



Discretionary Payments Policy 2024-25

| Document Version Information | |
|------------------------------|------------------------------|
| Policy Owner | Revenue and Benefits Manager |
| Committee | PFD |
| Committee Approval Date | 26 th March 2024 |
| Last Review Date | 26 th March 2024 |
| Next Review Date | 01 April 2025 |
| Version | 2.0 |

Glossary

| | |
|------|---|
| BO | Benefit Officer |
| CT | Council Tax |
| CTS | Council Tax Support |
| DFAR | Discretionary Financial Assistance Regulations 2001 |
| DCTS | Discretionary Council Tax Support |
| DHP | Discretionary Housing Payments |
| DWP | Department for Work and Pensions |
| FIO | Financial Inclusion Officer |
| HB | Housing Benefit |
| HOS | Head of Service |
| OWBC | Oadby & Wigston Borough Council |
| RBS | Revenues and Benefit Service |
| SBO | Senior Benefit Officer |

Content

| | | |
|-----------|---------------------------------|------------|
| Part 1.0 | Purpose | Page 2 |
| Part 2.0 | Legislation and Funding | Page 2 |
| Part 3.0 | Policy Statement | Page 2 & 3 |
| Part 4.0 | Scheme Objectives | Page 3 |
| Part 5.0 | What are Discretionary Payments | Page 3 & 4 |
| Part 6.0 | Claiming Discretionary Payments | Page 4 |
| Part 7.0 | Period of Award | Page 4 & 5 |
| Part 8.0 | Awarding DHP | Page 5 & 6 |
| Part 9.0 | Change of Circumstances | Page 6 |
| Part 10.0 | Method of Payment | Page 6 & 7 |
| Part 11.0 | Notification | Page 7 |
| Part 12.0 | The right to seek a Review | Page 7 & 8 |
| Part 13.0 | Additional Support | Page 8 |
| Part 14.0 | Overpayments | Page 8 |
| Part 15.0 | Fraud | Page 8 |
| Part 16.0 | Publicity | Page 8 |

1.0 Purpose

- 1.1. The purpose of this policy is to specify how Oadby & Wigston Borough Council's Revenues and Benefits Service (RBS) will operate the discretionary payment scheme and indicate some of the factors that will be considered when deciding if an award can be made.
- 1.2. This policy contributes towards one of the council's strategic objectives 'Our Community' to provide good, affordable, efficient housing for everyone.
- 1.3. In making decisions on claims for discretionary payments, the RBS shall have regard to the relevant legislation and the additional guidance set out in this policy.

2.0 Legislation and Funding

- 2.1 DHP awards are made under the provisions set out in Discretionary Financial Assistance Regulations 2001 (DFAR). These regulations require local authorities to administer a DHP scheme and set out key qualifying criteria for making payments under the scheme.
- 2.2 In particular, the DFAR regulations give details of when payments cannot be made and explain the general qualifying criteria for Discretionary Payments (such as entitlement to Housing Benefit or Council Tax Support). The regulations also set financial limits for payments on councils and these are updated annually.
- 2.3 The Department for Work and Pensions (DWP) provides an annual grant to each local authority to pay DHP. Any element of the grant not spent must be returned in full to the DWP. A local authority may spend more than its DWP grant up to an upper limit (2.5 times the DWP grant) but any amounts paid over the DWP grant fall upon the council's general fund to finance.
- 2.4 Payments of Discretionary Council Tax Support will be fully funded through the council's own finances.
- 2.5 Recent DHP government grant allocation for OWBC has been:
 - 2020/21 - £107,720
 - 2021/22 - £79,393
 - 2022/23 - £55,128
 - 2023/24 - £56,271

3.0 Policy Statement

- 3.1 This policy contributes towards one of the council's strategic objectives 'Our Community' to provide good, affordable, efficient housing for everyone.
- 3.2 To contribute towards this aim, OWBC will make discretionary payments wherever appropriate and will publicise the existence of these payments.
- 3.3 The council will do everything possible to make it easy for potential beneficiaries of discretionary payments to claim them. Claims will be considered carefully and fairly.

