



**Financial Service Division
Operational Finance Unit**

Discretionary Housing Payment Policy

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1. Introduction

Rhondda Cynon Taf County Borough Council (RCT CBC) is responsible for the administration of Housing Benefit and Council Tax Support, which is a statutory function that contributes to one of the Council's key objectives; social regeneration.

The Discretionary Financial Assistance Regulations 2001 (referred to in this policy as 'the regulations'), provide a duty on RCT CBC to operate the Discretionary Housing Payments scheme (DHP).

2. Policy objectives

The purpose of the policy is to specify how the Council will operate the DHP scheme and to indicate the factors that will be considered when making a decision on an award of DHP. The policy should be viewed in conjunction with DWP Best Practice¹.

DHP funding is aimed to support citizens in exceptional need and can be used to provide support to claimants affected by some of the key UK Government welfare reforms introduced through the Welfare Reform Act 2012, including:

- introduction of 'benefit cap';
- introduction of size criteria in social rented sector – the Spare Room Subsidy (sometimes called the 'bedroom tax');
- reductions in Local Housing Allowance

Principally, the objective of DHP is to offer short (and more recently longer) term financial assistance to customers impacted by the Housing Benefit changes described above and the Council's aim is to:

- Ensure that DHP assist those residents who demonstrate exceptional and financial need for support with housing costs
- Manage DHP within the allocated budget

The Council will consider making a DHP award to customers who fulfil the qualifying criteria in the regulations. Each case will be treated strictly on its own merits and all customers will be treated fairly and equally, and the Council will seek through the operation of this policy to:

- Alleviate poverty
- Prevent homelessness
- Support vulnerable young people in the transition to adult life
- Encourage claimants to obtain and sustain employment
- Keep families together
- Support the vulnerable in the community
- Help customers through personal crises and difficult events
- Provide advice on long term possible solutions to meet unaffordable housing costs
- Improve financial capability by referral to an independent advisor e.g. Money Advice Service

¹ <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/claims-processing/operational-manuals/>

The Council is committed to working with internal and external stakeholders and other interested parties to maximise the take up of all available state benefits, and this will be reflected in the administration of the DHP scheme. Where evidence is provided in support of a DHP application that indicates that the customer is not claiming another state benefit to which they are entitled, the Council will advise the customer to make such a claim.

One of the key intentions of this policy is to help prevent homelessness in cases where an applicant is unable to meet their housing costs. In order to achieve this, it is essential that the Benefits Service maintains close working links with the Council's team that deals with homelessness i.e. the Housing Advice Centre (HAC) and also puts in place certain working practices. These include:

- Providing annual training to HAC staff on the basic rules and criteria covering DHP
- Providing DHP claim forms and literature such as leaflets that promotes the DHP scheme to the HAC and their clients
- HAC staff will have access to a dedicated housing benefits named contact who will be able to provide information and advice on DHP and general benefits/claim issues
- Applications for DHP will be fast tracked when the housing benefit named contact is informed that there is a risk of homelessness
- A minimum of 95% of all applications for DHP will be looked at by a housing benefits assessor within 5 working days of being received
- The HAC will be able to provide evidence from their case files in support of a DHP i.e. information on a customer's weekly income and expenditure
- Regular liaison meetings will be held with senior members of both the Benefits service and HAC to discuss and remedy any issues when administering the DHP scheme that could lead to potential homelessness.

The DHP award must not exceed the eligible rent for housing benefit/local housing allowance purposes.

3. Finance and Monitoring

Each year the Department for Work and Pensions (DWP) allocates each local authority a cash-limited amount and limits the amount that a Council can pay in each financial year to two and a half times its allocation. Any unspent DHP funding cannot be used for any other purpose and must be returned to the DWP.

The Council will monitor the DHP budget on a monthly basis in order to ensure that the benefits of the scheme are maximised, and to ensure that any under or overspends are adequately controlled.

Although DHP funds are not 'ring-fenced' for specific impacts of welfare reform the DWP have introduced a monitoring regime that requires the Council to record if the claimant has been affected by the following:

- benefit cap
- social sector size criteria
- local housing allowance restrictions
- combination of reforms
- Welfare reform has no impact

It is important to note that as DHP funding allocated to councils is paid from a cash-limited budget, the Council needs to consider the way in which these limited resources are allocated in a fair way to support those most in need.

4. Eligibility Criteria and Claim Process

A request for a DHP can be made, in writing, verbally or by e-mail. A formal claim for a DHP must be made on a claim form approved and issued by Rhondda Cynon Taf Council. Any assistance required in completing the claim form can be arranged by telephoning (01443) 425002 or emailing housingbenefitenquiries@rctcbc.gov.uk

- The Council will issue the applicant with a DHP application form for completion, but for the claim to proceed, the applicant must return the form to the Council within 1 calendar month of its issue.
- All applications must be made by the benefit claimant or their representative and the applicant must be in receipt of Housing Benefit or Housing Costs within Universal Credit
- The Council may request any reasonable evidence in support of an application and will act consistently and reasonably in doing so. The Council will make such requests in writing or electronically. The applicant or their representative should provide the evidence within 1 calendar month.
- Evidence and information provided to decide the Housing Benefit claim may be taken into account.
- If the applicant or their representative does not provide the required evidence, the Council will still consider the application. However, the Council may disregard any unsubstantiated statements or draw its own conclusions from other evidence available.
- The Council may in any circumstances verify any information or evidence provided by the claimant(s) or their representative by contacting third parties and other organisations.

