

Corporate Policy and Strategy Committee

10.00am, Tuesday 5 August 2014

Discretionary Housing Payments (DHP) Policy

Item number	7.2
Report number	
Executive/routine	
Wards	All

Executive summary

The report entitled “Discretionary Housing Payments (DHP) Policy presented to the Corporate Policy and Strategy Committee on 5 November 2013 stated at Appendix 1 paragraph 14.1 that the DHP policy would be reviewed when required. Given the provision of additional DHP funding by the Scottish Government a revision is now required. The proposed 2014/15 policy changes include:

- DHP awards will be made where the household is subject to under occupancy;
- DHP awards will be made where a households rent is protected following a succession in tenancy and the 52 week protection crosses a rent increase; and
- claimants in the above categories will not be required to complete an application form/financial assessment, and the claim will be triggered following a request for DHP by telephone, email or letter.

This report also addresses the Council decision on 26 June 2014 seeking further information on the backdating of DHP claims to April 2013. To fully mitigate the effect of under occupancy and backdate all awards to 1 April 2013 is estimated to cost the Council an additional £1.8m. Until the Scottish Government confirm the Council’s share of the additional funding the Council is not in a position to confirm whether backdating to April 2013 can be achieved within the available funding.

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Discretionary Housing Payments (DHP) Policy

Recommendations

- 1.1 It is recommended that the Corporate Policy and Strategy Committee:
 - 1.1.1 approve the revised DHP policy attached at Appendix 1.

Background

- 2.1 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.
- 2.2 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.
- 2.3 A revised DHP policy was approved by Council in November 2013 in response to the Welfare Reform Act 2012. A further revised DHP policy has been drafted in response to the additional funding provided by the Scottish Government and this is attached at Appendix 1.
- 2.4 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.

Main report

- 3.1 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.
- 3.2 The Council's DHP allocation from the DWP for 2013/14 was £1,430,709. The Scottish Government made £20m additional funding available to Local Authorities to supplement DHP budgets for the financial year 2013/14. The maximum additional funding to the DHP fund by Local Authorities for 2013/14 was 1.5 times the funding provided by DWP. The revised DHP allocation for 2013/14 was £3,555,182.
- 3.3 The Council's DHP allocation for 2014/15 is £3,833,120. The Scottish Government has made £15m of additional funding available to Local Authorities to supplement DHP budgets and fully mitigate the effect of under occupancy reductions for the financial year 2014/15. In order that this could happen the Scottish Government has obtained permission to lift the 1.5 times cap on DHP within Scotland. Discussion is currently ongoing between COSLA and the Scottish Government to agree the allocation to Local Authorities of the additional £15m.
- 3.4 A number of changes are proposed to the existing DHP policy ahead of receipt of this additional funding from the Scottish Government. These are:
- DHP awards will be made where the household is subject to under occupancy (this includes all occupancy categories previously detailed in the will pay section of the Policy approved by Committee in November 2013);
 - DHP awards will be made where a household's rent is protected following a succession in tenancy and the 52 week protection crosses a rent increase;
 - claimants in the above categories will not be required to complete an application form/financial assessment, and the claim will be triggered following a request for DHP by telephone, email or letter; and
 - claimants will be notified in writing of their award.
- 3.5 In line with these changes all appropriate tenants that have received a partial DHP award in 2014/15 will now automatically receive the full under occupancy award for 2014/15. All 2014/15 DHP under occupancy awards are also started from April 2014 (or the applicable Housing Benefit start date) irrespective of when the claim is received by the Council.
- 3.6 Any action to fully mitigate the effect of under occupancy for 2013/14 and backdate all awards to 1 April 2013 is projected to cost the Council an additional £1.8m. Until the Scottish Government confirm the Council's share of the additional funding the Council is not in a position to confirm whether backdating to April 2013 can be achieved within the available funding.
- 3.7 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. The above policy changes are designed to simply elements of the DHP process, while maintaining its overall objectives.

Measures of success

- 4.1 The success of the DHP policy will be measured through:
 - 4.1.1 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

- 5.1 The increasing numbers of people experiencing hardship has led to a significant increase in demand for DHP. The material increase in funds from the Scottish Government means that assistance through DHP will now be more readily available to meet significantly more of that demand. There has been a requirement to considerably increase administration resources to ensure that the new funds are appropriately and fairly distributed.

