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## Bracknell Forest Council

### Discretionary Housing Payment Scheme (DHPs)

## **1. Background**

The legislation governing Discretionary Housing Payment's can be found in the Discretionary Financial Assistance Regulations 2001 (S1 001 / 1167) and amendments included in the Council Tax Benefit abolition (consequential amendments) regulations 2013 and the Universal Credit consequential amendments regulations 2013

The main features of the schemes are that:

- The schemes are 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;
- Discretionary Housing Payment's are not a payment of Housing Benefit or Universal Credit.

## **2. The Discretionary Housing Payment Policy**

The Council will consider making a payment of a Discretionary Housing Payment to applicants who meet the qualifying criteria as specified in this policy. The Council will treat all applications on their individual merits, and will seek through the operation of this policy to:

- Alleviate poverty;
- Encourage and sustain Bracknell residents in employment;
- Keep families together;
- Helping those who are trying to help themselves;
- Supporting domestic violence victims who are trying to move to a place of safety;
- Tenancy sustainment and homelessness prevention; The Council will always have regard to its own prevention of homelessness strategy
- Safeguarding residents in their own homes;
- Support the vulnerable in the local community;
- Help applicants through personal crisis and difficult events;  
Support households that are working, those who are returning to work after a period of unemployment to provide support in managing their finances during the transition from coming off benefit and receiving wages and securing Working Tax Credit entitlement;
- Supporting households back into work;
- Supporting young people in the transition to adult life,
- Promoting good educational outcomes for children and young people.

## **3. Discretionary Housing Payment's can cover:**

The various types of shortfalls that a Discretionary Housing Payment can cover include:

- Reductions in Housing Benefit or Universal Credit or where the benefit cap has been applied;
- Reductions in Housing Benefit or Universal Credit for under-occupation in the social rented sector;

- Reductions in Housing Benefit or Universal Credit as a result of local housing allowance restrictions;
- Rent shortfall to prevent a household becoming homeless whilst the housing authority explores alternative options;
- Rent officer restrictions; such as local reference rent or shared accommodation rate.
- Non-dependant deduction in Housing Benefit, or housing cost contribution in Universal Credit;
- Income tapers reduction;
- Increases in essential work related expenditure such as increased fares to work if a customer has had to move because they could not afford to live in proximity to their work following a reduction in eligible rent;
- In exceptional circumstances an award of a Discretionary Housing Payment may be made for a rent deposit or rent in advance scheme for a property that the applicant has yet to move into if they are already entitled to Housing Benefit for their present address. As this is grant rather than a loan there will have to be clear reason why a loan from the Council's other scheme would not be appropriate. Discretionary Housing Payment will not normally be used to cover rents in advance or deposits as the Council runs a rent deposit scheme.
- Lump sum costs associated with a housing need such as removal costs or housing cost not already covered by Housing Benefit or Universal Credit.

While Discretionary Housing Payment will be considered for Housing Benefit restrictions Discretionary Housing Payment will not be awarded where a customer has not taken reasonable steps to reduce outgoing expenditure and to seek alternative accommodation. Most applicants affected by this measure will find ways of making up the shortfall themselves, in order to remain in their existing home.

#### **4. Discretionary Housing Payment's cannot cover:**

- Ineligible service charges or support charges;
- Increases in rent due to cover rent arrears;
- Reductions in any benefit as a result of Child Support;
- Sanctions and reductions in benefit as requested by the Department Works and Pensions;
- Reduction in Universal Credit due to a sanction.
- Shortfalls caused by Housing Benefit or Universal Credit overpayment recovery;
- Failure of non-dependants to make up the deduction attributable to them when they have the means to do so;
- Unwillingness of the customer to use other available resources or to apply for other more appropriate forms of assistance;
- A move to private rented accommodation where it should be clear to the applicant that the property is too large or unaffordable.
- Benefit suspensions – Housing Benefit or Universal Credit can be suspended either because there is a general doubt to entitlement or because an applicant has failed to supply information pertinent to their claim.
- Housing costs already met by Housing Benefit or Universal Credit or that will be met by Housing Benefit or Universal Credit. Housing costs already paid must be deducted when calculating the amount of Discretionary Housing Payment to avoid duplication.

## **5. Criteria and Decisions on Discretionary Housing Payment**

Discretionary Housing Payment's may be awarded when a local authority considers that a applicant requires further financial assistance towards housing costs and is in receipt of a social security benefit which qualifies them for a Discretionary Housing Payment.

To qualify for a Discretionary Housing Payment, the applicant must have a rent liability, require further financial assistance with their housing costs and have been receiving Housing Benefit or Universal Credit throughout the period for which they are claiming assistance..

Before an award the Council must be satisfied that the applicant is entitled to:

- Housing Benefit; or
- Universal Credit that includes a housing element towards rent liability: and
- Requires further financial assistance with housing costs.

