

The Shared Revenues Partnership

Discretionary Financial Assistance Scheme (Council Tax)

A Guide to use and application

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1 Document Control

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2 What is the Discretionary Financial Assistance Scheme (Council Tax) (DFA)?

Discretionary Financial Assistance for Council Tax has always been available under Section 13A of the Local Government Finance Act (LGFA) 1992, but has rarely been used.

Following the abolition of Council Tax Benefit (CTB) and its replacement with local Council Tax Reduction Schemes (CTR) from 1st April 2013, the ability to use Discretionary Housing Payments (DHPs) to decrease a liable person's Council Tax liability has been lost.

Discretionary Financial Assistance therefore effectively replaces DHPs in respect of CTR from 1st April 2013.

Section 13A of the LGFA 1992 was amended by section 10 of the LGFA 2012 to state:-

13A 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 (see subsection (2));

(b)in the case of a dwelling situated in the area of a billing authority in Wales, is to be reduced to the extent, if any, required by any council tax reduction scheme made under regulations under subsection (4) that applies to that dwelling;

(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.

2.1 Differences between DHP and DFA

DHP (from 1/4/2013)	DFA
Can only be awarded to a person entitled to the Housing Costs element of Universal Credit or Housing Benefit (HB) of at least 50p per week	Can be awarded to anyone liable to pay Council Tax whether or not they qualify for CTR
Funded in part by Government grant with statutory cash limit	No grant and no cash limit, entirely funded by the Council concerned.

Awarded as a payment	Awarded as a reduction in liability – in effect, a “write-off”.
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DFAs are actually outside the Council’s CTR Scheme, but contained within the same legislation. DFAs are not dependent upon the receipt of CTR for eligibility but are a reduction in Council Tax liability (effectively, a write-off) in a similar way to CTR. Note that a DHP to cover a period of CTB prior to 31st March 2013 may still be made. Whilst there is no statutory time limit for DFA awards, this scheme commenced on 1st April 2013.

DFAs exist to help with anomalies in the CTR scheme and Council Tax liability legislation, dealing with exceptional and unusual cases, enabling Councils to assist those in greatest need more than the ‘normal’ CTR scheme allows.

As the Shared Revenues Partnerships aim is to assist the people of Babergh, Ipswich and Mid-Suffolk to obtain and retain decent housing, DFAs are seen as an integral part of that aim.

A daily DFA can never be for more than the actual net daily council tax liability after deducting any discount and/or CTR.

A DFA can be awarded where there is no entitlement to CTR.

A DFA can be awarded in respect of a liability on a property that is not anyone’s sole or main residence (e.g. unoccupied).

3 Who is eligible for a DFA?

Anyone with a liability for Council Tax, including entities treated as liable (e.g. limited companies).

3.1 Joint and several liability

In the same way that anyone jointly and severally liable for Council Tax can be pursued for the full liability – not just their “share” – it is possible to award a DFA for up to the full liability upon the request of one of the jointly and severally liable persons for that liability.

4 The Shared Revenues Partnership’s Guidance

Each of the Councils that make up the Shared Revenues Partnership (SRP) has agreed the following guidance to Officers considering DFA requests. The Councils accept that they may not fetter their discretion by having a firm policy for DFAs.

The Councils that make up the SRP are:-

- Babergh District Council (BDC);
- Ipswich Borough Council (IBC);
- Mid-Suffolk District Council (MSDC).

The Councils will use DFAs to alleviate hardship, prevent homelessness where possible and to assist people to live in decent housing suitable for their personal needs.

The Councils will bear in mind:-

- Working age CTR recipients will have to pay 5% of their liability as a minimum charge (8.5% in IBC and BDC until 31/03/2018), whilst pension age CTR recipients can qualify for a 100% reduction;
- DFAs can apply to vacant property liability;
- Vacant property liability increased from 1st April 2013 due to the abolition of Class A and Class C exemptions, and the imposition of the long-term empty property surcharge.

