

AYLESBURY VALE DISTRICT COUNCIL (AVDC)

DISCRETIONARY HOUSING PAYMENT PROTOCOL

Background and legislation

A Discretionary Housing Payment (DHP) may be awarded when a local authority considers that a claimant needs help with their housing costs and is entitled to either Housing Benefit (HB) or Universal Credit (UC) with housing costs towards rent liability. Alternatively, the claimant may require help raising rent in advance to move into a new dwelling, put down a deposit or other lump sum costs associated with a housing need such as removal costs.

The DHP scheme is set out in the Discretionary Financial Assistance Regulations 2001 as amended by the Council Tax Benefit Abolition (Consequential Provisions) Regulations 2013 which came into force on 29 April 2013.

Main features of the scheme

- DHPs are not payments of Housing Benefit but the minimum amount of HB or UC, that includes housing costs towards rental liability, must be in payment for the benefit week that a DHP is awarded for.
- A claimant who is receiving Council Tax Support (CTR) **only** is not eligible for a DHP. This means that a claimant who is receiving CTR but has not yet been awarded HB or UC is not eligible for a DHP.
- The scheme is purely discretionary; an applicant 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.
- The Government contributes to the cash limited amount and it is open to the Council to top up this budget out of their own funds. However, our current financial position does not allow us to do this for this financial year.
- The administration of the scheme is for the Revenues and Benefits service to determine. Officers of the Revenues and Benefits service will authorise, on behalf of the Housing department, payments of DHP to cover rent in advance up to a total limit of £25,000.

What DHPs cannot cover

There are certain elements of a claimant's rent that the HB and UC regulations exclude so they cannot be included as 'housing costs' for the purpose of a DHP. These are:

- ineligible service charges;
- increases in rent due to outstanding rent arrears;
- mortgage costs;
- council tax;
- shortfalls caused by HB or UC overpayment recovery;
- benefit suspensions and
- sanctions and reductions in benefit

The Protocol

The purpose of this protocol is to specify how AVDC's Revenues and Benefits service will operate the scheme. The protocol also seeks to indicate some of the factors that will be considered when deciding if a DHP can be made. Each case is treated strictly on its own merits and all customers will be treated equally and fairly when the scheme is administered. The 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 this will be reflected in the administration of the DHP scheme.

The Service operates within the anti-poverty strategy and is committed to the equitable operation of a DHP scheme. Where the evidence provided indicates that the applicant is not claiming another state benefit they may be entitled to, the service will advise them to make such a claim and provide details of other agencies in the district that may be able to help with such a claim.

Statement of objectives

The Service will consider making a payment of DHP to all applicants who meet the qualifying criteria as specified in this protocol. The Service will treat all applications on their individual merits and will seek through the operation of this protocol to:

- alleviate poverty;
- support vulnerable young people in the transition to adult life;
- encourage Aylesbury Vale residents to obtain and sustain employment;
- safeguard Aylesbury Vale residents in their homes;
- help those who are trying to help themselves;
- keep families together;
- support the vulnerable in the local community;
- help applicants through personal crises and difficult events.

The Service considers that 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 the Housing Benefit legislation.

Claiming a DHP

A claim for DHP may be made in writing and signed by the applicant, or by a recorded telephone call. In processing the DHP claim:

- The Service may request any (reasonable) evidence in support of an application for a DHP. The Service will make such requests in writing. The applicant will be asked to provide the evidence within one month of such a request although this will be extended in appropriate circumstances.
- If the applicant is unable to or does not provide the required evidence, the Service will still consider the application and will, in any event, take into account any other available evidence including that held on the Housing Benefit file.
- The Service reserves the right to verify any information or evidence provided by the applicant in appropriate circumstances being mindful of the General Data Protection Regulation.

Period of award

In all cases, the Service will decide the length of time for which a DHP will be awarded on the basis of the evidence supplied and the facts known.

The start date of an award will normally be:

1. the Monday after the written claim/recorded telephone request for a DHP is received by the Service; or
2. the Monday after the telephone claim is received; or
3. such other date that the Service considers appropriate considering the level and period of any previous DHP award.
4. In the case of a one-off payment for rent in advance, the award will be for a period considered appropriate by AVDC.

Except in the case of a one-off payment for rent in advance, the Service cannot award DHP for any period outside the existing HB period granted under the HB statutory scheme.