- 3.4 Benefit Officers will make decisions on DHP claims. Reasons for their decisions will be recorded and the claimant will be notified of these reasons in writing.
- 3.5 In making decisions on claims for DHPs, officers shall have regard to the relevant legislation, the principles of natural justice, equality of opportunities and the additional guidance set out in this policy.
- 3.6 The RBS will work actively 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 discretionary payments scheme.

4.0 Scheme Objectives

- 4.1 All applications will be considered on their individual merit and will seek through the operation of this policy to:
 - Alleviate poverty
 - Encourage and sustain people in employment
 - Sustain tenancies and prevent homelessness
 - Safeguard tenants in their own homes
 - Help those who are trying to help themselves
 - Keep families together
 - Support the vulnerable or elderly in the local community
 - Help customers through personal and difficult events
 - Support young people in the transition to adult life, or
 - Promote good educational outcomes for children and young people.

5.0 What are discretionary payments?

- 5.1 Discretionary Council Tax Support (DCTS) provides financial assistance to customers who already receive Council Tax Support (CTS) and require further assistance to pay the shortfall between their weekly Council Tax liability and the amount of CTS they receive.
- 5.2 Discretionary Housing Payments (DHP) provide financial support towards housing costs and are paid to customers who need further financial assistance with housing costs and are in receipt of either:
 - Housing Benefit (HB) or
 - Universal Credit (UC) with housing costs towards rental liability
- 5.3 DHPs can cover shortfalls between housing support (HB or UC) and actual rentals costs. DHPs can also be used to cover rental deposits, rent in advance and costs associated with taking a new tenancy e.g. removal costs.
- 5.4 There are certain elements of a person's rent which the HB and UC regulations exclude, so they cannot be included as 'housing costs' for the purpose of DHP. These include:
 - Ineligible service charges.
 - Increases in rent due to outstanding rent arrears.

- Sanctions and reductions in benefits.
- Benefit suspensions.
- Shortfalls caused by HB and UC overpayment recovery.

6.0 Claiming Discretionary Payments

- 6.1 A claim for discretionary payments must be made on an approved form and received by OWBC at a designated office for the receipt of benefit claims. The claim must:
- Identify the claimant and the address that the claim relates to
 - Be properly completed
 - Contain sufficient reasonable information and supporting evidence to allow the council to make a DHP decision.
- 6.2 OWBC will accept an application for discretionary payments:
- Electronically via online form
 - By paper form upon request
 - By assisted completion by telephone or face to face via the Financial Inclusion Officer (FIO)
- 6.3 Where a claim does not comply with the above requirements the Benefit Officer (BO) will take reasonable steps to remedy the application. The BO may request any reasonable and relevant information or evidence in support of a claim.
- 6.4 In all cases, the customer will be required to provide two months up-to-date bank statements for all accounts held by them and their partner (if they have one). This includes bank, building society, Credit Union and Post Office accounts. No decision will be made without this information.
- 6.5 The BO will take into consideration the current rental market, size of suitable property and any other relevant costs when determining an application for Rent in Advance or Rent Deposit payments.
- 6.6 Retrospective payment for Rent Deposit or Rent in Advance will only be considered where there are extenuating circumstances, and an intention to claim DHP has been made to the council prior to paying the rent in advance or rent deposit to the landlord.
- 6.7 The customer will be asked to provide the information or evidence within one month. BOs will have discretion to extend the above time limit if appropriate in the interests of promoting the objectives of this policy.
- 6.8 If the customer does not provide the required information or evidence within the time limits outlined in 6.7, then the council will consider the DHP application taking into account any available evidence, including that held on the Housing Benefit (HB) and Council Tax Support (CTS) records.

