

Great Yarmouth Borough Council

POLICY RELATING TO THE AWARD OF DISCRETIONARY HOUSING PAYMENTS (DHP's)

Background

From 2 July 2001, all Local Authorities have had discretion to top up the Housing and Council Tax Benefits statutory schemes. The legislation governing DHP's can be found in the Discretionary Financial Assistance Regulations 2001 (SI 2001/1167).

The scheme replaces similar discretionary powers formerly provided for in the Housing and Council Tax Benefit regulations. It enables DHPs to be paid to cover shortfalls between rental liability and entitlement to Housing Benefit (HB) and similarly between Council Tax liability and entitlement to Council Tax Benefit (CTB).

In this document, "claimant" means a person who is claiming Housing and/or Council Tax Benefit.

The main features of the scheme are that

- the scheme is purely discretionary; a claimant 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 administration of the scheme is for the Authority to determine (with a few specific exceptions).

DHP's are not a payment of Housing Benefit or Council Tax Benefit. However, the minimum amount of HB / CTB must be in payment in the benefit week that a DHP is awarded for. This requirement is prescribed by law.

REVENUE SERVICES POLICY

Purpose

The purpose of this policy is to specify how Great Yarmouth Borough Council Revenue Services will operate the scheme and to indicate some of the factors that will be considered when deciding if a DHP can be made. Each case will be treated strictly on its merits and all customers will be treated equally and fairly when the scheme is administered. Revenue Services is committed to working with the local voluntary

sector, social landlords and other interested parties in the Borough to maximise entitlement to all available state benefits and this will be reflected in the administration of the DHP schemes. Everyone must be treated in a fair and consistent way, taking into account the Council's customer care and anti poverty strategies and having regard to any issues concerning diversity and equalities. Revenue Services is committed to the equitable operation of a DHP scheme. All decisions will be made in accordance with the regulations and with best practice guidance.

(Once finalised, no changes to this policy will be made without proper consultation).

Statement of objectives

Revenue Services will consider making a payment of a DHP to claimants who meet the qualifying criteria as specified in this policy. Revenue Services will treat all applications on their individual merits, and will seek through the operation of this policy to:

- alleviate poverty
- encourage and sustain Great Yarmouth residents in employment;
- safeguard Great Yarmouth residents in their homes
- help those who are trying to help themselves
- keep families together
- support the vulnerable in the local community
- help claimants through personal crises and difficult events.

The Council 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 and Council Tax Benefit legislation. However, it is recognised that some claimants may have a reasonable need for larger accommodation than is provided for in the Housing Benefit regulations. This might be where an additional bedroom is needed, perhaps to provide for a relative to stay or where a couple require separate bedrooms for medical reasons. In these cases, awards can be for longer periods as appropriate but will take account of the claimant's financial circumstances and the budget available.

Applying for DHP

An application for a DHP must be made in writing and signed by the claimant. Revenue Services will provide an application form for this purpose. However a letter or signed statement may be accepted instead.

- On request or in appropriate circumstances, Revenue Services will issue the claimant with a special DHP application form. The claimant will be encouraged to include any relevant supporting evidence. A DHP may be paid from an earlier date than the application if it appears that it is appropriate to do so, taking account of all the circumstances.
- Revenue Services may request any (reasonable) evidence in support of an application for a DHP. Revenue Services will be under no obligation to determine the application if this is not provided within one month of such a request although this will be extended in appropriate circumstances. These time limits are not prescribed in legislation but are the same as those prescribed for claims for Housing Benefit and it is appropriate that a consistent rule should be applied throughout.
- If a DHP is requested on health or disability grounds it will normally only be awarded if the claimant (or other household member) is entitled to some kind of benefit based on health or disability (eg Attendance Allowance, Disability Living Allowance). If a claim for DHP is made on health or disability grounds and the claimant (or other household member) is not in receipt of a benefit linked to their health or disability they will be required to produce some other evidence, such as a letter from a doctor or other qualified medical practitioner. In some cases the council may require the person concerned to undergo a medical examination.
- If the claimant is unable to or does not provide the required evidence, Revenue Services may still consider the application and will in any event take into account any other available evidence including that held on the Housing/Council Tax Benefit file.
- Revenue Services reserves the right to verify any information or evidence provided by the claimant in appropriate circumstances.

Period of award

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

Awards will usually be for not less than 4 weeks and not more than 12 months.

Revenue Services will consider any reasonable request for backdating an award of a DHP but such consideration will usually be limited to the current financial year and will

take account of the funds available in the budget.

Awarding a DHP

Applications will be considered by a nominated officer.

