

Discretionary Housing Payments Policy

February 2016

Introduction

Housing Benefit and Universal Credit are means-tested schemes but are unable to cater for every eventuality; a Housing Benefit or Universal Credit claimant may find themselves in a position where they experience financial hardship due to circumstances which the scheme does not take into account.

In these circumstances, Discretionary Housing Payments are intended to help benefit claimants with their housing costs.

Conspectus

- 1.1 Epsom and Ewell Borough Council (EEBC) may award a Discretionary Housing Payment (DHP), in addition to welfare benefits, where EEBC considers that an applicant requires further financial assistance towards housing costs.
- 1.2 DHPs are covered by the Discretionary Financial Assistance Regulations 2001, amended by the Council Tax Benefit Abolition (Consequential Amendments) Regulations 2013 (“the regulations”).
- 1.3 EEBC will decide DHPs in a fair, reasonable and consistent manner; each case will be decided on its own merits, but with a consistent approach to decision making applied throughout the year.
- 1.4 By law, DHPs cannot be awarded beyond the limit set by Article 7 of the Discretionary Housing Payment (Grants) Order 2001.
- 1.5 Housing costs are undefined in the regulations, giving the EEBC discretion to interpret the term. In general, this will mean rental liability, however it can be interpreted more widely to include such costs as rent in advance, deposits for rented properties, other lump sum costs associated with a housing need (such as removal costs), and so on.
- 1.6 Following the abolition of Council Tax Benefit in April 2013, DHPs can no longer be awarded to assist with Council Tax liability.

Criteria

- 2.1 The applicant must be entitled to Housing Benefit (HB) or Universal Credit (UC) with an element towards rental liability.
- 2.2 The applicant must require further financial assistance with housing costs.
- 2.3 An award of DHP may cover shortfalls resulting from: the application of the benefit cap; removal of the spare room subsidy in the social rented sector; reductions in HB or UC as a result of Local Housing Allowance (LHA) or Rent Officer restrictions, including the shared accommodation rate; non-dependant deductions in HB or housing cost contributions in UC; reductions in HB or UC due to excess income; or other shortfalls between HB or UC and rent.
- 2.4 A DHP may be awarded for a property into which the applicant is yet to move, for rent in advance or rent deposit, only if the applicant is entitled to HB or UC at their present home.

- 2.5 In order to award DHP for rent in advance or rent deposit, EEBC must be satisfied that the property is affordable for the tenant, taking into account access to welfare benefits or potential further payments of DHP.
- 2.6 In certain circumstances, the applicant may not be able to find the most affordable accommodation, such as if they are fleeing domestic violence; due regard will be had for these circumstances.
- 2.7 A DHP for a rent deposit must be secured by the landlord in a tenancy deposit protection scheme.
- 2.8 An award of DHP for rent in advance or rent deposit would normally be made to the landlord to whom these payments are due, irrespective of whether the HB award will be paid to the landlord or the applicant.
- 2.9 EEBC may, in exceptional circumstances, make an award of DHP for rent in advance or rent deposit for a property which lies outside of this borough, for example to assist with moving to a more affordable property.
- 2.10 DHP awards will not cover ineligible service charges, increases in rent due to outstanding rent arrears or certain sanctions or reductions in benefit; see DWP DHP Guidance Manual for a full list.
- 2.11 EEBC will take into account all income received by the applicant, including disability-related payments; however, due regard will be had to the nature of all income received and any expenses associated with it.
- 2.12 Unavoidable living expenses will also be considered, such as increased transport fares to work resulting from welfare reforms or other costs.
- 2.13 EEBC will consider other factors when making a decision, including:
- Medical condition of the applicant or any other member of their household
 - Availability of welfare information, such as LHA rates
 - Welfare advice sought prior to moving in
 - Suitability of current accommodation, with due regard for any adaptations for disability
 - Possibility of moving to alternative accommodation where the applicant would not be reliant upon DHP
 - Whether a lower rent can be negotiated with current landlord
 - Unusual financial commitments
 - What steps may be taken by the applicant to avoid long-term dependence on DHP
 - The effect the financial situation is having on vulnerable members of the applicant's household, such as children, the elderly or disabled people
 - The remaining level of DHP funding available to the council
 - The level of DHP award required to alleviate the financial situation
 - The effects of any welfare reform, such as the benefit cap or removal of the spare room subsidy
 - The effects of any future welfare reforms
 - Steps being taken by the applicant to exempt themselves from the effects of welfare reform; for example, seeking work to become exempt from the benefit cap, or applying for certain disability-related benefits
 - The risks to the education of a child or children which being evicted from a property might present
 - The increased barriers to work for pregnant women and lone parents of children under 18 months old
 - Activity being taken to increase employability, such as undertaking literacy courses or other essential courses of training or education
 - Other relevant factors in the applicant's circumstances or the circumstances of the applicant's household.

