

Corporate Policy and Strategy Committee

10.00am, Tuesday 5 November 2013

Discretionary Housing Payments (DHP) Policy

Item number

Report number

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Executive summary

Discretionary Housing Payments (DHP) Policy

Summary

The Council has discretion under Section 2(1) of the Discretionary Financial Assistance Regulations 2001 to provide financial assistance (discretionary housing payment) to persons who require financial assistance (in addition to benefit to which they are entitled) in order to meet housing costs.

Housing costs are not defined in the regulations but can be interpreted as a claimant's eligible rent and council tax liability.

The Welfare Reform Act 2012 has introduced a range of reforms including a benefit cap, a reduction in housing benefit for under-occupation in social housing and Universal Credit, which will impact on the Discretionary Housing Payment scheme.

A DHP policy was approved by Council in May 2013 in response to the Welfare Reform Act 2012. A revised DHP policy has been drafted in response to the additional funding provided by the Scottish Government and this is attached at Appendix 1.

The key aims of the DHP policy are to prevent hardship and to protect families and vulnerable people by sustaining tenancies and to prevent homelessness.

Recommendations

It is recommended that the Corporate Policy and Strategy Committee:

1. Approve the revised DHP policy attached at Appendix 1.
2. Note the response to questions raised by the Lothian Foundation at this committee on 1 October 2013 attached at Appendix 2.

Measures of success

The success of the DHP policy will be measured through:

- customer satisfaction with awareness of availability, advice and advocacy services provided by the DHP team through application of the DHP policy. This includes increased benefit take up and minimised losses by ensuring people get their full entitlement to Housing Benefit.

Financial impact

The increasing numbers of people experiencing hardship has led to a significant increase in demand for DHP. There is a risk that the DHP budget is insufficient to fully meet the demand welfare reform creates, however, the material increase in funds following the Scottish Government's recent contribution, means that assistance through DHP will now be more readily available to meet significantly more of that demand. There will be a requirement to considerably increase administration resources to

ensure that the new funds are appropriately and fairly distributed, including a retrospective review of claims that were rejected under the previous DHP policy.

Equalities impact

The UK Government has prepared Equalities and Human Rights assessments for the welfare reform proposals. The Council will undertake an EHIRA when necessary for any of its proposals.

Sustainability impact

Welfare Reform is expected to have general implications for environmental and sustainability outcomes, for example in relation to fuel poverty.

Consultation and engagement

Due to the restricted timescales within which the increased budget allocation must be actioned limited consultation and engagement has taken place.

Background reading / external references

[Welfare Reform – further update – Corporate Policy and Strategy Committee, 1 October 2013](#)

Discretionary Housing Payments (DHP) Policy

1. Background

- 1.1 The report entitled “Welfare Reform – further update” presented to the Corporate Policy and Strategy Committee on 1 October 2013 stated that a revised DHP policy would be drafted in light of the additional DHP funding being provided by the Scottish Government.
- 1.2 The Corporate Policy and Strategy Committee on 1 October requested that the response to specific questions raised by the deputation from Lothian Federation be included in this report.

2. Main report

- 2.1 The Department for Work and Pensions (DWP) increased its UK DHP baseline funding of £20m by £40m in 2012-13 to cover welfare reforms in the private rented sector. For 2013-14 the DWP has increased funding by a further £30m to cover under-occupation in social housing and a further £65m for the benefit cap. The funding is aimed specifically at two groups:
 - where the property has been significantly adapted for disabled people within the household; and
 - kinship carers, whose Housing benefit is reduced because of a bedroom being used by, or kept free for, kinship children.
- 2.2 The Council’s DHP allocation from the DWP for 2013/14 is £1,430,709. In the draft Budget announcement the Scottish Government has stated it is making £20m addition funding available to Local Authorities to supplement DHP budgets for the financial year 2013/14. As stated in earlier reports, the maximum additional funding to DHP fund by Local Authorities is 1.5 times the funding provided by DWP. COSLA’s Settlement & Distribution Group have proposed a distribution of these funds that is likely to take all Local Authorities to their maximum permissible limit for DHP funds. Demand on this fund will be closely monitored to ensure the most vulnerable customers can be supported throughout the remainder of the year. Future updates to Committee on welfare reform will report on the demand for and allocation of DHP funds.
- 2.3 As at 31 August 2013 there have been a total of 2307 DHP claims considered, 1446 ongoing awards, 45 one off payments and 816 refusals (65% claims approved). Over 90% of awards are related to under occupancy and 95% of refusals are due to the applicant having sufficient income to meet the shortfall in their rent.