- The minimum period for which a DHP will be awarded is one week.
- The initial award of DHP will usually be for thirteen weeks. DHP is normally a short term payment to help claimants through a difficult period. However, AVDC recognises that it may sometimes be appropriate to make longer awards.
- Awards will not cross from one financial year to another. This is because Central Government funding is allocated to a specific financial year. The annual uprating of benefits may also lead to significant changes in the amount to be awarded.
- The Service will consider any reasonable request for backdating an award of a DHP but such considerations will usually be limited to the current financial year.

Awarding a DHP

In deciding whether to award a DHP, the Service will take into account:

- the shortfall between HB and the rent liability;
- any steps taken by the applicant to reduce their rent liability;
- the financial and medical circumstances (including ill health and disabilities) of the applicant, their partner and any dependants and any other occupants of the applicant's home;
- the generality of the income and expenditure of the applicant, their partner and any dependants or other occupants of the applicant's home – although no specific means test will be applied as the applicant already needs to be in receipt of HB which is a means tested benefit;
- any savings or capital that might be held by the applicant or their family;
- the level of indebtedness of the applicant and their family;
- the exceptional nature of the applicant at the time of the application;
- the possible impact on AVDC of not making that award, e.g. the pressure on priority homelessness accommodation;
- Any other special circumstances brought to the attention of the service.

The Revenues and Benefits service will decide how much to award based on all of the circumstances. This may be an amount below the difference between the liability and the payment of HB. An award of a DHP does not guarantee that a further award will be made at a later date if the applicant's circumstances have not changed.

Changes of Circumstances

The Service may need to revise an award of a DHP where the applicant's circumstances have materially changed.

Method of Payment

The Revenues and Benefits service will decide the most appropriate person to pay based on the circumstances of each case. This could include paying:

- the applicant;
- an appointee;
- their landlord (or an agent of the landlord) or
- any third party to whom it may be most appropriate to make payment.

Payments of DHP will be made via BACS and usually to the person who is receiving the HB/UC (including housing costs).

Notification

The Service will normally inform the applicant, in writing, of the outcome of their application within 14 days of receipt or as soon as reasonably practical thereafter. AVDC will send a letter giving details of the decision. The letter will contain the following information:

- whether or not a DHP will be awarded;
- the amount of DHP awarded;
- the start and end dates of the award, or whether a lump sum has been awarded;
- details of any conditions attached to the award;
- who the award will be made to;
- how the award will be paid;
- when the award will be paid;
- if unsuccessful, reasons for refusing the award;
- details of the review process.

The right to seek a review

DHPs are not payments of Housing Benefit and therefore not subject to the statutory appeals mechanism. However, the Authority can review a DHP decision in the event of a dispute or where the applicant asks for a re-consideration.

AVDC will operate the following procedure for dealing with disputes about a refusal to award a DHP, a decision to award a reduced amount of DHP, a decision not to backdate a DHP or a decision that there was an overpayment of DHP.

- An applicant (or their appointee or agent) who disagrees with a DHP decision may dispute the decision. A request for a review shall be delivered, in writing, to the Service within one calendar month of the written decision about the DHP being issued to the applicant.

Where this has not already been done, officers from the Service will explain the DHP to the applicant by telephone, at interview or in writing and will seek to resolve the matter.

- Where agreement cannot be reached, a manager from the Service will consider the case. The manager will review all of the evidence held and will make a decision within 14 days of referral or as soon as is practicable.
- Where the manager decides not to revise the original decision, they will notify the applicant of their decision, in writing, setting out the reason(s) for their decision.
- In exceptional circumstances only, the time period for review may be extended by a manager. In deciding to extend, they will take into account the financial difficulties in making an award for a previous financial year and any delay in seeking independent advice that was outside the control of the applicant.
- Unless a change in circumstances has occurred, the manager dealing with the review may not recommend a reduction in an award already notified.

Overpaid DHPs

A DHP can only be recovered if it has been decided that the payment has been made as a result of:

- a misrepresentation or failure to disclose a material fact by the applicant (either fraudulently or otherwise), or
- an error made when the application was determined.

In these circumstances the DHP can be recovered because it is classed as being overpaid.

The Service will seek to recover any DHP found to be overpaid. Normally this will involve issuing an invoice to the applicant or the person to whom the award was made. **Under no circumstances** will recovery be made from any amounts of HB or UC due to the applicant. The decision letter that notifies a decision that there is an overpayment will also set out the right of review.

Publicity

The Service will publicise the scheme and will work with all interested parties to achieve this. A copy of this protocol statement will be made available for inspection and will be posted on the AVDC website. Information about the amount spent will not normally be made available except at the end of the financial year.

Fraud

The Service is committed to the fight against fraud in all its forms. 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 offense under the Theft Act 1968. Where the 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.