- 2.14 EEBC may make an award of DHP to alleviate the effects of the benefit cap on the condition that the applicant is actively seeking employment.
- 2.15 EEBC may also make an award of DHP to alleviate the effects of the benefit cap on the condition that the applicant is taking any other action which would exempt themselves from the effects of the benefit cap if successful; for example, applying for certain disability-related benefits.
- 2.16 EEBC may request evidence, as it sees fit, that the applicant is taking the required steps to exempt themselves from the effects of the benefit cap, such as actively seeking employment or applying for certain disability-related benefits.
- 2.17 The applicant must grant EEBC permission, in writing, to contact the DWP or any other organisations as EEBC sees fit to obtain information to verify that the applicant is actively seeking employment or taking any other action to exempt themselves from the effects of the benefit cap.
- 2.18 Any weekly award of DHP must not exceed the weekly eligible rent level for HB or the maximum amount of the housing costs element within UC.
- 2.19 Lump sum payments of DHP, such as to assist with rent in advance or rent deposit, should not exceed the level of the costs for which they are to be paid.

Application Process and Administration

- 3.1 EEBC will administer its DHPs from within the Benefits Section.
- 3.2 An application for a DHP must be received by EEBC before any payment can be considered.
- 3.3 The application should normally be made directly to the Benefits Section, but can be accepted if made to any other department within the council.
- 3.4 Ordinarily, the application will take the form of a written application received from the applicant using EEBC's standard DHP application form.
- 3.5 Applications may be received from a third party, such as an appointee, where the applicant is unable to act for themselves.
- 3.6 In exceptional circumstances, EEBC may consider making an award of DHP without a written application having been made; this may be, for example, where a resident cannot act for themselves and has no third party to assist them, and where sufficient information is already held within the Benefits Section for a decision to be made.
- 3.7 DHPs will normally be paid to the person to whom HB is paid; this may include regular payment to a landlord.
- 3.8 EEBC may choose to make payments of DHP directly to the landlord even when HB is being paid to the applicant.
- 3.9 One-off lump sum payments of DHP may also be paid to a landlord or other third party, where appropriate.
- 3.10 DHPs will normally be paid alongside regular HB payments.
- 3.11 An application for DHP must be supported by all information required by EEBC; this will include details of income, capital and expenditure of all members of the applicant's household, including non-dependants where appropriate, and any other information which EEBC deems necessary.
- 3.12 It is the responsibility of the authority to decide what further information and evidence is required to support the application, and to request this from the applicant.
- 3.13 It is the responsibility of the applicant to provide sufficient evidence and information to allow the authority to make a decision.
- 3.14 The authority will set a time limit for supplying information; ordinarily, this will be within one calendar month of the date of request.

