

**PERTH AND KINROSS COUNCIL****Housing and Health Committee****Discretionary Housing Payments****29 May 2013****Report by the Executive Director (Housing and Community Care)****PURPOSE OF REPORT**

This report clarifies the administration process and policy intent relating to Discretionary Housing Payments locally for 2013/2014 onwards.

Discretionary Housing Payments was a Department for Work and Pension's fund introduced in July 2001, allocated to, and used by local authorities, to provide financial assistance to claimants in receipt of housing benefit and council tax benefit, when it was considered additional help was required with housing costs.

From April 2013 Discretionary Housing Payments will be extended to people receiving Universal Credit, providing they have a rental liability and are eligible for support towards housing costs. As a result of UK Government Welfare Reform and the abolition of Council Tax Benefit in its existing form, Discretionary Housing Payments will no longer be payable to help meet council tax liabilities.

**1. BACKGROUND / MAIN ISSUES**

The Discretionary Financial Assistance Regulations 2001 provide the legal framework for Discretionary Housing Payments. This legislation has been revised following two key changes; the abolition of Council Tax benefit and the introduction of Universal Credit.

The Department for Work and Pensions provides guidance to Local Authorities on how Discretionary Housing Payments can be used.

As a result of the announcements during the passage of the Welfare Reform Act 2012, the Government contribution towards Discretionary Housing Payments has been increased to allow local authorities to assist people affected by changes to welfare, namely;

- Benefit Cap (being introduced from approximately July 2013 locally)
- Local Housing Allowance Reforms
- Social Sector Size Criteria ('Bedroom Tax')

The Discretionary Housing Payments allocation from the Department of Work and Pensions for last year and the current financial year are as follows:

Financial Year	Discretionary Housing Payments Budget
2012/2013	£43,018
2013/2014	£149,177

During the previous financial year (2012/2013), the fund was exhausted during the month of March 2013. This was following 160 applications, 104 of which were awarded. They fell under seven broad categories detailed below:

Financial Hardship	Under 35 years	Health	Loss / Appealing other benefits	Eviction	Relationship Breakdown	Other
44	20	17	8	6	5	4

## 2. PROPOSALS

The revised Discretionary Housing Payments fund available to Perth and Kinross Council of £149,177 is unlikely to equal the amount of money that has been removed from the Welfare System by the Government Reforms in this area.

The Government's intention is that this fund will help to protect those most vulnerable who have been adversely affected by these reforms whilst simultaneously expecting that local authorities will not undermine the policy intent of the Welfare Reform Act.

Therefore, it is proposed that our local policy (Appendix 1) will enable people to secure, or retain and pay for, appropriate and sustainable accommodation through temporary difficulties. Payments will be made in extreme or unusual circumstances, helping with housing costs to alleviate hardship, reduce the mutual risk of homelessness and/or assist those affected to overcome long term benefit dependence and secure work.

## 3. CONCLUSION AND RECOMMENDATIONS

Housing and Health Committee approve the Discretionary Housing Payments Fund guidance for Perth and Kinross, as attached at Appendix 1.

The Housing and Health Committee note the amendments to the eligibility arrangements for Discretionary Housing Payments, due to Welfare Reform and abolition of Council Tax Benefit.

The Executive Director (Housing and Community Care) brings back a further report on the uptake and administration of Discretionary Housing Payments during the current financial year.

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**Approved**

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<b>Date</b> 18th March 2013		

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## 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

<b>Strategic Implications</b>	<b>Yes / None</b>
Community Plan / Single Outcome Agreement	None
Corporate Plan	Yes
<b>Resource Implications</b>	
Financial	Yes
Workforce	None
Asset Management (land, property, IST)	None
<b>Assessments</b>	
Equality Impact Assessment	Yes
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	None
Legal and Governance	Yes
Risk	Yes
<b>Consultation</b>	
Internal	Yes
External	No
<b>Communication</b>	
Communications Plan	Yes

### 1. Strategic Implications

#### Corporate Plan

1.1 The Council's Corporate Plan 2013-2018 lays out five outcome focussed strategic objectives which provide clear strategic direction, inform decisions at both a corporate and service level and shape resource allocation. They are as follows:

- Giving every child the best start in life
- Developing educated, responsible and informed citizens
- Promoting a prosperous, inclusive and sustainable economy
- Supporting people to lead independent, healthy and active lives
- Creating a safe and sustainable place for future generations

1.2 This report relates to all of these objectives.

### 2. Resource Implications

#### Financial

2.1 Funding allocation for Discretionary Housing Payments is allocated by the Department for Work and Pension's to each local authority on an annual basis. The sum allocated for 2013/14 is £149,177. This is a ring-fenced budget.