An applicant who is receiving local Council Tax support only is not eligible for a Discretionary Housing Payment. This means an applicant who is receiving local Council Tax support but who has not yet been awarded Housing Benefit or Universal Credit is not eligible for a Discretionary Housing Payment.

Applicants will be asked to provide details of their weekly or monthly expenditure. The Council will assess net available income to determine how much of any shortfall they can then meet. Unlike Housing Benefit, which has income such as Child Benefit and child maintenance payments disregarded, all sources of income will be taken into account in determining eligibility for a Discretionary Housing Payment.

Each claim will be considered on a case by case basis having regard to the purpose of those benefits and whether the money from those benefits has been committed to other liabilities such as being associated with a disability.

## **6. Claiming a Discretionary Housing Payment**

There must be a claim for Discretionary Housing Payment's before the local authority can consider making an award.

A claim for a Discretionary Housing Payment must be made in writing and signed by the applicant. Only the Council can accept claims for Discretionary Housing Payment.

Claims will also be accepted from someone acting on behalf of the person concerned, such as an appointee or advocate if the person is vulnerable and requires support.

On request or in appropriate circumstances, the Council will issue the applicant with a Discretionary Housing Payment application form and letter informing them that the form needs to be returned within one month of its issue. Claim for Discretionary Housing Payment can be made at the same time as an application for Housing Benefit or at any time thereafter. However, a Discretionary Housing Payment will not be backdated unless requested by the applicant.

When backdating an award we will consider:

- the applicant's age, health and person circumstances;
- composition make of household;
- the local housing market;
- whether the applicant has taken up a mitigating option;
- Any (reasonable) evidence in support of an application for a Discretionary Housing Payment will be required and 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 application will be considered and will take into account any other available evidence including that held on the Housing Benefit file;
- The right to verify any information or evidence provided by the applicant in appropriate circumstances is provided when an application is made.

## **7. Awarding a Discretionary Housing Payment**

In deciding whether to award a Discretionary Housing Payment the Benefits Service will consider:

- How the award will meet the policy objectives;
- The shortfall between Housing Benefit and the rental liability (unless Universal Credit is in payment, in which case the award can be any amount up to the amount of eligible rent);
- Steps taken by the applicant to reduce their rental liability;
- Steps taken by the applicant to find work, or increase their hours of work ;
- The financial and medical circumstances of the applicant, their partner and any dependants and any other occupants of the applicant's home;
- The income and expenditure of the applicant, their partner and any dependants or other occupants of the applicant's home;
- 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 and their family's circumstances;
- The need for household to move to a home that they can afford and that meets their needs;
- The amount available in the Discretionary Housing Payment budget at the time of the application;
- The possible impact on the Council of not making such an award, e.g. the need to prevent homelessness;
- Any other special circumstances brought to the attention of the Council;
- The amount available in the Discretionary Housing Payment budget at the time of the application;
- The possible impact on the Council of not making such an award, e.g. the pressure on priority homeless accommodation.

The award will be based on the individual circumstances of the application. This may be an amount below the difference between the rent liability and the payment of Housing Benefit or costs that the applicant will incur to resolve their housing costs exceeding their income. An award of a Discretionary Housing Payment does not guarantee that a further award will be made at a later date even if the applicant's circumstances have not changed.

## **8. Conditions of award**

A Discretionary Housing Payment award may have conditionality attached to it. Any conditionality will be linked to either increasing the applicant's income or reducing their rental liability. Examples of types of conditionality could include:

- Registering for housing and bidding for suitable properties in each cycle;
- Seeking assistance to manage debts and renegotiate utility bills;
- Taken all available steps to cancel any non-essential outgoings such as television subscriptions and mobile phone contracts.

The intention of any conditionality not considered in the future is to assist the customer in improving their circumstances.

A Discretionary Housing Payment award can be cancelled if a customer has not undertaken the agreed activity.

When making a repeat application for an award, the customer must set out the steps they have taken to reduce their reliance on Discretionary Housing Payment awards.

## **9. Period of Award**

The Discretionary Housing Payment scheme should be seen as a short term fund to assist financial hardship. It is not and should not be considered as a way around any current or future benefit entitlement restrictions.

In all cases, the length of time for which a Discretionary Housing Payment will be awarded on the basis of the evidence supplied and the facts known

The start date of an award will normally be:

- The Monday after the written claim for a Discretionary Housing Payment is received or initial request made ; or
- The date on which entitlement to Housing Benefit or Universal Credit commenced (providing the application for Discretionary Housing Payment is received within one calendar month of the claim for Housing Benefit being decided) whichever is the earliest, or the most appropriate. The award of a Discretionary Housing Payment cannot be made for any period outside an existing Housing Benefit / Universal Credit period granted under the Housing Benefit or Universal Credit statutory scheme;
- The minimum period for which the Benefits Service will award a Discretionary Housing Payment is one week;
- The award of a Discretionary Housing Payment will not normally be for less than 3 months or more than 12 months;
- Requests for backdating an award of a Discretionary Housing Payment can be made but any backdating will usually be limited to the current financial year except for; disabled people living in accommodation that has been substantially adapted for their needs, or foster carers including those between foster placements.

