

Basildon Council Discretionary Policy

Council Tax Discretionary Reduction in Liability Exceptional Hardship Payments and Discretionary Housing Payments

The Council’s policy in respect of Council Tax Discretionary Reductions in Liability.....	3
1. Introduction and Legislation	4
2. The Flood Recovery Framework.....	5
Who is eligible for a council tax discount?	5
Properties affected by multiple instances of flooding	6
Funding.....	6
The Council’s Policy in respect of the Flood Recovery Framework	6
3. Crisis	6
4. Care Leavers	7
5. Other Circumstances	7
6. Changes in circumstances	8
7. Duties of the applicant and the applicant’s household.....	8
8. The award and duration of a reduction in liability	8
9. Payment	8
10. Reductions in Council Tax liability granted in error or incorrectly	8
11. Notification of a reduction in liability.....	8
12. Appeals.....	8
The Council’s policy in respect of Exceptional Hardship Payments	10
1. Background	11
2. Exceptional Hardship Fund and Equalities	12
3. Purpose of this policy	12
4. The Exceptional Hardship Fund Process.....	12
5. Awarding an Exceptional Hardship Payment	13
6. Publicity.....	14
7. Claiming an Exceptional Hardship Payment.....	14
8. Changes in circumstances	14
9. Duties of the applicant and the applicant’s household.....	14
10. The award and duration of an Exceptional Hardship Payment.....	14
11. Award of the Exceptional Hardship Fund payment.....	14
12. Overpaid Exceptional Hardship Fund Payments	15
13. Notification of an award.....	15
14. Appeals.....	15
The Council’s policy in respect of Discretionary Housing Payments.....	16
1. Introduction	17
2. General Principles and regulations	17
3. Purpose of the policy	17
4. Statement of objectives	17
5. Main Features of the DHP scheme.....	18
6. The DHP scheme cannot cover:	18
7. What is a shortfall	18
8. How to Claim a DHP	18
9. Commencement of a DHP Award.....	19
10. Period of a DHP Award	19
11. Award a DHP	19
12. Change in Circumstance	20
13. Payment of DHP	20
14. Notification of the DHP award	20
15. Reviews of Decisions	20
16. DHP overpayment recovery	21
17. Publicity.....	21
Areas common to all of the policies.....	22
1. Fraud	23
2. Complaints	23
3. Policy Review.....	23

The Council's policy in respect of Council Tax Discretionary Reductions in Liability

1. Introduction and Legislation

1.1 Section 13A (1)(c) of the Local Government Finance Act 1992, provides the Council with additional discretionary powers to enable it to reduce the council tax liability where statutory discounts, exemptions and reductions do not apply.

1.2 These discretionary awards can be given to:

- Individual Council Taxpayers;
- Groups of Council Taxpayers defined by a common set of circumstances;
- Council Taxpayers within a defined area: or
- To all Council Taxpayers within the Council's area.

1.3 This part of the policy is basically divided into the following areas namely:

- (a) **The Flood Recovery Framework** – this part of the policy covers situations outlined by Central Government where any parts of the Council's area were to be designated as a designated flood area;
- (b) **Granting of reductions in Council Tax liability where there is exceptional hardship** - this part of the policy applies to circumstances where the applicant experiences exceptional hardship;
- (c) **Crisis** – this part of the policy deals with all cases where a reduction in liability is claimed where the taxpayer experiences a crisis (other than mentioned in (a) (c) or (d));
- (d) **Care Leavers** – this part of the policy deals with certain defined care leavers and provides additional support to them; and
- (e) **Other circumstances** – this part applies where the application is made other than for (a) to (d) above.

1.4 The relevant legislation (S13 (1) (c) of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012), states the following:

Reductions by billing authority

(1) The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13);

- (a) in the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority's council tax reduction scheme;
- (b) (Not applicable)
- (c) **in any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.**

1.5 The provisions stated in (c) above, allows the Council to reduce the Council Tax liability for any taxpayer in addition to any application for Council Tax Reduction under the Council's scheme. This is a general power that has always been available to the Council.