7.0 Period of award

- 7.1 The BO will decide the length of time for which payment will be awarded on the basis of the known facts and the evidence supplied. The start date of the award will usually be:

- The Monday after the council receives the claim, or
 - The date on which entitlement to HB/CTS/UC started, providing that the claim is made within one month of the council or DWP notifying the customer of the HB/CT/UCS decision, or such reasonable extension of time as officers may consider appropriate in the particular circumstances of the case, or
 - The Monday after a relevant change in circumstances giving rise to the need for the additional support.
- 7.2 A discretionary payment cannot be awarded for any period for which the customer has no entitlement to Housing Benefit, Council Tax Support or Universal Credit under the HB/CTS/UC statutory scheme.
- 7.3 The minimum period for which a DHP may be awarded is one week, but in most cases DHPs will not be awarded for more than 26 weeks.
- 7.4 The BO may set a review date for an award in order to ascertain whether circumstances have changed. Furthermore, the customer will be under a duty to report all changes of their circumstances in writing to the council's designated office.
- 7.5 The BO will consider any reasonable request for backdating of a claim, but such backdating will be limited to the current financial year. Backdating decisions will be made based on the information and evidence supplied and the known facts.

8.0 Awarding a DHP

- 8.1 Decisions will be made in accordance with the principles of good decision making and decision makers will act fairly, reasonably and consistently. The level of award may cover all or part of the shortfall or assist with the cost of starting or retaining a tenancy.
- 8.2 In deciding whether to award a discretionary payment, the BO will take into account any of the following factors, which may be relevant:
- The current best practice guidance from the DWP and legislation
 - The amount of the shortfall between HB/CTS and the rental/council tax liability (net of any ineligible charges) and the reasons for that shortfall coming about
 - Any steps taken by the customer to reduce their rental or council tax liability
 - Any steps that could be reasonably taken by the customer to mitigate the need for DHP such as but not limited to moving home or applying for unclaimed benefits
 - The financial and medical or social needs and circumstances of the claimant, their partner and any other persons in the household
 - The income and expenditure of the claimant, their partner and any other persons in the household
 - Any savings or capital held by the claimant or family members
 - The level of overall debt of the claimant and family
 - Any exceptional circumstances of the claimant or family members
 - Any special reasons which make it necessary or particularly desirable for the claimant to occupy the dwelling in respect of which the liability arises
 - The likely consequences of rent or council tax arrears for the claimant or family members, especially if any of them are vulnerable by reason of age, sickness or disability
 - Action taken by the landlord (or OWBC) to recover arrears of rent or council tax

- The discriminatory impact of legislation (e.g. restrictions on the rent and applicable amount of younger single claimants)
- The remaining funding available within the scheme
- The possible impact on the council of not making an award, e.g. the pressure on priority homeless accommodation
- Any other special circumstances brought to the officer's attention.

- 8.3 The BO will recommend how much to award based on all the circumstances. This may be any amount within the limits prescribed by the DFAR.
- 8.4 An award does not guarantee that a further award will be made at a later date even if the claimant's circumstances have not changed. In all cases, where additional support is sought, a customer will be required to submit a full re-application on the approved form.
- 8.5 To ensure consistency, Benefits Officers will review the customer's income and expenditure by using the standard Financial Statement, which is in line with our internal and external partners, welfare and financial sectors. This standard Financial Statement tool allows us to provide a single set of information should the customer need to be referred for further support.
- 8.6 The Benefit Officer will consider if the amounts of expenditure are reasonable, taking into consideration the size and circumstances of the household. Further information may be requested for any expenditure that the Benefit service deemed unrealistic or non-essential.
- 8.7 The application will be processed, reviewing the level of shortfall between income and expenditure.
- 8.8 High levels of non-essential spending may be disregarded:
- Social and entertainment
 - Satellite and cable TV
 - Mobile phones
 - Alcohol and cigarettes
 - Private medical and dental healthcare
- 8.9 The council will also take account of unavoidable costs, such as fares to work or hospital.

9.0 Change of circumstances

- 9.1 RBS staff may revise, revoke, or suspend an award where the customer's circumstances have materially changed or where false, misleading or incomplete information has been supplied to the council. Such amendments will lead to the issue of a new decision notice with new appeal rights. However, a decision to suspend payments while further enquiries are undertaken by RBS does not carry a right of appeal.