### **3. Assessments**

#### Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.
- 3.2 The information contained within this report has been considered under the Corporate Equalities Impact Assessment process (EqIA) and has been assessed as not relevant for the purposes of (EqIA).

#### Legal and Governance

- 3.3 This council administers Discretionary Housing Payments in accordance with national guidance, legislation and local policy.

#### Risk

- 3.4 Many of the changes brought about by the UK Government's Welfare Reform agenda introduce risk and these are being monitored on an ongoing basis at both Corporate and Service level. The risks associated with the administration of Discretionary Housing Payments are monitored closely at team level.

### **4. Consultation**

#### Internal

- 4.1 Internal consultation was undertaken with relevant stakeholders (i.e. Finance, Legal, Senior Management Team) and this was done as part of the awareness raising strategy in respect of the UK Government's Welfare Reform agenda; this included the increase in Discretionary Housing Payments funding and the changes to the use of this fund.

- 4.2 External

No external parties have been consulted in the preparation of this report.

### **5. Communication**

- 5.1 Information relating to changes to Discretionary Housing Payments and other Welfare Reform changes has been cascaded to all relevant stakeholders (both internal and external). The methods of communication include briefing sessions for elected members and other interested parties (e.g. front-line staff, third sector, Registered Social Landlords) and updates on the website.

## **6. BACKGROUND PAPERS**

No background papers, as defined by SECTION 50D of the Local Government (Scotland) Act 1973 were relied upon to a material extent in preparing this report.

# Discretionary Housing Payments

A guidance note on the DHP scheme and outlines Perth & Kinross council's expectations of how the DHP's will be administered

# Discretionary Housing Payments (DHP)

## Guidance

### 1. Background

- 1.1 Discretionary Housing Payments (DHPs) were introduced in July 2001 and are used by councils to provide financial assistance to claimants in receipt of housing benefit and/or council tax benefit, when the Council considers that additional help with housing costs is required.
- 1.2 Housing costs are generally defined as rental or council tax liability, but can also include other costs such as a rent deposit. DHPs may be awarded as a one-off payment or periodically for a period the Council considers appropriate.
- 1.3 From April 2013, DHPs will be extended to people receiving Universal Credit (UC) providing they have a rental liability and are eligible for support towards housing costs.
- 1.4 As a result of the UK Government's Welfare Reform and the abolition of Council Tax Benefit; as from 1 April 2013 DHP will no longer be payable in respect of meeting council tax liabilities.

### 2. Legislation

- 2.1 The Discretionary Financial Assistance Regulations 2001 provide the legal framework for DHPs. They were amended from April 2013 following the introduction of Universal Credit (UC) and the abolition of Council Tax Benefit.
- 2.2 Although DWP provides guidance to councils on how DHPs can be used; each council has a large degree of discretion over the scheme and there are few regulatory restrictions. However the allocation provided, in addition to the guidance, operates effectively as the restriction.
- 2.2 As a result of announcements during the passage of the Welfare Reform Act 2012, the Government contribution towards DHPs has been increased to help councils provide support to people affected by some of the key welfare reforms, namely:
  - Introduction of the benefit cap (national roll out now to be phased during first half of 2013/14 financial year);
  - Introduction of the social sector size criteria; and
  - Local housing allowance reforms.

### **3. Revised Guidance**

3.1 Due to legislative changes and against the background of widespread Welfare Reform there is a clear need for revised guidance. The DWP issued revised guidance on DHP which this Council will adhere to. There is also a clear need for each Council to look to its own procedures and update them to take account of the changes in law and funding.

3.2 The DWP guidance will now include a good practice guide that offers advice on how DHPs can be used to support certain categories of claimants and how councils can contribute to the process of welfare reform by using DHPs.

### **4. Welfare Reform**

4.1 The changes will mean that customers in receipt of UC must have:

- i) a rental liability; and
- ii) be eligible for housing support within UC.