1.6 When deciding on whether to grant a reduction in liability, the Council will consider each application on its merits. Principles of reasonableness will apply in all cases with the authority deciding each case on relevant merits.

1.7 Any awards must be balanced against the needs of local taxpayers who will ultimately pay

for any reduction in Council Tax income. However, where Central Government provides funding directly to the Council to compensate for specific events such as in the case of severe flooding, the Council will look to use **all** funding provided.

- 1.8 The period of any reduced liability will be considered in conjunction with the circumstances of the Council Taxpayer except where specified by Central Government.

2. The Flood Recovery Framework

- 2.1 In a severe weather event with significant wide area impacts, local authorities may need central support to help their communities and businesses return to normal. Building on these principles, a core package of business and community recovery support has been developed by Central Government to serve as a framework for flood recovery funding when needed.
- 2.2 It will be for Government Ministers to determine when this support will be made available. Weather incidents with localised impacts will not usually trigger a recovery support package.
- 2.3 In relation to Council Tax, Central Government have developed a Council Tax discount package that is available under S13A (1) (c).

Who is eligible for a council tax discount?

- 2.4 Where the Council Tax Discount Scheme is activated following severe weather, DLUHC (formerly MHCLG) will refund eligible local authorities for granting discounts in the following circumstances:
- (a) 100% discount for a minimum of 3 months, or while anyone is unable to return home if longer, for **primary residences** whereas a result of the relevant weather event:
- Flood water entered into the habitable areas; or,
 - Flood water did not enter into the habitable areas, but the local authority regards that the residence was otherwise considered **unliveable** for any period of time.
- AND**
- (b) 100% council tax discount on temporary accommodation for anyone unable to return to their home, in parallel with the discount on their primary residence where applicable.
- 2.5 Second homes and empty homes will **not** be eligible.
- 2.6 Instances where households might be considered **unliveable** could include:
- where access to the property is severely restricted (e.g., upper floor flats with no access);
 - key services such as sewerage, draining, and electricity are severely affected;
 - the adverse weather has resulted in other significant damage to the property such that it would be, or would have been, advisable for residents to vacate the premises for any period of time, regardless of whether they do vacate or not;
 - flooded gardens or garages will **not** usually render a household eligible but there may be exceptions where it could be demonstrated that such instances mean effectively

that the property is unliveable.

2.7 It will be for the Council to determine eligibility under the scheme.

Properties affected by multiple instances of flooding

2.8 Residences impacted in multiple flood events will not be precluded from repeat support where this is made available by Government in respect of separate weather events.

2.9 Where the scheme is activated for two separate instances of flooding within 3 months of each other, the two discount periods will run concurrently. For example, if the second flood event occurred after 2 months, flooded properties already receiving support could be eligible for another 3 months' discount, making the total period of reimbursement 5 months.

Funding

2.10 In such cases, Central Government will make payment to the Council via a Section 31 grant.

The Council's Policy in respect of the Flood Recovery Framework

2.11 The Council shall operate the scheme strictly in accordance with Central Government guidelines.

3. Crisis

3.1 The Council will consider requests for assistance from Council Taxpayers who, through no fault of their own, have experienced a crisis or event that has made their property uninhabitable, where they remain liable to pay council tax and for which they have no recourse for compensation nor have recourse to any statutory exemptions or discounts.

3.2 All such requests must be made in writing detailing the **exact** circumstances of why reduction in the liability is required and specifying when the situation is expected to be resolved.

3.3 The Council will consider applications on a case-by-case basis in consultation with other organisations as appropriate. Any reduction will be applied where they remain liable to pay council tax and for which they have no recourse for compensation nor to any statutory exemptions or discounts or where the crisis or event is not covered by any insurance policy.