10.0 Method of payment

- 10.1 As a general rule DHP and DCTS awards are paid together with HB or CTS.
- 10.2 The BO will decide on the most appropriate person to pay, the method, and timing of payments based upon the circumstances of each case. In most DHP cases, payment with HB will be the most

convenient payment method. In all DCTS cases, the award will be credited to the Council Tax (CT) account.

- 10.3 In the event that the award puts a customer's rent account or CT account in credit, the customer will have the option of applying for a refund or leaving the credit on the account against future liability.

11.0 Notification

- 11.1 Once a decision has been made, the BO will notify the customer of the outcome of their application within one working day or as soon as is reasonably practicable thereafter.
- 11.2 Where the DHP application is unsuccessful, the notification will state briefly the reasons for the decision and what the BO considered in making their decision.
- 11.3 Where the application is successful, the notification will advise:
- The weekly amount of DHP awarded
 - The period of the award
 - How, when, and to whom the DHP will be paid
 - The requirement to report any relevant change
- 11.4 All notifications will advise the customer of their rights to ask for a review (an appeal).

12.0 The right to seek a review.

- 12.1 Discretionary payments are not payments of HB or CTS and are therefore not subject to the statutory appeals mechanism. Accordingly, RBS will operate the following policy for dealing with disputes about:
- A refusal to award DHP/DCTS or
 - A decision to award a reduced amount of DHP/DCTS or
 - A decision not to award a backdate of DHP/DCTS or
 - A decision that there has been an overpayment of DHP/DCTS
- 12.2 A claimant or person acting on their behalf who disagrees with a DHP/DCTS decision may dispute the decision or request the full reasons for it.
- 12.3 A request for a review or for reasons shall be made in writing and must be delivered to the RBS by any method which is acceptable for a DHP/DCTS claim.
- 12.4 Any request for a review must be made within one month of the customer being notified of the decision.
- 12.5 Where appropriate, RBS staff will explain the decision to the customer by telephone, letter or e-mail and will seek to resolve the matter.
- 12.6 Where agreement cannot be reached, the Revenues and Benefits Manager (RBM) will consider the review.
- 12.7 Where the RBM decides not to revise the original decision, they will notify the appellant of the outcome of the review, setting out the reasons for confirming the original decision.

- 12.8 In exceptional circumstances the RBM may extend the time limit for an appeal. There is no right of appeal against a decision by the RBM not to extend the time limit for appealing.
- 12.9 Where a customer is not satisfied with the outcome of the review, they will only be able to challenge the decision via the Judicial Review Process or by complaint to the Local Government and Social Care Ombudsman.

13.0 Additional support

- 13.1 Oadby & Wigston Borough Council is committed to help their residents reduce their indebtedness and maximise income. The Benefit Service can refer the customer to our Financial Inclusion Officer who can assist the customer to achieve financial independence.
- 13.2 The main purpose of the Financial Inclusion Officer is to support the claimant in maximising their income, debt/budgeting advice, and reviewing and supporting their housing application and Council Tax accounts. They will work with the customer to provide a one-stop service and will support the claimant by completing/supporting applications for further benefit/discount to minimise debt and increase income, refer to budgeting/debt advisory services, and work with the Housing and Council Tax team.

14.0 Overpayments

- 14.1 If a DHP has been overpaid, officers will consider whether it is appropriate to recover it in full, in part or not at all. As a general rule, overpayments caused by official error will not be recovered, unless the customer caused or contributed to the error or could have been reasonably aware that too much was being paid.
- 14.2 Overpaid DHPs will always be recoverable from the claimant, the payee or any party who has knowingly made false or misleading statements to the council. In most instances OWBC will issue a sundry debtor invoice to the party liable to repay the overpayment. Under no circumstances will overpaid DHP recovery be made from ongoing HB payments due to the claimant.

15 Fraud

- 15.1 If a customer falsely declares their circumstances, provide a false statement, or provide false evidence in support of their application, they may have committed an offence under the Fraud Act 2006. OWBC is committed to the fight against fraud in all its forms.

16 Publicity

- 16.1 OWBC will promote the availability of Discretionary Payments and will work with all interested parties including both voluntary and statutory organisations, to achieve this.
- 16.2 When undertaking benefit take-up work it will also promote this scheme.