- 2.4 A number of changes are proposed to the existing DHP policy to reflect the additional funding provided by the Scottish Government. All previous awards and refusals will be reviewed and aligned to the revised policy. The key action to be addressed by the Council and registered social landlords is contacting tenants who are in arrears due to under occupancy and encouraging them to complete an application for DHP. Currently 2,600 Council tenants are in arrears with a value of £1.2m due to under occupancy.
- 2.5 The overarching objective of the DHP policy is that each application is considered on its own merit and it is ensured that the principles of fairness, reasonableness and consistency are adhered to in all cases.

3. Recommendations

- 3.1 It is recommended that the Corporate Policy and Strategy Committee:
- 3.1.1 approve the revised DHP policy attached at Appendix 1; and
 - 3.1.2 note the response to questions raised by the Lothian Foundation at this committee on 1 October 2013 attached at Appendix 2.

Alastair D Maclean

Director of Corporate Governance

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SO2 – Edinburgh’s citizens experience improved health and wellbeing, with reduced inequalities in health

Appendices

Appendix 1 – Discretionary Housing Payment Policy

Appendix 2 – Response to questions raised by Lothian Foundation at Corporate Policy and Strategy Committee meeting on 1 October 2013

1.0 – Introduction

Discretionary Housing Payments (DHP) were introduced as a result of the Discretionary Financial Assistance Regulations 2001. DHPs are not payments of benefit but payments to be made at the discretion of the City of Edinburgh Council (the Council) for those that are having difficulty in meeting their housing costs. However DHPs cannot meet expenditure which is not eligible for benefit.

The amount of funding available for DHPs is strictly limited by legislation and the Council has to manage applications within the maximum budget set out each financial year. The Council cannot exceed the maximum budget.

All applications will be considered on a case by case basis and awards will be made at the discretion of the Council. This policy document provides a framework for outlining circumstances under which DHPs may be awarded. The examples given are not exhaustive and other circumstances will be considered.

2.0 – Policy Aims and Objectives

To distribute equitably the DHP funding to benefit claimants that meet the qualifying criteria, and to promote the following Council objectives:

- Prevention of homelessness;
- Alleviating poverty;
- Sustaining tenancies and safeguarding residents in their homes;
- Preventing hardship;
- Supporting vulnerable young people in the transition to adult life;
- Supporting young people to achieve good educational outcomes;
- Encouraging residents to seek and sustain employment;
- Keeping families together;
- Supporting domestic abuse victims who are trying to move to a place of safety;
- Supporting the work of foster and kinship carers; and
- Support disabled people remain in adapted properties

The City of Edinburgh Council will ensure that as far as possible all customers are made aware of the availability of DHP and that all agencies supporting customers are made aware of the funding available and how it can be utilised to support their client group.

The DHP policy will be published on the Councils website.

3.0 – Eligibility

In order to be considered for a DHP the claimant must:

- 3.1 - Be in receipt of Housing Benefit or Universal Credit (with Housing Element) and have a rental liability; and
- 3.2 - Have a shortfall between the amount of benefit being received and the amount of rent that is due to be paid; and
- 3.3 - Be having difficulty in meeting the shortfall in their rental liability; or
- 3.4 - Be having difficulty in meeting rent deposit or rent in advance.