4. Care Leavers

- 4.1 For the purpose of this policy, a 'care leaver' is defined as a person aged up to 21, who has either
- Have been looked after by Essex County Council for at least 13 weeks since the age of 14; and who was looked after by the local authority at school-leaving age or after that date; or
 - Who is entitled to leaving care support from Essex County Council.
- 4.2 The Children Act 1989 defines the categories of children entitled to **leaving care support** as:
- 'Eligible children' - those young people aged 16-17 who are still in care and have been 'looked after' for a total of 13 weeks from the age of 14 and including their 16th birthday; and
 - 'Relevant children' - those young people aged 16 and 17 who have already left care, and who were 'looked after' for at least 13 weeks from the age of 14 and have been 'looked after' at some time while they were 16 or 17;
 - 'Former relevant children' - those young people aged 18, 19 or 20 who have been eligible and/or relevant.
- 4.3 For the purpose of calculating the amount of discretionary council tax reduction to apply, care leavers and those in their household are required to take steps to minimise their liability for council tax by claiming discounts, exemptions and council tax reduction.
- 4.4 Any amount of reduction in liability under this policy shall be calculated after all discounts, exemptions and council tax reduction have been applied. The Council will reduce the council tax liability so that the liability of the household is the same that it would have been had the care leaver been a 'disregarded persons' as detailed in s11 and Schedule 1 of the Local Government Finance Act 1992.

5. Other Circumstances

- 5.1 The Council will consider requests from Council Taxpayers for a reduction in their liability based on other circumstances, not specifically mentioned within this document. However, the Council must be of the opinion that the circumstances relating to the application warrant further reduction in their liability for Council Tax having regard to the effect on other Council Taxpayers.
- 5.2 No reduction in liability will be granted where any statutory exemption, reduction or discount could be granted.
- 5.3 No reduction in liability will be granted where it would conflict with any resolution, core priority or objective of the Council.

6. Changes in circumstances

- 6.1 The Council may revise any discretionary reduction in liability where the applicant's circumstances or situation has changed.
- 6.2 The taxpayer must inform the Council immediately either by phone, email or in writing about any changes in their circumstances which might affect the claim made under this policy. Failure to do so may result in the withdrawal of the reduction granted for the year and the requirement to repay any outstanding amount to the Council.

7. Duties of the applicant and the applicant's household

- 7.1 A person claiming any reduction in liability must:
- Provide the Council with such information as it may require in order to make a decision;
 - Tell the Council of any changes in circumstances that may be relevant to their ongoing claim; and
 - Provide the Council with such other information as it may require in connection with their claim.

8. The award and duration of a reduction in liability

- 8.1 Both the amount and the duration of the award are determined at the discretion of the Council and will be done so on the basis of the evidence supplied and the circumstances of the claim.
- 8.2 The start date of such a reduction and the duration of any reduction will be determined by the Council. In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.

9. Payment

- 9.1 In line with legislation, any award shall be granted as a reduction in the liability of the Council Taxpayer thereby reducing the amount of Council Tax payable

10. Reductions in Council Tax liability granted in error or incorrectly

- 10.1 Where a reduction in liability has been granted incorrectly or in error either due to a failure to provide the correct or accurate information to the Council or some other circumstances, the Council Taxpayer's account will be adjusted and billed in the normal way.

11. Notification of a reduction in liability

- 11.1 The Council will notify the outcome of each application in writing. The notification will include the reason for the decision and advise the applicant of their appeal rights.

12. Appeals

- 12.1 Appeals against the Council's decision may be made in accordance with Section 16 of the

Local Government Finance Act 1992.

- 12.2 The Council Taxpayer **must** in the first instance write to the Council outlining the reason for their appeal. Once received the Council will then consider whether any additional information has been received which would justify a change to the original decision and notify the Council Taxpayer accordingly.
- 12.3 Where the Council Taxpayer remains aggrieved, a further appeal can then be made to the Valuation Tribunal. This further appeal should be made within 2 months of the decision of the Council not to grant any reductions. Full details can be obtained from the Council's website or from the Valuation Tribunal www.valuationtribunal.gov.uk