## **10. The Amount of Discretionary Housing Payment**

### Housing Benefit

The amount of a Discretionary Housing Payment where meeting shortfall between rent liability and housing benefit awarded must not exceed:

- The weekly eligible rent on their home.

Eligible rent means all the payments specified in Regulation 12(1) of the Housing Benefit Regulations 2006 or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 except those specified in Regulation 12(3)(b)(i) to (iii) of those regulations, i.e. deductions in respect of certain specified service charges.

### Universal Credit

Payment to meet a weekly or monthly rental liability may be made at the same frequency as the Housing Benefit or Universal Credit payment.

The amount of a Discretionary Housing Payment where meeting shortfall between rent liability on their home and Universal Credit must not exceed the monthly amount calculated with Schedule 4 to the Universal Credit regulations; i.e. the Universal Credit housing costs component of the Universal Credit award notice.

### One off payments/ Lump sum payments

Discretionary Housing Payment can be paid as a lump sum to sustain tenancies, help a household move home to a home that they can afford thus avoiding homelessness. For lump sum payments such as removal costs, the weekly limit or period of award of Discretionary Housing Payment does not apply.

Payments towards removal costs need to be verified by invoices from the removal company or invoices from the van hire company. Any payment for removal costs must be agreed in advance based on fixed prices. Payments will be made direct to the company in the first instance or to the applicant upon proof the invoice has been paid. Quotes must be obtained from at least 2 suppliers to determine best value.

In exceptional circumstances when an award for a Discretionary Housing Payment for rent in advance or a deposit is made the weekly limit will not apply. Such payments will be made direct to the landlord or letting agent; not applicant. Such payments will comply with the Council's rent in advance and deposit policy.

## **11. Changes of Circumstances**

The applicant has a duty to notify the Council immediately of any change in circumstances that may affect their award of a Discretionary Housing Payment. The award of a Discretionary Housing Payment will be revised where the applicant's circumstances have materially changed.

## **12. Method of Payment and Frequency**

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

- The applicant ;
- 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.

The award of Discretionary Housing Payment will be paid the most appropriate means available in each case.

This could include payment by cheque or electronic transfer (e.g. BACS) or by crediting the applicant's Council Tax and / or rent accounts.

## **13. Notification**

The Council will inform the applicant of the outcome of their application within 14 days of receipt or as soon as *reasonably* practical. Where the application is unsuccessful, the Council will set out the reasons why this decision was made and explain the right of review. Where the application is successful, the Council will advise:

- the weekly amount of a Discretionary Housing Payment awarded;
- the period of the award;
- how, when and to whom the award will be paid;
- the requirement to report a change in circumstances;
- Where a request for a Discretionary Housing Payment has been refused, it is not expected that another application will be considered unless the applicant can demonstrate a change in circumstances.

## **14. The Right to Seek a Review**

As a DHP is not a payment of Housing Benefit or Universal Credit, it is not subject to the appeals mechanism that operates under those schemes.

The Council will operate the following policy for dealing with appeals about a refusal to award a Discretionary Housing Payment, a decision to award a reduced amount of a Discretionary Housing Payment, a decision not to backdate a Discretionary Housing Payment or a decision that there has been an overpayment of a Discretionary Housing Payment.

- An applicant (or their appointee or agent) who disagrees with a Discretionary Housing Payment decision may dispute the decision. A request must be delivered in writing to the Council within one calendar month of the written decision about the Discretionary Housing Payment being issued to the applicant. Where appropriate, officers will explain the Discretionary Housing Payment decision to the applicant by telephone, at interview or in writing and will seek to resolve the matter;
- Where agreement cannot be reached, an officer senior to the officer who made the decision will consider the review. The officer will review all the evidence held and will make a decision within 14 days of referral or as soon as practicable;

- Where the applicant is still not satisfied, they will be entitled to a further review provided this is delivered in writing within one month of the date on the decision letter. This review will be carried out by Chief Officer: Housing;
- The decision will be final and binding and may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman;
- In exceptional circumstances the above time periods may be extended.

### **15. Overpaid Discretionary Housing Payment's**

The Council will seek to recover any Discretionary Housing Payment found to be overpaid if payment was made as a result of misrepresentation or failure to disclose a material fact, fraudulently or otherwise. Recovery will be made by issuing an invoice to the applicant or the person to whom the award was paid or refer the debt to debt collection agency.

### **16. Fraud**

The Council is committed to the fight against fraud in all its forms. An applicant who tries to fraudulently claim a Discretionary Housing Payment 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. Where the Council suspects that such a fraud may have occurred, the matter will be investigated as appropriate and this may lead to criminal proceedings being instigated.

### **17. Funding Discretionary Housing Payment**

The Council will set the annual Discretionary Housing Payment budget in line with the allocated Department Works & Pension annual grant.