4.0 – When DHP will be Paid:

DHP awards will be made to eligible claimants in the following circumstances:

- 4.1 - Where the property has been significantly adapted for a disabled person or people within the household;
- 4.2 - Where kinship carers, Housing Benefit is reduced because of a bedroom being used by, or kept free for, a kinship child or children;
- 4.3 - Where a child will have a significant birthday within one year from 01 April 2013 which would entitle the household to an extra bedroom;
- 4.4 - Where a claimant or their partner is within one year of pensionable age from 01 April 2013;
- 4.5 - Where a member of the household requires an overnight carer;
- 4.6 - Where the claimant or their partner is pregnant and the birth of the child will increase the household's bedroom entitlement;
- 4.7 - Where a member of the household is chronically sick or severely disabled and requires an additional bedroom; **
- 4.8 - Where a parent does not have full time custody of children but has regular overnight access visits. Regular access will be considered to be 1 night per week; ++
- 4.9 - Where a household in mainstream accommodation is affected by the benefit cap and is actively engaging with the Department of Works and Pensions (DWP) regarding employability. ** ++

5.0 – When DHP may be Paid:

The following examples outline circumstances where DHP applications will be considered but not guaranteed. The list is not exhaustive and all applications will be considered on a case by case basis:

- 5.1 - Where a claimant is chronically sick or disabled;
- 5.2 - Where a claimant is experiencing exceptional hardship;
- 5.3 - To cover the reasonable costs of renting a particular type of accommodation to suit a particular need;
- 5.4 - Where a member of the household moves out of the property and this reduces the household's bedroom entitlement;
- 5.5 - Where a household in temporary accommodation is affected by the benefits cap; **
- 5.6 - To facilitate a move to a different area where support is available from family

- members or friends and it is clear the support is essential to the household;
- 5.7 - To cover the rent shortfall of accommodation which is either too big or too expensive, where the tenancy started at a time when the claimant could easily afford the rent without help from Housing Benefit;
 - 5.8 - To facilitate a move to a smaller or more affordable home that would allow the household to cover their housing costs.

6.0 – When DHP will not be Paid

DHP will not be paid to a claimant under the following circumstances:

- 6.1 - Where a tenancy was not affordable when taken on (except in exceptional circumstances where no other reasonable alternative was available);
- 6.2 - Where benefit fraud has been committed;
- 6.3 - To reduce water and wastewater charges;
- 6.4 - Where a benefit is in payment is subject to a reduction direction, sanction or suspension;
- 6.5 - To cover a reduction in Housing Benefit resulting from a Housing Benefit overpayment which is being recovered from ongoing entitlement;
- 6.6 - To cover service charges which are ineligible for Housing Benefit;
- 6.7 - Where an increase in rent has been made by the landlord to cover rent arrears;
- 6.8 - Where non dependant deductions that are not being paid by the non dependant (except in exceptional circumstances);
- 6.9 - DHPs will not be awarded simply because a claimant is in debt. However a view will be taken on the type, reason and level of debt and the actions that the claimant has taken to repay the amounts outstanding. Claimants will be expected to take a reasonable attitude towards debt and only borrow what they can reasonably repay. Claimants must be seen to be making regular payments before help from the DHP fund would be considered appropriate and should take Money Advice;
- 6.10 -Where the tenant is entitled to another benefit that they are not already claiming.

7.0 – Level and Period of Award

- 7.1 - The level and period of award will be based on the individual circumstances of the applicant;
- 7.2 - In the case of a shortfall the amount of DHP will not exceed the weekly eligible rent;
- 7.3 - In the case of lump sum payments, no period will apply but due regard will be given to the DHP funding available, for example a rent deposit;
- 7.4 - Payment may be made to the applicant, agent, appointee, and landlord or directly into the rent account;
- 7.5 - Payments of DHP will cease after 3 months if the claimant is affected by the benefit cap and has not engaged with the DWP regarding employability; **
- 7.6 - Payment of DHP will stop if an applicant fails to disclose a material fact or obtained the funds under false pretences or the payment was made in error;
- 7.7 Claimants are required to notify the Benefits Service of any change in their circumstances The level and period of award of DHP will be reviewed if there is a change in the circumstances of the claimant and payments will be reduced or stopped if no longer required.