The Council's policy in respect of Exceptional Hardship Payments

1. Background

- 1.1 An Exceptional Hardship Fund (EHF) has been created by the Council to assist applicants receiving Council Tax Reduction (CTR) who are facing 'exceptional hardship'. The fund has been created to provide further assistance where an applicant is in receipt of Council Tax Reduction but the level of support being paid by the Council does not meet their full Council Tax liability. Payments made will be awarded under S13A (1) (a) of the Local Government Finance Act 1992.
- 1.2 Exceptional Hardship Payments will be available to any applicant (whether pension or working age) where their daily award of Council Tax Reduction does not meet 100% of their Council Tax liability (less any appropriate discounts).
- 1.3 The Exceptional Hardship Fund will also be open to those applicants who have applied for Council Tax Reduction but have not qualified **and** have made an application under the EHF scheme **within one month** of receiving the decision from the Council. However, in such cases the applicant will need to provide evidence of exceptional circumstances above and beyond a financial reason given that their income / capital will have already been determined to be in excess of the scheme levels.
- 1.4 In the case of paragraph 1.3, the Exceptional Hardship Fund will not be available for those applicants who are precluded from the scheme under the Prescribed Requirement Regulations.
- 1.5 The main features of the fund are as follows:
- The operation of the fund will be at the total discretion of the Council;
 - The fund will be operated by the Revenues and Benefits section on behalf of the Council;
 - There is no statutory right to payments from the fund although the Council will consider all applications received;
 - Exceptional Hardship Payments **will not be available for any debt other than outstanding Council Tax**;
 - A pre-requisite to receive a payment from the Fund is that an amount of Council Tax Reduction **must be in payment** for any day that an Exceptional Hardship Payment is requested **or** that an application has been made for Council Tax Reduction and has subsequently been refused within 1 month from the date of application for an Exceptional Hardship Fund payment;
 - Where an Exceptional Hardship Payment is requested for a previous period, Exceptional Hardship must have been proven to have existed throughout the whole of the period requested;
 - Exceptional Hardship Payments are designed as a short-term help to the applicant only and it is expected that payments will be made for a short term only; and
 - All applicants will be expected to engage with the Council and undertake the full application process. Failure to do so will inevitably mean that no payment will be made.

2. Exceptional Hardship Fund and Equalities

- 2.1 The creation of an Exceptional Hardship Fund facility from which payments are made meets the Council's obligations under the Equality Act 2010.
- 2.2 This policy has been created to ensure that a level of protection and support is available to those applicants most in need. It should be noted that the Exceptional Hardship Fund is intended to help in cases of **extreme** financial hardship and not support a lifestyle or lifestyle choice. Whilst the definition 'Exceptional Hardship' is not exactly defined by this policy, it is accepted that changes to the level of support generally will cause financial hardship and any payment made will be at the total discretion of the Council. Exceptional Hardship should be considered as 'hardship beyond that which would normally be suffered'

3. Purpose of this policy

- 3.1 The purpose of this policy is to specify how the Council will operate the scheme, to detail the application process and indicate a number of factors, which will be considered when deciding if an Exceptional Hardship Payment can be made.
- 3.2 Each case will be treated on its own merits and all applicants will be treated fairly and equally in terms of access to the fund and the decisions made.

4. The Exceptional Hardship Fund and Payments Process

- 4.1 As part of the process of applying for additional support from the Exceptional Hardship Fund, all applicants must be willing to undertake **all** of the following:
- (a) Make a separate application for assistance (where required by the Council);
 - (b) Provide full details of their income and expenditure;
 - (c) Accept assistance from either the Council or third parties recommended by the Council to enable them to manage their finances more effectively including the termination of non-essential expenditure;
 - (d) Identify potential changes in payment methods and arrangements to assist the applicant;
 - (e) Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted; and
 - (f) Maximise their income through the application for other welfare benefits, cancellation of non-essential contracts and outgoings and identifying the most economical tariffs for the supply of utilities and services generally.
- 4.2 Through the operation of this policy, the Council will look to:
- Allow a short period of time for someone to adjust to unforeseen short-term circumstances and to enable them to "bridge the gap" during this time, whilst the applicant seeks alternative solutions;
 - Enable long term support to households in managing their finances;
 - Help applicants through personal crises and difficult events that affect their finances;
 - Prevent exceptional hardship;
 - Help those applicants who are trying to help themselves financially; and
 - Encourage and support people to obtain and sustain employment.