4.2 Under UC, the final award will not contain an identifiable amount towards housing costs; therefore, it is only necessary to be satisfied that a person is eligible for housing support towards a rental liability when the award of UC is being calculated.

4.3 UC is a single payment which is affected by the claimant's financial situation; once the disregard and taper have been applied in respect of any earnings, income, capital or savings it is not possible to separate the award into amounts that correspond to individual elements. If a person is eligible for housing support towards a rental liability, the end award will always include an element towards housing costs.

4.4 A claimant with council tax liability only, for example an owner occupier, is not eligible for DHPs. This also means a claimant who is receiving council tax support but has not yet been awarded HB or UC is not eligible.

### **5. Housing element of UC**

5.1 Common questions raised include;

- How will council staff access UC claim information?
- Will a breakdown of the UC award be available, in particular details of housing costs?
- Will LAs be notified of changes to UC claims?

The answers are, however, not so clear.

- Although recognising the need for council staff to access data the DWP have not allowed for this to be accomplished in a simple and straightforward manner. This suggests that council's access to DWP data will be curtailed from what it currently is.
- Under UC, the final award will not contain an identifiable amount towards housing costs; therefore, it is only necessary to be satisfied that a person is eligible for housing support towards a rental liability when the award of UC is being calculated.
- When housing costs are subsumed into Universal Credit they will be just one of a number of elements. This gives rise to the likelihood, that thereafter all the UC elements will be treated the same for uprating purposes. The Government's intention is that Universal Credit will be uprated by 1% for two years from 2014/15, exactly the same rate of increase for ongoing LHA claims from 2014/15 prior to their migration to UC. The problem with percentage upratings is that they do not recognise the starting point. So with the majority of private rents being higher than social rents the percentage increase does not take that into account. *If, say, a rent went up by 3%, and with the UC increase being contained at 1% for 2014/15 and 2015/16; pressures on DHP budgets will increase during those years.*

## **6. DHPs and the social sector size criteria**

- 6.1 The Government provided £30 million DHP funding nationally to specifically help LAs support those affected by the social sector size criteria. In particular, foster carers and disabled people living in significantly adapted accommodation.
- 6.2 The DWP recognises that claimants who fall into one of these groups may face particular difficulties if the social sector size legislation applies to them, and have stated publically their view that it would be sensible for LAs to consider prioritising claims for DHPs from such groups. They have not however placed a definition within DHP Regulations with regard to the term "significantly adapted accommodation".
- 6.3 DWP have also acknowledged that it is for LAs to determine how they use their DHP allocation taking into account the impacts of the UK Government's welfare reforms and any other relevant factors. Due to the discretionary nature of the scheme, LAs should not exclude any group affected by the social sector size criteria or any other welfare reform. In essence (as in the past with DWP benefit circulars) pressures are put on LAs to administer the scheme as the DWP wish, rather than as strict application of legislation. It is therefore crucial that a clear and robust procedure is developed for dealing with applications for DHP, together with the handling of any subsequent appeals.
- 6.4 Subsequent announcements to the allocation of these monies removed foster carers (and young people serving within the armed forces) from the size criteria calculation where specific criteria are met. This allows this part of the allocation to be directed towards disabled people.

## **7. DHPs and rent in advance / deposits**

7.1 DHPs can only be awarded in respect of housing costs. In general, housing costs means rental liability; however, it may also be interpreted to include rent in advance, deposits and other associated housing costs. DHPs can only be used towards the cost of a deposit or rent in advance when the claimant is currently in receipt of housing benefit or UC. This may be appropriate to help an existing claimant move to more affordable accommodation, following a reduction in their benefit as a result of one of the welfare reforms.

## **8. Length of Award.**

8.1 The regulations do not limit to the length of time over which a DHP may be made. It may be awarded for a short period of time to give a claimant time to sort out their financial circumstances or for an indefinite period until the claimant's circumstances change. The start and end dates of an award are decided by LAs on a case by case basis. This, of course, means that as longer term awards are made the ability to respond to new cases is diminished. Again a robust approach towards applications is needed; this should strive for a balance between awarding DHP in a fair manner whilst endeavouring to avoid, where possible, tying up funds in the longer term.