In going about their business the Councils operate a policy of openness and accountability.

To achieve that openness and accountability this document is available to all, it will be used by those delivering the Council Tax and CTR Service to make decisions on whether DFAs should, or should not, be made. It will be available to those outside the service, to inform that audience that decisions have been made fairly and openly, and are consistent with the Councils' policy.

To be effective, however, those liable for Council Tax need to be aware of the availability of the assistance that DFA offers and the circumstances in which they are awarded.

To achieve this, the SRP, on behalf of the Councils, will

- Publish easy to read information on this topic on their web-site;
- Include references to the availability of help in all Council Tax Bills and CTR notifications;

- Ensure that all access channels to the Council Tax and CTR Service, cover the availability of DFA;
- Ensure that all staff are fully trained in the availability of DFA and the likely circumstances in which they will be awarded.

To support the Council's principle of accountability

- All decisions made will be accompanied by full details of the reason for a decision.
- The statutory right of appeal will be publicised in any decision notice. The procedure for appeals is covered later in this Guide.

The principles that follow set out the issues that will be considered when making a decision on whether a DFA is appropriate.

The issues listed are not however exhaustive and are intended for guidance, not to constrain decisions.

The SRP considers itself to be a learning organisation and as such will add to the guidance as new situations come to the light or by periodic review of this policy. As a minimum this policy will be reviewed bi-annually.

The responsibility to initiate a review or update the guide to maintain consistency lies with the Head of SRP. Reviews of the guide will be undertaken by the Joint Board and Joint Committee at least bi-annually.

5 Principles to be considered when awarding DFAs

What type of situations would attract a DFA payment?

The over-riding consideration is that the situation must be "exceptional" in order to qualify.

5.1 Exceptional costs for the client

These could be additional costs for special dietary foods, medical expenses, debt repayments, maintenance payments, funeral costs, refilling an Oil tank during a cold winter, etc. Additional costs like these are not taken into account when calculating the client's income, and therefore the client may actually have less than the minimum income for living expenses after these payments.

Some Points to Consider

- Is the client missing out on any other welfare benefits designed to help with these costs?
- Are the costs necessary? (Supporting evidence may be required here)
- Has the client received adequate advice and assistance on debt restructuring/arrangements to pay?
- How long are the additional costs expected to last for? (It could be that the client needs help for a fixed period only)

5.2 Are there any additional factors to consider?

Payment of DFAs should be considered on the individual merits of each case. The Councils, through SRP, do not operate any kind of blanket policy. Any decision made must be supported by clear information on what has been taken into account and, if appropriate, what has been disregarded.

5.3 Advice and Assistance

Was the client able to access adequate advice and assistance before the Council Tax liability arose?

Consideration should be given to whether the client received (or had access to) information on Council Tax levels, charges on empty properties and CTR.

5.4 Falling Below the Poverty Line

Does the client have additional funds, either from disregarded savings or through assistance from family or friends to pay Council Tax?

When a CTR application (or Housing Benefit (HB) is assessed, the client's Applicable Amount is calculated. The Applicable Amount is the *minimum amount of income that the client needs to live on* (as defined by housing benefit regulations). Without recourse to additional funds, the client may be in danger of falling below the poverty line by using part of this income to pay Council Tax.

On the other hand, could the client's household budget be adjusted to take out "non-essential" expenditure such as Sky subscriptions or expensive mobile contracts?

5.5 Homelessness Prevention

Would a DFA award prevent an eviction (actual or potential)?

Where there is a potential or actual threat of eviction to the client, consideration should be given to the balance between the award of a DFA and the possible future financial costs involved in homelessness. More importantly, authorities should consider the emotional, physical and social costs to the household. Particularly the presence of either young or elderly people in the household.

In addition, authorities should also consider the impact that the eviction would have on subsequent availability of rental accommodation from the same landlord or agent.