- 4.3 It cannot be awarded for the following circumstances:
- Where full Council Tax liability is already being met by Council Tax Reduction;
 - For any other reason, other than to reduce Council Tax liability;
 - Where the Council considers that there are unnecessary expenses/debts etc. and that the applicant has not taken reasonable steps to reduce these; or
 - To pay for any additional Council Tax caused through the failure of the applicant to notify changes in circumstances in a timely manner or where the applicant has failed to act correctly or honestly.

5. Awarding an Exceptional Hardship Payment

- 5.1 The Council will decide whether or not to make an Exceptional Hardship Payment, and how much any award might be.
- 5.2 When making this decision the Council will consider:
- The shortfall between Council Tax Reduction and Council Tax liability;
 - Whether the applicant has engaged with the Exceptional Hardship Payment process;
 - If a Discretionary Housing Payment for Housing Benefit or Universal Credit (Housing Element) has already been awarded to meet a shortfall in rent;
 - The personal circumstances, age, and medical circumstances (including ill health and disabilities) of the applicant, their partner, any dependants, and any other occupants of the applicant's home;
 - The difficulty experienced by the applicant, which prohibits them from being able to meet their Council Tax liability, and the length of time this difficulty will exist;
 - Shortfalls due to non-dependant deductions;
 - The income and expenditure of the applicant, their partner and any dependants or other occupants of the applicant's home;
 - How reasonable expenditure exceeds income;
 - All income received by the applicant, their partner, and any member of their household irrespective of whether the income may fall to be disregarded under the Council Tax Reduction scheme;
 - Any savings or capital that might be held by the applicant, their partner, and any member of their household irrespective of whether the capital may fall to be disregarded under the Council Tax Reduction scheme;
 - Other debts outstanding for the applicant and their partner;
 - The exceptional nature of the applicant and/or their family's circumstances that impact on finances; and
 - The length of time they have lived in the property.
- 5.3 The above list is not exhaustive and other relevant factors and special circumstances will be considered.
- 5.4 An award of an Exceptional Hardship Payment does not guarantee that a further award will be made at a later date, even if the applicant's circumstances have not changed.
- 5.5 An Exceptional Hardship Payment may be less than the difference between the Council Tax liability and the amount of Council Tax Reduction paid. The level of payment may be nil if the Council feels that, in its opinion, the applicant is not suffering 'exceptional hardship' or where the applicant has failed to comply with the Exceptional Hardship process.

6. Publicity

6.1 The Council will make a copy of this policy available for inspection and will be published on the Council's website.

7. Claiming an Exceptional Hardship Payment

7.1 An applicant must make a claim for an Exceptional Hardship Payment by submitting an application to the Council. An application must be made online at www.basildon.gov.uk/hardship

The Council will also provide assistance to applicants by telephone or at the public counter via Customer Services and with our welfare visiting officers if required.

7.2 The application form must be fully completed and supporting information or evidence provided, as reasonably requested by the Council.

7.3 In most cases, the person who claims the Exceptional Hardship Payment will be the person entitled to Council Tax Reduction. However, a claim can be accepted from someone acting on another's behalf, such as an appointee, if it is considered reasonable.

8. Changes in circumstances

8.1 The Council may revise an award of an Exceptional Hardship Payment where the applicant's circumstances have changed which either increases or reduces their Council Tax Reduction entitlement.

9. Duties of the applicant and the applicant's household

9.1 A person claiming an Exceptional Hardship Payment is required to:

- Provide the Council with such information as it may require making a decision;
- Tell the Council of any changes in circumstances, within 21 days, that may be relevant to their ongoing claim; and
- Provide the Council with such other information as it may require in connection with their claim.

10. The award and duration of an Exceptional Hardship Payment

10.1 Both the amount and the duration of the award are determined at the discretion of the Council and will be done so on the basis of the evidence supplied and the circumstances of the claim.