8.0 – Assessment of DHP **

The Council will consider a wide variety of circumstances when deciding if DHP will be paid. The Council will assess a claimants income and expenditure against the key aims of the policy, which are, preventing hardship and protecting families and vulnerable people by sustaining tenancies to prevent homelessness.

- 8.1 - The Benefits Service will consider increasing the claimants declared expenditure, when appropriate, prior to assessing the claim;
- 8.2 - The City of Edinburgh Council reserves the right to advise the claimant to reduce expenditure if it is unreasonably high. It may also be reasonable to expect the claimant to reduce expenditure on non-essential items, such as mobile phones, cable/satellite television, cigarettes, alcohol and entertainment. However the personal circumstances of the claimant will be considered when determining if this expenditure is non-essential.

9.0 - Backdating an Award

- 9.1 - Each backdated claim will be reviewed on its own merits and the claimant should explain the reason for the delay in making the DHP claim;
- 9.2 - DHP can only be considered for a period when the claimant was in receipt of Housing Benefit or Universal Credit.

10.0 – Recovery of Overpaid DHP

- 10.1 - The City of Edinburgh Council will recover all overpaid DHP unless the award was due to Local Authority error.

11.0 - How to Apply for DHP

- 11.1 - Requests must be made on an application form. The form can be obtained online at www.edinburgh.gov.uk , by telephoning 0131 469 5000 or collected at the local office situated at 249 High Street, Edinburgh, EH1 1YJ;
- 11.2 - No application is required for any claimant that falls under Section 4 (When DHP will be Paid).

12.0 – The Right of Review

- 12.1 - There is no statutory right of appeal against a DHP decision. The applicant (or their appointee or agent) who disagrees with a DHP decision may request a review of that decision from the Benefits Service;
- 12.2 - A request for a review must be made in writing within one calendar month of the written decision about the DHP being issued to the benefit claimant;
- 12.3 - An officer from the Benefits Service who was not involved in the original decision will consider the request for the review;
- 12.4 - The reviewing officer will notify the customer of their decision in writing;
- 12.5 - If on receipt of the decision the claimant continues to feel aggrieved, then they can make a complaint under the Councils Corporate Complaints Procedure;

12.6 - A claimant may also have recourse to a judicial review.

13.0 – Monitoring Arrangements

The Benefits Assessor when making a decision to award DHP will record the following information about the award:

13.1 - Has the claimant been affected by one of the key welfare reforms, namely: the benefit cap, social sector size criteria, Local Housing Allowance reforms or a combination of the reforms;

13.2 - The total amount paid to the claimant;

13.3 - The intended outcome of the award, for example, to help with short term rental costs until the claimant secures alternative accommodation or to help with ongoing rental costs for a disabled person in adapted accommodation;

13.4 - A monthly report detailing the level of DHP applications received, the decisions made and the level of DHP committed for the financial year will be forwarded to the Benefits Manager for monitoring purposes, and to ensure that the statutory limit is not exceeded;

13.5 - The level of spend will form part of the Councils monthly budget monitoring of Housing Benefit and will also be included in the bi monthly report on Welfare Reform to the Corporate Policy and Strategy Committee.

14.0 – Policy Review

14.1 - The City of Edinburgh Councils DHP policy will be reviewed annually or sooner if appropriate by the Benefits Manager and the Councils Corporate Policy and Strategy Committee will be asked to approve any material changes.

DHP Policy Changes

*** indicates a new category*

++ indicates has been moved from another category

Examples of how DHP can be used

1) Mr and Mrs Smith rent a three bedroom property for £340.00 per week. They have two children and receive the following benefits:

Jobseekers Allowance - £111.45

Child Tax Credit - £88.07

Child benefit - £33.70

Housing Benefit - £340.00

Total welfare benefits - £573.22

The benefit cap for Mr and Mrs Smith is £500.00 per week. Therefore, their award of Housing Benefit is reduced to £266.78 per week (reduction of £73.22).