Risk, policy, compliance and governance impact

- 6.1 The 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.
- 6.2 A Quality Assurance Framework operates within the Benefits service area. This framework ensures that at least 4% of all decisions are checked for accuracy on a random sample basis. The results from the samples are reported back to Team Managers and Development staff within the area where action is taken to avoid a recurrence.

Equalities impact

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

Sustainability impact

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

Consultation and engagement

- 9.1 Due to the restricted timescales within which the increased budget allocation must be actioned limited consultation and engagement will take place. Ongoing consultation has been undertaken with The Scottish Anti Bedroom Tax Federation and customers who are eligible will be actively contacted to progress the distribution of funds received.

Background reading/external references

[Welfare Reform – further update – Corporate Policy and Strategy Committee, 13 May 2014](#)

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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

1. Introduction

- 1.1 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.
- 1.2 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.
- 1.3 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. Policy Aims and Objectives

- 2.1 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
- 2.2 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.
- 2.3 The DHP policy will be published on the Councils website.

3 Eligibility

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

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

4.0 When DHP will be Paid:

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

- 4.1.1 where the household is subject to under occupancy; **
- 4.1.2 where a households rent is protected following a succession in tenancy and the 52 week protection crosses over a rent increase; **
- 4.1.3 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. When DHP may be Paid:

5.1 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:

- 5.1.1 where a claimant is chronically sick or disabled;
- 5.1.2 where a claimant is experiencing hardship;
- 5.1.3 to cover the reasonable costs of renting a particular type of accommodation to suit a particular need;
- 5.1.4 where a member of the household moves out of the property and this reduces the household's bedroom entitlement;
- 5.1.5 where a household in temporary accommodation is affected by the benefits cap;
- 5.1.6 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;
- 5.1.7 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;
- 5.1.8 to facilitate a move to a smaller or more affordable home that would allow the household to cover their housing costs.

6. When DHP will not be Paid

- 6.1 DHP will not be paid to a claimant under the following circumstances:
- 6.1.1 where a tenancy was not affordable when taken on (except in exceptional circumstances where no other reasonable alternative was available);
 - 6.1.2 where benefit fraud has been committed;
 - 6.1.3 to reduce water and wastewater charges;
 - 6.1.4 where a benefit is in payment is subject to a reduction direction, sanction or suspension;
 - 6.1.5 to cover a reduction in Housing Benefit resulting from a Housing Benefit overpayment which is being recovered from ongoing entitlement;
 - 6.1.6 to cover service charges which are ineligible for Housing Benefit;
 - 6.1.7 where an increase in rent has been made by the landlord to cover rent arrears;
 - 6.1.8 where non dependant deductions that are not being paid by the non dependant (except in exceptional circumstances);
 - 6.1.9 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;
 - 6.1.10 where the tenant is entitled to another benefit that they are not already claiming.

7. **Level and Period of Award**

- 7.1 For category 4.1.1 above, the level of award is solely for the under occupancy charge;**
- 7.2 For category 4.1.2 above, the level of award is solely for the difference in the rent charge;**
- 7.3 For category 5 above, the level and period of award will be based on the individual circumstances of the applicant;**
- 7.4 In the case of a shortfall the amount of DHP will not exceed the weekly eligible rent;
- 7.5 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;
- 7.6 Payment may be made to the applicant, agent, appointee, and landlord or directly into the rent account;
- 7.7 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;
- 7.8 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;
- 7.9 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. Assessment of DHP

8.1 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.

8.1.1 The Benefits Service will consider increasing the claimants declared expenditure, when appropriate, prior to assessing the claim;

8.1.2 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. Advice will also be provided on the appropriate agencies/contacts to assist claimants with managing their money.

9. 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. 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. 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 above. The claimant must, however, request a DHP by telephone, email or letter. **

11.3 The claimant will be notified in writing of their award. **

12. 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. Monitoring Arrangements

- 13.1 The Benefits Assessor when making a decision to award DHP will record the following information about the award:
 - 13.1.1 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;
 - 13.1.2 The total amount paid to the claimant;
 - 13.1.3 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;
 - 13.1.4 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;
 - 13.1.5 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. 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 or amendment*

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.