10.2 In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.

11. Award of the Exceptional Hardship Fund payment

11.1 Any Exceptional Hardship Payment will be made direct onto the applicant's Council Tax

account, thereby reducing the amount of Council Tax payable.

12. Overpaid Exceptional Hardship Fund Payments

12.1 Overpaid Exceptional Hardship Payments will generally be recovered directly from the applicant's council tax account, thus increasing the amount of council tax due and payable.

13. Notification of an award

13.1 The Council will notify the outcome of each application for Exceptional Hardship Payments in writing. The notification will include the reason for the decision and advise the applicant of their appeal rights.

14. Appeals

14.1 Exceptional Hardship Payments are subject to the statutory appeal process as they are made as part of the Council's Council Tax Reduction scheme under Section 13A 1A of the Local Government Finance Act 1992.

14.2 If the applicant is not satisfied with the decision in respect of an application for an Exceptional Hardship Payment, a decision to reduce the amount of Exceptional Hardship Payment, a decision not to backdate an Exceptional Hardship Payment or a decision that there has been an overpayment of an Exceptional Hardship Payment, the Council will look at the decision again.

14.3 An officer, other than the original decision maker, will consider the appeal by reviewing the original application and any other additional information and/or representation made, and will make a decision within 14 days of referral or as soon as practicable.

14.4 The outcome of the appeal will be set out in writing, detailing the reasons for the decision or upholding the original decision.

14.5 Further appeals can be made as per Council Tax Reduction to the Valuation Tribunal

The Council's policy in respect of Discretionary Housing Payments

1. Introduction

- 1.1 Discretionary Housing Payments (DHP) were introduced in July 2001 and the Council is responsible for the administration of the scheme.
- 1.2 A DHP may only be awarded where a Local Authority determines that a Housing Benefit or Universal Credit applicant requires further financial help towards their housing cost.
- 1.3 A DHP can be awarded to help cover:
 - (a) Shortfalls between the rental liability and payment of Housing Benefit or payment of Universal Credit (Housing element);
 - (b) As a single one-off award to help towards removal costs;
 - (c) As a single one-off award to help with rent deposits; and
 - (d) As a single one off award for rent in advance.

2. General Principles and regulations

- 2.1 The Discretionary Financial Assistance Regulations 2001 (SI 2001/1167) as amended, ensures the DHP scheme covers both Housing Benefit and Universal Credit applicants.

3. Purpose of the policy

- 3.1 The purpose of this policy is to specify how the Council will operate the scheme and to indicate the factors that will be considered when deciding if a DHP can be awarded. Each case will be treated strictly on its own merits and all claimants will be treated equally and fairly when the scheme is administered.
- 3.2 The Council is committed to working with the local voluntary sector, social landlords and other interested parties in the area to maximise entitlement to all available state benefits and this will be reflected in the administration of the DHP scheme.

4. Statement of objectives

- 4.1 The Council will consider making a DHP to all applicants who meet the qualifying criteria as specified in this policy. In administering the scheme, the Council will give consideration to the guidance produced by the Department for Work and Pensions. The Council will treat all applications on their individual merits and will seek through the operation of this policy to:
 - Alleviate poverty;
 - Support vulnerable young people in the transition to adult life;
 - Help and encourage residents to sustain and maintain housing;
 - Prevent and reduce homelessness;
 - Keep families together;
 - Support the vulnerable in the local community to maintain their health and wellbeing
 - Support disabled people living in significantly adapted accommodation – including any adaptations made for disabled children; and foster carers, whose housing benefit is reduced because of a bedroom being used by, or kept free for, foster children;
 - Help claimants through personal crisis and difficult events;
 - Assist persons within the area who qualify for Housing Benefit or Universal Credit (Housing Element) to move or obtain premises more suitable to their requirements; and

- Support people affected by welfare reform changes;

The Council considers that the DHP scheme should be seen as short-term financial assistance. It is not and should not be considered as a way around any current or future entitlement restrictions set out within the Housing Benefit or Universal Credit Legislation.

