advance is for a property outside of your area this does not prevent a payment being made if the claimant is currently in receipt of HB or UC within your area.*
- 5.4 If the application is subsequently refused (and evidenced) Folkestone & Hythe District Council will consider the application for a DHP.
- 5.5 A DHP for rent in advance or deposit will normally only be awarded for a period of one month. Evidence of payment into a deposit scheme may be requested for any amounts over a month.
- 5.6 If a DHP has been awarded for a previous property for rent in advance or deposit it is unlikely that a subsequent award will be made.

5.7 DHP can be used to assist those customers with a shortfall in their rent caused by welfare reform changes. However, it should be noted that this additional help is for a transitional period and generally will only be paid in the short term. Whilst DHP can be awarded to allow further time for the customer to seek a solution it should not be seen as a way round the changes in legislation or as a long-term solution. It is important to recognise the government's intention in restricting LHA rates, capping benefit entitlement and seeking to keep rents at an affordable level by not actively assisting customers to move to accommodation that is not affordable in the long term.

5.8 Customers will be required to supply details of all of their income, capital and outgoings and the amounts will be used to establish their ability to fund any shortfall in rent, deposit or rent in advance. Where a special need is identified an additional amount may be allowed at the discretion of the officer making the decision. DHP will not be awarded where there is excess income or capital sufficient to cover the shortfall in rent, the deposit or rent in advance.

6.0 Period of award

6.1 The Council Tax, Benefits & Welfare service will decide the length of time for which a DHP will be awarded based on the known facts and evidence supplied.

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

- The Monday after the council receives the DHP claim, or
- The date on which entitlement to HB/UC commenced, providing that the DHP claim is made within one month of the customer being notified of the HB/UC 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.

6.3 A DHP shall not be awarded for any period for which the customer has no entitlement for HB or UC and a rental liability.

6.4 In the case of a lump sum (such as for a deposit or rent in advance) as the payment is not made in respect of a period it is only necessary to establish that the customer is entitled to Housing Benefit or Universal Credit and has a rental liability at the point at which the award is made.

6.5 In the case of rent arrears applications, arrears of more than 6 months will not normally be considered, and any arrears payments would be dependent upon being impacted by welfare reform. In most cases a notice seeking possession will need to be issued to consider an arrears award.

6.6 Apart from deposits for rent in advance the minimum period for which a DHP may be awarded is one week.

- 6.7 The Council Tax, Benefits & Welfare service may set a review date for a DHP award which may coincide with the end of the benefit period for the regular HB/UC claim. If appropriate, officers will review a DHP award earlier than the end of the benefit period.
- 6.8 The Council Tax, Benefits & Welfare service may need to revise or revoke a DHP award where the customer's circumstances have materially changed. It is the customer'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.
- 6.9 On review the Council Tax, Benefits & Welfare service may decide to repeat, terminate, increase or decrease the award. However, it must be emphasised that the Council Tax, Benefits & Welfare service considers DHP as a short-term emergency fund to give a customer time to resolve their financial situation or seek alternative, cheaper accommodation and will not normally make payments of DHP for a total period longer than 13 weeks. Exceptions to this rule, for example, are where a customer is affected by the under-occupation in the social sector restriction and the property has been significantly adapted for a disability. In this case consideration should be given to whether it is more cost effective to enable tenants to live in their current accommodation with DHP support rather than moving into smaller accommodation which would then need to be adapted.
- 6.10 In exceptional circumstances the Council Tax, Benefits & Welfare service will consider a request for backdating a DHP claim but such backdating will not usually be extended for more than 3 months before the date on which the council receives the customer's request for backdating.

7.0 The decision

- 7.1 Once all information required to make the decision is supplied any specific circumstances will be recorded and considered when making the final decision.
- 7.2 The Council Tax, Benefits & Welfare service aims to make a decision on applications for DHPs within 48 hours of receipt of the application and all required supporting documentation and evidence. Customers will be notified in writing of the outcome and the notification letter will state the reasons for the decision.
- 7.3 Where the application is successful the notification will advise:
- The weekly amount of DHP awarded.
 - The 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 fund.
- 7.4 All notifications of decisions on DHP claims will offer the opportunity for the customer to seek review.