## **9. Publicity**

9.1 The UK Government has provided up to £155 million nationally for 2013/14 (and up to £125 million for 2014/15) to assist with the transition of welfare reforms, and have made it known that the increased funding is available. The administration of DHPs is in the hands of local authorities who are best placed to make local decisions based on local needs. This includes the way they are publicised. However, LAs are placed in the difficult position of administering a cash limited budget which is unlikely to meet the demand that will be placed upon it.

## **10 Policy Statements**

10.1 Attached at Appendix A are the Councils' expectations of how DHPs will be administered by staff.

## Discretionary Housing Payments

### Expectations of Perth and Kinross Council

The Discretionary Housing Payment (DHP) scheme exists to deal with situations where normal Housing Benefit does not cover all the rent due or allows claimants to reduce the amount of their rental liability.

To qualify for consideration of a claim for DHP the claimant must already qualify for some Housing Benefit or be receiving Universal Credit (UC).

Many people have difficulty paying their rent. Among these are:

- A claimant whose benefit is restricted because their rent is considered too high or because they are occupying a property that the Government considers is too large for their needs.
- A claimant whose benefit is reduced by deductions for non-dependants who may not contribute adequately to cover for those deductions.
- A claimant whose benefit is reduced by the taper for excess income.
- A person who for all sorts of reasons has other calls on their income (additional expenses or outstanding debts) which they prioritise ahead of rent payments.
- A person who has general difficulty managing their income.
- A claimant or their partner, who is returning to work after a long period of unemployment and, who has a difficulty in managing their finances during the period of transition from benefit to a stable in-work income and pending the award of any Working Tax Credit they may have an entitlement to
- A claimant who is moving onto UC from Housing Benefit and who is experiencing some difficulty in managing their finances during the transition period where they are now required to manage their own rental payments.
- A claimant who has started to receive UC and is having difficulty managing their finances during the initial period as a result of the lack of cohesion between the frequency of UC payments and their rent payment dates.
- A person who is in affordable housing but who is in danger of becoming homeless.

### Focus

It is the UK Government's intention to protect only the most vulnerable of those adversely affected by the reforms. They have however made the identification of such customers the responsibility of Councils.

Awards of DHP should aim to enable people to secure or retain and pay for appropriate and sustainable accommodation through temporary difficulties. DHP should also be

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of homelessness and support the stability of family and communities.

The UK Government has been clear in its views that LAs should not seek, by their actions, to undermine the policy intentions of their Welfare Reform agenda.

The Council does not wish to see DHP used in cases that support ongoing irresponsible behaviour. This is distinct from taking a judgemental stance in cases where the customer's financial predicament is as a result of their past actions.

The level and extent of the UK Government's welfare reforms are such that in themselves they cannot be considered to be uncommon or in any way unique. The changes to housing benefit and the ongoing impact that these reductions will have on the housing costs element of UC again cannot themselves be treated as a unique or unusual threat to the maintenance of a tenancy on a long term basis.

The Council therefore expects payments to be made in unusual or extreme circumstances where additional help with current rent will have a significant effect in alleviating hardship, reducing the risk of homelessness or assisting customers to overcome difficulties stemming from a move from long term benefit dependence into work. Examples may include:

- Circumstances unusual / exceptional among people in a particular tenure.
- Costs that are beyond their control and do not arise through the actions or failures of others.
- Housing choices which are forced on people by urgency or significant health requirements.
- Extreme and temporary situations which make it difficult to move in the short term or where decisions had to be made in an emergency.
- Imminent loss of the home where meeting some or the entire shortfall between entitlement to benefit and contractual rent will prevent the person becoming homeless. In cases such as these the following should be given regard to:
  - The reasons for the debts.
  - The active involvement of other advisory services and the customer's participation in acting on advice given to better manage their financial position.
  - Whether the award of DHP will prevent homelessness.

## **DHP as part of a package of remedies**

DHP in itself may not in many cases provide a total or sustainable solution and consideration should be given towards its role in a package of solutions. These can include working with other agencies to increase income or reduce outgoings.

## **The Council's expectations of the claimant**

The Council expects openness, transparency and honesty from people who seek to claim DHP.

In every appropriate case the Council will require the claimant to seek support and advice from money advisors, employment advisors, housing advisors, welfare advisors or health / social workers to assist in improving their current and/or ongoing financial position.