5. Main Features of the DHP scheme

5.1 The main features of the DHP scheme are as follows:

- The scheme is discretionary; an applicant may be entitled if the criteria is satisfied;
- The amount that can be paid out by the Council in any financial year, is cash-limited by the Secretary of State for Work and Pensions;
- DHPs are not a payment of Housing Benefit or Universal Credit. However, the applicant must have an entitlement to Housing Benefit or Universal Credit (Housing Element) for any week that a DHP is being considered for; and
- There must be a need for additional financial assistance.

6. The DHP scheme cannot cover:

6.1 The following elements of an applicant's rental charge or shortfall in Housing Benefit or Universal Credit (Housing Costs) that **cannot** be met by a DHP are:

- Ineligible charges: service charges that are not eligible for Housing Benefit or Universal credit (Housing Element) cannot be covered by a DHP;
- Sanctions and reductions in benefit;
- Suspended payments of Housing Benefit or Universal Credit (Housing Element);
- Shortfalls caused by Housing Benefit or Universal Credit (Housing Element) overpayment recovery;
- Universal Credit reclaims of payments on account; and
- Council Tax Reduction.

7. What is a shortfall

7.1 A shortfall between the rental liability and payment of Housing Benefit or payment of Universal Credit (Housing Element) can occur due to:

- The rent determined by the Rent Officer or Local Housing Allowance being lower than the applicant's eligible rental liability;
- Under occupation charge being applied due to the size of the applicant's household;
- A reduction in Local Housing Allowance rates for under 35's;
- The 65 per cent taper being applied to an applicant's Housing Benefit entitlement;
- A non-dependant deduction being made;
- Where the Benefit Cap has been applied;
- Where the Family Premium has been removed (From April 2016)
- Where there is a limitation of the number of dependants being applied (from April 2017); and
- Where the applicant can demonstrate that they are unable to meet the housing costs from their available income.

8. How to Claim a DHP

- 8.1 A claim for a DHP must be made via the online claim form via the Council's website www.basildon.gov.uk/hardship . It should be noted that the Council will require evidence to support any application.

9. Commencement of a DHP Award

- 9.1 The start date of an award is determined by the Council and can be either:
- The Monday following the date that the claim for a DHP is received by the Council;
 - The date on which entitlement to Housing Benefit or Universal Credit (Housing Element) commenced; or
 - The date on which the need arose.

10. Period of a DHP Award

- 10.1 In all cases, the Council will decide the length of time for which a DHP will be awarded on the basis of the evidence supplied and the circumstances of the claim.
- The minimum period for which the Council will award a DHP is one week;
 - The Council will usually award a DHP for not less than 3 months or 13 weeks where it is to meet a shortfall;
 - The Council will not normally award a DHP for a period exceeding 12 months; and
 - Where an applicant is disabled, living in specially adapted accommodation the Council recognise that it may be appropriate to make long-term DHP awards, exceeding 12 months.

11. Awarding a DHP

- 11.1 In deciding whether to award a DHP, the Council will consider the following:
- The shortfall between Housing Benefit or Universal Credit (Housing Element) and the rent liability;
 - Any steps taken by the applicant to reduce their rental liability;
 - The financial and medical circumstances (including ill health and disabilities) of the applicant, their partner and any dependants and any other occupants of the applicant's home;
 - The income and the essential expenditure of the applicant, their partner and any dependants or any other occupants of the applicant's home;
 - Any savings or capital that might be held by the applicant and/or partner;
 - The level of indebtedness of the applicant and/or partner;
 - The nature of the applicant's and/or partner's circumstances;
 - The amount allocated up to the cash limit set by the Secretary of State at the time of the application; and
 - Any other special circumstances brought to the attention of the Council.
- 11.2 When calculating the applicant's and partner's income Disability Living Allowance (both care and mobility components), Attendance Allowance, Personal Independent Payments and Carers Allowance will be fully disregarded.
- 11.3 Additionally, where any applicant, partner or dependant are in receipt of any of the above benefits and the DHP application is, as a result of a reduction in the Housing Benefit, due to an Under Occupancy Charge a DHP may be awarded equal to the bedroom tax

reduction (i.e., 14% or 25% of the eligible rent).