8.0 The right to seek a review

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

8.2 The Council Tax, Benefits & Welfare service will operate the following policy for dealing with appeals against any decision on a claim for DHP:

- A customer, or person nominated by the customer to act on their behalf, who disagrees with a DHP decision may dispute the decision or request the full reasons for it. A request for an internal review or for details of reasons should be made in writing to the Council Tax, Benefits & Welfare Service within one 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 Council Tax, Benefits & Welfare service will explain the DHP decision to the customer by phone, at interview or in writing and will seek to resolve the matter. If resolved by phone or interview confirmation of agreed resolution will then be made in writing providing reasons for the decision.
- Where agreement cannot be reached, a Senior Officer will consider the case. They will review all of the evidence held and will make a decision within 14 days of referral, or as soon as practicable.
- Where the officer decides not to revise the original decision, the customer will be notified in writing with reasons for the decision.
- The decision will be deemed as final and an appeal cannot be made. If a customer believes that procedure was not correctly followed in the making of the DHP decision, then the customer will be able to make representations through the council's corporate complaints scheme or seek a judicial review of the decision.
- Complaints should be made in writing, providing full details of the reasons for the complaint, to the Complaints Team, Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY or online: www.folkestone-hythe.gov.uk/your-council/council-information/make-a-complaint-or-compliment.
For judicial review independent legal advice should be sought.
- In exceptional circumstances only the Council Tax, Benefits & Welfare Managers and Team Leaders may extend all the above time periods for review as appropriate. For an extension of the time limit to be considered the customer will be required to provide valid reasons for the delay.

9.0 Method of payment

9.1 The Council Tax, Benefits & Welfare service will decide on the most appropriate person to pay, the method and time of payments, based on the particular circumstances of each case.

9.2 Where DHP is awarded in respect of council rental liability any DHP will be credited to the relevant housing rent account.

9.3 Where DHP is awarded as a lump sum payment for rent in advance or a deposit payment will usually be made direct to landlord.

10.0 Overpayments

10.1 The Council Tax, Benefits & Welfare service 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. Recovery will not be made from any amounts of Housing Benefit due to the customers (except if the customer specifically requests this method of recovery). The decision letter that notifies a decision that there is an overpayment will also set out the right of review.

10.2 Once DHP has been made to a customer for rent in advance or a deposit and used for that purpose legislation does not provide for it to be refunded.

11.0 Monitoring

11.1 All DHP payments will be recorded on the relevant claim on the Council's computer system.

11.2 Total DHP expenditure will be monitored monthly by the Council Tax, Benefits & Welfare Manager and Team Leaders and verbally reported to the Head of Finance. The Council Tax, Benefits & Welfare Manager and Team Leaders will extract reports from the DHP software monthly to ensure that expenditure is within budget and is correctly profiled throughout the financial year.

11.3 A random sample of decisions will be checked for fairness and consistency monthly by a Council Tax, Benefits & Welfare Team Leader. All checks will be recorded on the quality check spreadsheet.

11.4 All claims for DHP will be treated equally and fairly in accordance with Folkestone & Hythe District Council's policies on race, diversity and equality. Folkestone & Hythe District 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.

12.0 Fraud

12.1 Folkestone & Hythe District 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 Theft Act 1968 or the Fraud Act 2006.

- 12.2 Where the Council Tax, Benefits & Welfare service suspects that such a fraud may have occurred, the matter will be investigated as appropriate and this may lead to criminal proceedings being instigated.
- 12.3 In determining any Discretionary Housing Payment application, Folkestone & Hythe District Council may consider any previous evidence of proven abuse of the Housing Benefits system prior to considering an award.

13.0 Publicity

- 13.1 Folkestone & Hythe District Council wishes to publicise the availability of DHPs and will work with all interested parties to achieve this.

14.0 Review

- 14.1 This policy will be reviewed in line with any changes in legislation and as a minimum on an annual basis. Minor alterations to the policy will be approved by Folkestone & Hythe District Council's Corporate Services Director or Chief Financial Services Officer in consultation with the Cabinet Member responsible for Finance & Governance. Any substantive alterations to the content of the policy will be approved by Cabinet.

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