Mr Smith has been unemployed for one year and has had difficulties finding employment in his usual vocation. He is currently attending his local Work Programme provider for support to find work.

In addition, Mr and Mrs Smith's oldest child is 15 years old and in the process of completing her GCSE's at school. Mr and Mrs Smith have found a cheaper property that would take them below the benefit cap in another area but it would mean their oldest child would have to move schools. They believe this would have a negative impact on their child's education.

DHP of up to £73.22 could be awarded until Mr or Mrs Smith move into work or their eldest child completes her GCSE's.

2) Mr and Mrs Collins have recently become kinship carers for their three grandchildren after the children's parents were no longer able to take care of them. The local authority has re-housed the family from their one bedroom flat to a three bedroom property. This change in circumstances has caused an increase in the amount of benefits that the household receives meaning that the benefit cap will now be applied to the household.

Mr and Mrs Collins don't believe it would be appropriate to move into employment straight away as the children need time to adapt to their new circumstances.

DHP could be paid until Mr and Mrs Collins are able to move into employment or adapt their circumstances so that the benefit cap no longer applies.

3) Mr and Mrs Thom rent a four bedroom house from a registered housing provider. They have two children, a girl aged seven and a boy aged five. They receive Housing Benefit to cover the full rent of £90 per week.

Under the new size limit rules, they are considered to be under-occupying the house by two bedrooms as the children are both under ten years old and would be expected to share a bedroom. As they are under-occupying by two bedrooms a 25% reduction of £22.50 would be applied to the eligible rent meaning they would now receive Housing Benefit of £67.50 per week.

Mrs Thom is in a wheelchair and significant adaptations have been made to the house to make it more accessible. If the family moved to a smaller property, it would need to

be adapted at considerable expense. DHP of £22.50 per week would therefore be awarded to enable the family to remain in their current adapted house.

Response to Questions Raised by Lothian Federation at Corporate Policy and Strategy Committee Meeting, 1 October 2013

CEC should increase the discretionary housing fund by the maximum allowed (ie by 2.5 times) and do all it can to claim extra funding available from the Scottish and UK governments

Additional funding from the Scottish Government has been announced, distribution arrangements are being finalised at present but it is likely that this will mean the City of Edinburgh Councils DHP budget will be increased by c. 150%, the maximum allowed by legislation. The increase should result in a total DHP budget in the region of £3.3million

The council's living wage policy should form the basis of decisions on whether or not people claiming DHP have sufficient to live on.

If the Councils living wage policy was applied when calculating entitlement to a DHP then it is estimated that nearly all applicants would receive a DHP payment and the fund would not be sufficient to meet this. We have a duty to manage the available budget and ensure it is prioritized to help those most in need

DHPs are not payments of benefit but payments to be made at the discretion of the Council for those that are having difficulty in meeting their housing costs.

All applications will be considered on a case by case basis and awards will be made at the discretion of the Council. The DHP policy document provides a framework for outlining circumstances under which awards may be made but the examples given are not exhaustive and other circumstances will be considered.

It is the duty of the Council to distribute equitably the DHP funding to **all** benefit claimants that meet the qualifying criteria, offering short term relief to hardship to provide an opportunity to make changes to individual circumstances so they can afford to pay the shortfall between their benefit and rent eg move to more affordable accommodation or accommodation of an appropriate size for their household, reduce debts and outgoings or until there is a change in circumstances which increases individual Housing Benefit awards.

Remove / do not ask questions about specific expenditure on alcohol, cigarettes and subscription TV

All expenditure is required to be taken into account when making an assessment for DHP and the dedicated team take a reasonable approach when dealing with the above expenses. We have a need to manage the fund to help those most in need and also ensure sensible use of public funds.