5.6 Arrears of rent or Council Tax

The award of a DFA can be backdated if it is felt appropriate, unlike CTR or Housing Benefit, no “good cause” is required. Again, the authority should consider the cost of a backdated award against homelessness costs or hardship.

DFA payments (including backdates) can also be made where the client was liable to pay a portion of the Council Tax but did not. The authority would obviously need to look at the reasons for this action, but also consider the consequences of not making an award.

Council Tax is not in itself an issue which will result in homelessness but it can be a contributory factor if the client is unable to address the combined effect of rent and Council Tax arrears. Removing all or part of either may be a mechanism for managing the overall situation when placed alongside other issues.

5.7 Payment “in tandem” with a DHP

Clearly the procedure and considerations involved in awarding a DFA are similar, if not identical, to those for a DHP. There will often be cases where both will be appropriate.

SRP will be consistent – e.g. not getting in to a position of refusing a DHP but awarding a DFA based upon the same circumstances. The Officers dealing with the DHP and DFA (where concurrent) should liaise accordingly.

5.8 Cost of Recovery

Would a DFA award remove the problem of recovering monies from a liable person who clearly cannot (as opposed to “will not”) pay? It may be more economic to the Council to award a DFA than pursue the debt.

Note that recovery costs cannot be covered by a DFA, only a Council Tax liability. Such costs can, however, be written off under normal recovery procedures.

5.9 Multiple awards

DFA awards must be decided on an individual basis, so it would not be possible to agree awards across a number of properties owned by a single person or entity as a single decision, a separate decision will be required for each separate liability. Clearly, the award depends on the client's own factors and circumstances and not the property itself. Empty property charges have the underlying intention of "persuading" the owner to get the property occupied and DFAs must not be used to subvert that intention.

5.10 Housing Options Packages (including Rental Deposit Schemes)

Has the client been helped via a rental deposit or associated housing options package in order to secure this tenancy?

The Councils provide financial and practical assistance to secure rental accommodation for clients as part of their housing options packages initiatives. Consideration should therefore be given to utilising DFAs (in parallel with a DHP) as part of any overall affordability checks for the client.

Important: Whilst DFA cannot be paid, or even guaranteed until the Council Tax liability is known, (i.e. in advance of the tenancy), there is no reason why a decision in principle could not be made.

6 Practicalities

6.1 Making a Claim

The Council can decide how claims will be made, and can request further information in the normal manner. A claim is required, but need not be in writing.

Within the SRP clients enquiring about DFA will be sent a DFA claim form.

Claims may also be made *ad hoc* or an award can be made without any written application being made, if the SRP sees fit.

6.1.1 DFA Application process

Remember that financial assistance is for exceptional circumstances, all applicants must be willing to undertake **all** of the following:

- a. Make a separate application for assistance;
- b. Provide full details of their household income and expenditure;
- c. Accept assistance from either the Council or third parties such as the CAB or similar organisations 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.

However, it is recognised that in some cases mental health/disability issues may affect the applicant's ability to comply with some, or all, of items a to f above. In such cases the Council will seek advice from expert sources as the Council is not in a position to determine the extent or effect of an individual's mental state.

Any award is a short term solution 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;

Examples of reasons where support may be given are:

- Enable long term support to households in managing their finances;
- Help applicants through personal crises and difficult events that affect their finances;
- Help those applicants who are trying to help themselves financially;
- Resolve particular "one off" situations where assistance is not available through the statutory discounts or exemptions or through Council Tax Support; and
- Encourage and support people to obtain and sustain employment.

It cannot be awarded for the following circumstances:

- Where full Council Tax liability is being met by Council Tax Support;
- 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;
- To pay for any overpayment of Council Tax Support 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, allowing for any mental health/disability issues affecting the applicant's capacity or judgement; or
- To cover previous years Council Tax arrears.