- 3.15 Information held for the purposes of processing HB, including notifications of changes in circumstances, will be used to determine DHPs or changes in awards of DHPs.
- 3.16 Information held for the purposes of processing Local Council Tax Support (CTS), including notifications of changes in circumstances, will be used to determine DHPs or changes in awards of DHPs.
- 3.17 The authority may, where appropriate, conduct telephone or face-to-face interviews to ascertain the applicant's circumstances.
- 3.18 If the applicant fails to provide the information or evidence requested by the authority within the timescale set, or fails to attend an interview, the authority may make a decision on the information available at that time or assume that the applicant no longer wishes to proceed with the application and deem it to be incomplete.
- 3.19 A written decision notice will be issued to the applicant in response to every completed application for DHP as soon as is reasonable; no further action will be taken on those deemed to be incomplete.
- 3.20 The decision notice will include the decision, the reason for the decision and the dispute rights available to the applicant.
- 3.21 If the application is successful, the decision notice will contain the amount of the award and, where appropriate, the period which the award covers.
- 3.22 Where a successful DHP application is to be paid to the landlord, a separate decision notice will be issued to the landlord containing the amount of the award and the period it covers.
- 3.23 If the applicant disagrees with the decision made, there is no right of appeal to HM Courts & Tribunal Service.
- 3.24 The applicant may dispute the decision with EEBC. The dispute must be made in writing and received within one calendar month of the date of the original decision, and the applicant must clearly explain why they disagree with the decision.
- 3.25 The dispute will take the form of a review by a senior officer.
- 3.26 The senior officer will examine the decision and request further information or evidence where appropriate to enable a new decision to be made; the new decision may be the same as the original decision.
- 3.27 The senior officer's decision will be final.
- 3.28 Where an award of DHP is paid to the landlord the landlord has no right of appeal and may not dispute the decision made.
- 3.29 Any award of DHP will ordinarily be made from the date of application.
- 3.30 Where it is appropriate, an award may be made from an earlier date, such as to bring the award in line with linked HB or UC awards, a recent change in personal circumstances or a change in HB or UC entitlement which resulted in the need to make an application for DHP, or otherwise as EEBC deems appropriate.
- 3.31 When necessary, an application for DHP may be made in advance and a decision made, for example where changes in circumstances or HB or UC reductions are anticipated.
- 3.32 In exceptional circumstances, a backdated award of DHP may be made from a date prior to the date on which the application was made or an earlier date as described in part 3.30; each case will be taken on its own merits, but good cause for a backdated award must be shown, and the award must only cover a period where linked HB or UC is in payment.
- 3.33 EEBC will normally make an award of DHP within the financial year.
- 3.34 In exceptional circumstances, an indefinite award may be made.
- 3.35 All indefinite awards will be reviewed at the start of the financial year to determine their ongoing suitability in line with this policy.
- 3.36 If an award is made to the end of the financial year, EEBC may invite the applicant to reapply for the new financial year, where appropriate.
- 3.37 Any recipient of DHP is required to notify EEBC of all changes which may affect the award.

- 3.38 It is EEBC's responsibility to determine whether a change affects the award of DHP; the recipient must notify the authority of changes to any circumstances which were taken into account in the decision to allow the authority to determine if the award must be reviewed.
- 3.39 Changes of circumstance notified to the authority for the purposes of administering HB or CTS will be used to review an award of DHP where appropriate.
- 3.40 Any award of DHP may be terminated or reduced by the authority if the applicant has a change in circumstances.
- 3.41 Any award of DHP may be terminated or reduced by the authority if it is determined that the award has been made in error or as a result of a misrepresentation of or a failure to disclose relevant information by the applicant or other party.
- 3.42 EEBC will seek to recover any overpayment of DHP made as a result of a termination or reduction of an award.
- 3.43 EEBC may terminate an award of DHP made to alleviate the effects of the benefit cap whilst the applicant is actively seeking employment if EEBC considers that the applicant has ceased to be actively seeking employment.
- 3.44 EEBC may terminate an award of DHP made to alleviate the effects of the benefit cap whilst the applicant is taking any other action which if successful would exempt themselves from the effects of the cap if EEBC considers that the applicant is no longer taking this action.