Do not count DLA or PIP as income when calculating entitlement to DHP

Any additional expenditure incurred by a household due to being in receipt of DLA/PIP would be offset by the payment of this income. If we did not count DLA, we would also need to disallow any disability related expenditure, we believe it is fairer and simpler to count disability related income and expenditure in total.

All state benefits, earned income and any other financial contributions received by the household are taken into consideration as income in the assessment of DHP awards.

A copy of the claim form for DHP should be sent automatically to every tenant, whether Council or Housing Association, who is affected by the tax, along with information on independent bodies who can give assistance to fill it in.

Above will be considered as part of the implementation of the revised policy following the additional funding from the Scottish Government. It should be noted that Revenues & Benefits did contact all social housing tenants affected by Under Occupation immediately prior to its introduction and that landlords have made significant efforts to engage with tenants since then, including raising awareness of DHP and assisting with claims.

Increase the number of staff in the DHP team and provide good training, so that applications can be dealt with in a maximum of two weeks

DHP team is being significantly increased to deal with the anticipated increase in claims assessment, they will receive training in the awarding of DHPs. The number of applications received fluctuates throughout the year therefore we are unable to commit to a maximum of 2 weeks but will strive to deal with claims as quickly as we can.

If DHP is awarded, then unless there are particular circumstances it should be awarded for one year.

The DHP policy allows for certain categories to be payable for 1 year automatically and for those that this does not apply to, the normal award is 6 months (though there are some cases where circumstances dictate that a shorter period is applicable). DHP is to be used as a short term solution for tenants in order that they have an opportunity to change their circumstances if they are able to. At the end of the period of their award tenants can reapply and may be entitled to a further award.

All tenants hit by the bedroom tax should be assessed individually to check if they are entitled to an exemption.

All tenants affected by under occupancy were issued with a letter advising them of who to contact if they thought they were entitled to an additional bedroom due to their circumstances. On receipt of their application the claims were assessed on an individual basis.

If a tenant has a need for an overnight carer to stay once per week or more, averaged out over a year, then they should be automatically exempt.

Tenants who require an overnight carer and have 1 additional bedroom are exempt from the under occupancy rules and the DHP policy allows for an automatic award to those tenants who are under occupying by 2 rooms.

All receiving highest rate care DLA (or PIP equivalent) should automatically be granted an exemption

No exemption exists that allows those on highest rate care DLA (or PIP equivalent) to automatically be excluded from the under occupancy rules.

Staff who phone about rent arrears should be trained and instructed not to threaten tenants with eviction, but rather to encourage them to apply for DHP and getting advice on income maximisation/ a benefits check, including whether they may be eligible for an exemption.

All rent teams will advise tenants that they will remain responsible for payment of rent and arrears, which includes any arrears due to a reduction in housing benefit. To avoid tenants falling into debt with increased rent arrears additional steps are being taken to give advice and assistance with the following;

- Any grounds for under occupation exemption or entitlement to an additional bedroom checked by staff
- Housing options referrals made and advice provided to help tenants make a choice on the most suitable housing option for their household including: moving to a smaller home, mutual exchanges and consideration of a move to the private rented sector or changing who lives in their household
- Allowing a move to a smaller home if arrears exist. This would be subject to entering into an agreement to repay the arrears outstanding
- Budgeting advice and managing money referrals
- Income maximisation referrals
- Review existing arrears repayment arrangements and accept lower arrangements to repay existing arrears
- Tenants unable to afford new reduction in HB should be treated as exceptional financial hardship and tenant assisted to make a claim for Discretionary Housing Payment (DHP).

The Council should make sure through training that council officers implement the spirit and the letter of a policy which recognises the bedroom tax is unfair and aims to support and protect tenants against its effects. This affects the process of awarding DHP, deciding on exemptions and in dealing with rent arrears.

All housing staff will assist tenants look at other options which may improve the tenants ability to pay their rent, as outlined above. The benefit officers dealing with DHP claims do so by following the agreed DHP Policy and the procedures that are in place that ensure all claims are treated in a consistent manner.