When making this decision the Council will consider:

- The shortfall between Council Tax Support and Council Tax liability;

- Whether the applicant has engaged with the discretionary financial assistance payment process;
- If a Discretionary Housing Payment has already been awarded to meet a shortfall in rent;
- The personal circumstances, age and medical circumstances (including ill health and disabilities, physical or mental) 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;
- Contributions from other adult household members
- 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 Support 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 Support 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;
- The length of time they have lived in the property; and
- The amount available in the discretionary finance fund at the time of the application

6.2 How will applications be dealt with?

All applications will be dealt with by the Revenues Billing or Recovery Team. A Form (DFA decision record within Information @ Work) will be completed with details of any CTR award, family details, and any report of a Home Visiting Officer. Home Visits can be requested in all bar Hospital cases, if this is felt to be useful.

The Form will be passed to the Billing or Recovery Team Leader to approve.

Any awards made over £30 week or £130 calendar month will require the approval of a Manager.

The appropriate standard letter (Listed within I@W Standard Letters DFAPP) must be sent

6.3 Appeals

An initial Review will be undertaken, as a first stage appeal, by the Revenues Manager. Only if the Review decision upholds the complete refusal of a DFA will it be passed to the Head of Service for SRP for confirmation of the refusal. A written decision will be supplied which will be signed by the Revenues Manager (revised or partly revised) or the Head of Service (not revised).

Whether or not an initial review has been undertaken, the applicant can appeal to the independent Valuation Tribunal (VT). The time limit for such requests is two months from the date of the Review decision letter, or the date of the original decision letter where no review has taken place.

Such an appeal needs to be addressed to the VT at:

<https://www.valuationtribunal.gov.uk/your-appeal-type/council-tax/>

or:

Hepworth House
2 Trafford Court
Doncaster
Yorks
DN1 1PN

Telephone: 0300 123 2035

Fax: 01302 321 447

Email: vtdoncaster@vts.gsi.gov.uk

Note that:

Hearings are held locally, normally in Bury St Edmunds;

No costs can be awarded;

The appellant can request that the two month time limit be extended, but such a request needs to be in writing, addressed to the VT and set out reasons for the delay.

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6.4 Awards

These are expressed as weekly sums (based upon daily liability x 7) and notified by Letter.

The length of the award will depend upon the circumstances – the need may in fact only be short term e.g. returning to work after maternity leave. **The standard period of award will usually be no more than a year** and cannot in any event exceed the next 31st March. No guarantee can be made that any further award would be made after the initial period.

6.5 Criteria

As already mentioned, the awards are discretionary. However, under broad headings:

- **DISABILITY:** Disabled people often require one-level accommodation, better heating, etc. Dependent upon the type and level of disability, and the suitability of the property, an award to assist with additional costs should be considered. In the case of a mental health/disability the applicant may not have the understanding or capacity to access other assistance in a timely manner.
- **SIZE:** Account should be taken of Children's ability to share bedrooms, availability of the correct sized properties, etc. Visits by children receiving Child Benefit elsewhere will not normally be taken in to account unless exceptional circumstances apply i.e. custody dispute, danger of loss of access rights.
- **POVERTY:** All CTR recipients are, by definition, poor. However, this may be appropriate to avoid serious financial problems where a move to cheaper accommodation is inappropriate or unusual one-off costs arise e.g. filling the heating oil tank during harsh weather.

6.6 Over-riding Criteria

Decisions will be driven by three over-riding factors:

1. Prevention of Homelessness
2. Preservation of Health & Safety of the Household
3. Prevention of serious debt.

6.7 Payment

DFAs are not CTRs; they will nonetheless be debited from the Council Tax liability along with any CTR entitlement.

6.8 Over Payment

There will be instances of overpaid DFA – for example upon cessation of liability. Cessation of liability automatically cancels entitlement to the associated DFA.

A DFA is simply a reduction in Council Tax liability, therefore any “overpaid” DFA is actually underpaid Council Tax and will simply become part of the Council Tax liability – there is actually no such thing as an overpayment of DFA.