11.4 The Council will decide how much to award based on the individual circumstances. This may be an amount below the difference between the rent liability and the Housing Benefit or Universal Credit (Housing Element).

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

12. Change in Circumstance

12.1 The applicant has a duty to notify the Council of any change in their circumstances. They must report the change as soon as possible and no later than one calendar month from the change occurring.

12.2 The Council can revise a DHP award to take account of a change in circumstances at any time whether to the advantage or disadvantage of the applicant.

13. Payment of DHP

13.1 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 (if resident in the household);
- An appointee;
- Their landlord (or an agent of the landlord); or
- Any third party to whom it might be most appropriate to make payment.

13.2 The Council will pay an award of DHP by the most appropriate means available in each case. This could include payment by but is not restricted to:

- Electronic transfer (e.g., BACS); or
- Crediting the applicants rent account.

13.3 Where the DHP award is made on an on-going basis, the payment frequency will normally be aligned to the Housing Benefit or Universal Credit payment cycle.

14. Notification of the DHP award

14.1 The Council will inform the applicant in writing, email or by telephone of the outcome of their application within 14 days of receipt of all information. Where the application is unsuccessful, the Council will set out the reasons why this decision was made and explain the right of review.

14.2 Where the application is successful, the Council will notify the claimant of:

- The weekly or monthly amount of DHP that has been awarded;
- The period of the award; and
- The requirement to report any change in circumstances.

15. Reviews of Decisions

- 15.1 DHP decisions are not Housing Benefit or Universal Credit decisions and are therefore not subject to the statutory dispute mechanism. All Councils however are expected to set up an appropriate review process.
- 15.2 The Council will operate the following policy for dealing with requests to review a refusal of a DHP award, the decision to award a reduced amount of DHP, the decision not to backdate a DHP or a decision that there has been an overpayment of a DHP:
- (a) An applicant (or their appointee or agent) who disagrees with a DHP decision may dispute the decision. A dispute must be made in writing to the Council within one calendar month of the written DHP decision being issued;
 - (b) Upon receipt of a dispute the DHP request will be re-considered by an officer who was not involved in the first decision and notify the applicant of the outcome in writing;
 - (c) As part of the dispute process, the Council may feel it appropriate to offer the applicant an explanation of the DHP decision by telephone, by email, at interview or in writing in order to seek to resolve the matter. Where agreement cannot be reached a re-consideration will be carried out;
 - (d) The review will be carried out by the Revenues and Benefits Service;
 - (e) Where the applicant is still not satisfied, the decision may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman.

16. DHP overpayment recovery

- 16.1 The Council will seek to recover DHP's found to be overpaid.
- 16.2 When considering recovery of overpaid DHP's the Council will also consider retrospective awards of Social Security Benefits which may affect the amount of DHP award.
- 16.3 Recovery will usually involve issuing an invoice to the applicant or the person to whom the award was paid.
- 16.4 Under no circumstances will recovery be made from any amounts of Housing Benefit or Universal Credit due to the applicant (except if the applicant requests this method of recovery specifically in writing). The decision letter that notifies a decision that there is an overpayment will also set out the right of review.

17. Publicity

- 17.1 The Council will publicise the scheme and will work with all interested parties to achieve this. A copy of this policy statement will be made available on the Council's website.

Areas common to all of the policies

The following sections apply to all the policies within this document.

1. Fraud

- 1.1 The Council is committed to protecting public funds and ensuring funds are awarded to the people who are rightfully eligible to them.
- 1.2 An applicant who tries to fraudulently claim assistance by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.
- 1.3 Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

2. Complaints

- 2.1 The Council's 'Comments, Compliments and Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about this policy.

3. Policy Review

- 3.1 All of the policies will be reviewed annually and updated as appropriate to ensure they remain fit for purpose. However, a review may take place sooner should there be any significant change in legislation.