In deciding whether to award a DHP, Revenue Services will take into account:

- The relevant regulations and official guidance notes.
- the shortfall between Housing and Council Tax Benefit and the appropriate liability.
- any steps the claimant has taken to try to reduce that liability.
- the financial and health needs of the claimant, their partner, any dependants and any other occupants of the claimant's home.
- the income and expenditure of the claimant, their partner and any dependants or other occupants of the claimant's home. In determining whether there would be hardship if an award were not made, Revenue Services may take into consideration any income or resources normally disregarded for the purposes of assessing Housing and Council Tax Benefits and the level of other benefits in payment to the household.
- any savings or capital that might be held by the claimant or their family.
- the level of indebtedness of the claimant and their family.
- the exceptional nature of the claimant and their family's circumstances.
- the amount available in the DHP 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.
- any other special circumstances brought to the attention of Revenue Services.

A DHP will not normally be awarded if the claimant has an outstanding overpayment of Housing and/or Council Tax Benefit, especially if the overpayment arose as a result of fraud.

Revenue Services 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 Housing Benefit and /or Council Tax Benefit.

An award of a DHP does not guarantee that a further award will be made at a later date even if the claimant's circumstances have not changed.

Changes of Circumstances

Revenue Services may revise an award of a DHP where the claimant's circumstances have materially changed.

Method of Payment

Revenue Services will decide the most appropriate person to pay based upon the circumstances of each case. Payment may be made to:

- the claimant
- 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.

Revenue Services will pay an award of DHP by the most appropriate means available in each case. This could include payment:

- by BACS
- by crediting the claimant's Council Tax and/or rent account(s);
- Payment frequency will normally be made in line with the way the Housing Benefit and/or Council Tax Benefit is paid.

Notification

Revenue Services will inform the claimant of the outcome of their application as soon as possible. Decisions will normally be made within 21 days of receipt. Where the application is unsuccessful, Revenue Services will set out the reasons why this decision was made and explain the right of review. Where the application is successful, Revenue Services will tell the applicant in writing:

- the weekly amount of DHP awarded
- the period of the award.
- the method of payment and to whom the award will be paid
- the requirement to report a change in circumstances

The right to seek a review

DHP's are not payments of Housing or Council Tax Benefits and are therefore not subject to the statutory appeals mechanism. All Councils are expected to set up an appropriate review process.

Revenue Services will operate the following policy for dealing with appeals 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 has been an overpayment of a DHP.

A claimant (or their appointee or agent) who disagrees with a decision relating to a DHP may dispute the decision. A request for a review shall be delivered in writing to Revenue Services within one calendar month of the written decision about the DHP being issued to the claimant. Initially, any appeal will be considered by the Appeals and Policy Manager.

- Where the claimant is still not satisfied, they will be entitled to a further review, provided that the appeal is delivered in writing within one calendar month of the date on the decision letter. The appeal will initially be considered by the Service Manager (Operations). If the decision is not changed in the claimant's favour The Housing Appeals Committee will conduct a further review. They will have the right to access all relevant information held by Revenue Services. The claimant, their representative and any officers from Revenue Services involved in the decision making process may be present at the hearing.
- The decision made by the Housing Appeals Committee will be notified in writing to both Revenue Services and to the claimant together with their reasons. Their decision will be final and binding and may only be challenged via Judicial Review in

the High Court. The Committee may, however, set aside a decision where it appears to them that it would be in the interests of natural justice to do so. In such a case, the appeal would be heard afresh by the same or a differently constituted panel.

- For the purpose of hearing an appeal, at least three members including a chairman should be present. The appeal may be heard by fewer members only with the appellant's express permission.

Overpayments

Revenue Services will normally seek to recover any DHP found to be overpaid. Normally this will involve issuing an invoice to the claimant or the person to whom the award was paid. Under no circumstances will recovery be made from any amounts of Housing and / or Council Tax Benefit due to the claimant (except if the claimant requests this method of recovery specifically in writing). The decision letter that tells the claimant about an overpayment will also set out the right of review.

Publicity

Revenue Services will publicise the scheme and will work with all interested parties to achieve this. A copy of this policy statement will be made available for inspection and will be posted on the Great Yarmouth Borough Council web site. Information about the amount spent will not normally be made available except at the end of the financial year.

Fraud

Revenue Services is committed to the fight against fraud in all its forms. A claimant 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. Where Revenue Services suspects that such a fraud may have occurred, the matter will be investigated as appropriate and this may lead to criminal proceedings being instigated.

You can write or collect a claim form from the Customer Services Reception desks at

Great Yarmouth Borough Council
Trafalgar House
Hall Plain
GREAT YARMOUTH
Norfolk NR30 2QG

Telephone - Customer Services 01493 -846291

Email benefits@great-yarmouth.gov.uk

Reviewed and minor changes agreed.

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Jane Beck, Head of Revenues and Customer Services
10 May, 2010