To be eligible for a DHP the applicant must:-

- Be able to demonstrate financial difficulties or have experienced personal exceptional circumstances. Demonstrating financial difficulties will normally be through the completion of an income and expenditure form during the claim process (see below)
- Be able to demonstrate steps have been (or are being) taken to achieve financial independence e.g. requesting and acting on guidance from the Money Advice Service.
- Make an application on an approved format. The regulations state that to make an award of DHP there must be a claim for DHP.

The Council reserves the right to request any additional evidence in support of the DHP application, and will act consistently and reasonably in doing so. Where the customer is unable to, or does not supply the required evidence, the Council will still consider the DHP application and will take into account any other evidence available, including documentation held on the housing benefit/council tax support case file.

The Council will consider the households overall financial capacity when determining an award for DHP and the most appropriate person to pay any award of DHP based on the circumstances of each case. Payment frequency will normally be made in line with the Housing Benefit or Local Housing Allowance award.

Whilst the DHP scheme is discretionary, the Council has a duty to make decisions in accordance with recognised principles about good decision-making, i.e. administrative law, and in particular to act fairly, reasonably and consistently. It also has a responsibility to promote the DHP scheme to all of its employees assisting citizens who may be unable to meet their housing costs as well as promoting the scheme to the general public.

5. Deciding whether to award a DHP

Discretionary Housing Payments enable tenants to apply for temporary financial assistance if they have a shortfall in their Housing Benefit.

The Council uses a framework alongside existing DWP guidance to ensure that an equitable and consistent approach is applied when deciding who has a priority for a DHP award.

The framework is not intended to restrict the Council's discretion in DHP decision-making. In a discretionary scheme there will always be some cases with exceptional circumstances where a decision-maker will consider a DHP award justified. However, the framework does provide a structure for deciding who should be awarded DHPs and it aims to ensure a reasonable amount of fairness and consistency in decision-making.

The critical factors which are taken into account are –

- Household circumstances
- The financial circumstances of the household;
- The extent to which members of the household are able, and willing to manage the situation they are in, or cannot be reasonably expected to do more (conditionality).
- The wider financial consequences of not making an award

Most of the awards are paid unconditionally, either because there is not likely to be any short-term change in the circumstances giving rise to the DHP, or the household is already doing everything possible to manage the situation they are in. All other awards will be subject to at least some conditionality to resolve the shortfall in housing costs without the need of a DHP.

Criteria for Making a DHP Award

Before making an award, councils must be satisfied that the claimant is entitled to:-

- Housing Benefit, or
- Universal Credit containing a housing costs element, and
- There is liability for rent, and
- The applicant requires financial assistance to meet housing costs

Certain elements of a claimant's rent **cannot be included** as housing costs for DHP because the regulations specifically exclude them. Excluded elements include:-

- Ineligible service charges;
- Increases in rent due to outstanding rent arrears;
- Certain sanctions and reductions in benefit.

Universal Credit

Following the introduction of Universal Credit (UC), councils must consider claims from customers who are not receiving housing benefit. If a customer makes a claim for DHP, the council must ensure that:-

- The UC award includes a housing costs element; and
- The amount of the DHP awarded does not exceed the claimants weekly eligible rent
- The value of the 'housing costs' included in the UC award is identified

In addition to the above, DHP will not be paid in respect of shortfalls resulting from:-

- a claimant choosing to lead an unreasonably expensive lifestyle which is clearly beyond their means (determining lifestyle may require a home visit);
- repayment of welfare benefit overpayments and fines.

Process used to determine entitlement

Stage 1: Household Circumstances

Household circumstances can differ between each household and all relevant circumstances are taken into consideration when making a determination on a DHP. The Council will take into consideration **any** difficulties that a household may be experiencing.

Stage 2: Ability to Manage the Situation

This stage involves looking at general policy considerations. DHPs can often be most effectively used as a temporary measure whilst a household seeks a more long-term solution to the situation they are in. Where this is possible, higher priority is given to those who are actively taking steps themselves, for example those with an LHA shortfall looking for cheaper accommodation or those with spare rooms who are arranging to move or take in a lodger.

However, there may be occasions where a DHP may be needed for a longer period for households that cannot realistically alleviate the situation they are in by taking action themselves. For example, a household with a severely disabled member unable to work who are already managing the household budget as effectively as possible will be treated more favourably under the framework.

Stage 3: Avoid further cost (and hardship)

DHP could be awarded to prevent further hardship such as eviction and the associated costs to the Council of dealing with homelessness.

The risk of losing a tenancy could arise for a number of reasons but no judgement is made about the factors giving rise to the problem. This criterion is simply about avoiding further cost and hardship.

However, it is unlikely to be viable to pay DHPs indefinitely in these circumstances. If a household is threatened with eviction, the situation cannot be left to continue indefinitely. A solution needs to be found, whether it is the provision of alternative accommodation or some action by the household to reduce arrears. The highest priority under this criterion is applied when there is a solution in sight.

Stage 4: Financial Assessment

For all DHP applications meeting the criteria for making an application, a financial assessment is carried out comparing income and expenditure, which must be set out on the completed DHP application form. All income (with the exception of Disability Living Allowance, Attendance Allowance and Personal Independence Payment) is taken into account together with any savings and capital. All expenditure is taken into account.

If an adult relative or friend is living with the applicant (non-dependant) a contribution from them will need to be taken into account in the applicant's income.

The fundamental principle is that help should go to those who have no other means of meeting the need.

6. Period of award

In all cases, the Council will decide the length of time for which a DHP will be awarded. The DHP scheme should wherever possible, be viewed as a short-term financial support and should not be considered as a way around any current or future restrictions set out within the Housing Benefit scheme.

The length of the award is related closely to the level of conditionality attached. Where no conditionality is attached to an award, i.e. a longer-term need, it is usually desirable to make an award up to a maximum of 52 weeks (or more) as the situation giving rise to the DHP is unlikely to change. In these circumstances, short-duration awards simply lead to unnecessary repeat awards. In other cases, where conditionality is applied, the duration of award typically varies between 6 and 26 weeks depending on the length of time needed to meet the conditions successfully.

In circumstances where longer term support, covered by the relevant DWP guidance is possible, for example for foster carers or households where substantial alterations have been made to meet the disability of a household member, applicants circumstances and on-going need will be reviewed before any extended award is made.

Any award made should reflect the individual circumstances of the applicant and provide opportunity for the customer to seek alternative accommodation or take the appropriate steps to influence their future personal, domestic or financial situation. If the applicant is unable to seek alternative accommodation, information will be given on alternative solutions to meet their housing costs.

The minimum period for which the Council will award a DHP is one week and except for those circumstances referred to above, an award should not normally be made for a period exceeding 12 weeks, other than in exceptional circumstances. This could be where the award is linked to a future event e.g. a significant birthday, completion of a voluntary work placement which may lead to paid employment, back to work training etc. but none of these criterion are an automatic qualification as each case will be decided on its merits .

Where an application for DHP is successful the customer and any other affected party will receive notification of:

- The amount of the award
- The method of payment
- The circumstances of the award, any steps that the customer should take and any conditionality attached to the award
- The start and end date of the award
- Their duty to report any change of circumstances that may affect their award

- The recoverability of any overpaid award of DHP
- The procedure to follow should a dispute arise

Any reasonable request for backdating an award of DHP will be considered. Consideration will be limited to the current financial year, and DHP will not be awarded for any period outside an existing Housing Benefit or Local Housing Allowance period.

7. Overpayments of DHP and Disputed Decisions

a) Overpayments

The Council reserves the right to recover any overpayment of DHP where the payment was made as a result of:

- Misrepresentation or failure to disclose a material fact, fraudulently or otherwise
- An error made when the claim was determined

DHP must not be recovered from any ongoing award of Housing Benefit or Local Housing Allowance, unless the customer requests this method of recovery. A standard overpayment notification letter will be issued and will contain the reason for the overpayment, the amount overpaid, the period to which the overpayment relates and the right of review.

b) Disputed Decisions

DHP's are not subject to a formal appeals process by virtue that any decision to make a payment is discretionary.

Where an application is declined and a decision disputed for a reason other than one relating to exclusions from the DHP scheme (under (5) above), an applicant or their representative may request a review.

All request for reviews must:

- Be made by the applicant or their representative.
- Set out the reasons why it is believed the decision should be reviewed.
- Be made within 1 calendar month of the original decision being notified.

An officer other than the person who made the original DHP decision will carry out the review.

In the event that the customer is still dissatisfied with the decision after the review has been carried out, a senior manager will re-consider the case. All available evidence will be considered and new evidence may be requested. A decision will be made with 10 working days of the referral or as soon as practicable afterwards and notified to the applicant in writing, setting out the reasons for their decision.

Where the senior manager decides not to revise the original decision this decision is final and binding and may only be challenged by way of judicial review or by a complaint to the Local Government Ombudsman, if there is an allegation of maladministration. Decisions on DHP's cannot be appealed to the Tribunal Service, as they are not empowered to deal with them.

8. Fraud

The Council is committed to tackling fraud and abuse of public funds in all forms. A claimant who falsely tries to claim a DHP by deliberately mis-representing their circumstances or providing a false statement or evidence in support of their application may have committed an offence. Where there is suspicion that a fraud may have occurred, the matter will be investigated and this may lead to criminal proceedings being initiated.

9. Data Access and Data Sharing

The Council is allowed to collect data to support, evidence and to determine DHP awards. The scheme will operate to support principles for fair, reasonable and confidential data access and sharing at all times. This is to ensure that customers receive the correct benefits at all times and that public funds and the wider interest of local council taxpayers are protected.