The Council may in appropriate circumstances expect the customer to take active steps to secure lower cost or smaller housing options.

## **Payments and awards**

DHP is expected to meet current needs rather than past debts. However, retrospective payments may be appropriate to reduce rent arrears to avert eviction where there are grounds for confidence that this will allow the tenant to maintain the tenancy in the longer term.

Awards are expected to last for a fixed period, of between four weeks and 26 weeks. They may take into account the need to allow the claimant a short future period to adjust or to take into account milestones in the family's life, like significant exams or the end of a period of convalescence.

Given the limited scope of the scheme and the funding available, awards are expected to be at a modest level (other than for very short periods in extreme circumstances). Awards to claimants with high rents will usually be below the maximum possible so that the claimant makes some contribution to the shortfall.

The Council expects to give higher priority to assisting people to retain an established suitably sized home for the claimant's needs and to relieving temporary difficulties where the tenancy is likely to be sustainable in the longer term.

A lower priority will be given to assisting people who take on housing costs which because of their nature, size, location or price of the property are unaffordable and unsustainable from the start.

The Council recognises the difficulties faced by absent parents who regularly look after children living with the other parent or who hope to make such arrangements. The benefit system does not provide for this fairly common situation. The Council will therefore only rarely be able to assist with DHP, mainly where existing arrangements are threatened by difficulties that are likely to be short-term.

The Council also recognises the difficulties faced by single women and couples expecting their first child who find two-bedroom accommodation suitable for their new family while still assessed on the one-bedroom or shared accommodation rate; but would only expect to provide discretionary help for a short period of a few weeks before the baby is due.

The Council recognises that sharp increases in the level of non-dependant deductions are likely to cause difficulties for some claimants, although this situation appears to be improved within UC, but affirms its view that it should normally only make discretionary payments where the non-dependant deduction is unreasonable and not where the non-dependant is unwilling to pay or to cooperate in assessing a lower contribution.

Where a request for payment has been refused, it is not expected that repeated requests will be considered unless the customer can demonstrate that the situation has worsened significantly or a substantial period of time has elapsed.

DHP is normally expected to be paid with a tenant's rent allowance.

The Council recognises that there will be circumstances in which Discretionary Housing Payments may be made other than as set out above. The ability to assess applications on a case by case basis remains essential.

## **Help to secure more suitable accommodation**

The Council will consider granting awards of DHP to assist claimants with rent deposits or contributions to removal costs where the claimant is looking to move to more suitable accommodation. Advice on this type of assistance should be sought in advance as there may be other more cost effective options available. This assistance will attract a higher priority if it provides a solution to an ongoing situation where ongoing awards of DHP can be brought to an early end.

## **Exclusions**

Regulations provide that the Council cannot make an award of DHP if the claimant is not in receipt of an award of Housing Benefit or UC. DHP cannot be awarded to accommodate the cost of any services which are not eligible for help under the Housing Benefit scheme; such as ineligible service charges, water & sewerage, fuel and heating charges. It is not normally expected that Discretionary Housing Payment payments will be made because of:

- significant overcharging by a landlord;
- the ordinary impact of rent restriction either resulting from a Rent Officer decision or the use of Local Housing Allowance rates;
- the effect of the Rent Officer's local reference rents and Local Housing Allowance rates putting accommodation in parts of the city beyond the means of people;
- the preference for a size or type of accommodation or location which is not strictly necessary for pressing reasons;
- the failure of non-dependants to make up the deduction attributable to them when they have the means to do so;
- the inadequacy of benefits for disability to cover the costs of the disability towards which they are paid;
- the unwillingness of the customer to use other available resources or to apply for other more appropriate forms of assistance; and

- or a move from social sector accommodation to unaffordable private accommodation, other than for the most compelling of reasons

## **Notifications**

The Council aims to make decisions on DHP applications within 14 days of receiving all the information needed to determine an outcome.

It is expected that all applicants (successful and unsuccessful) will have written notification issued advising of the outcome within 7 days of the decision being made.

It is expected that the notification will advise of the start and end dates of any award, the weekly amount of DHP being awarded or the lump sum figure; and unsuccessful applicants will be given written details of the reasons for no award being made.

## **Appeals**

This is a discretionary scheme without rigid rules for entitlement. There is no formal right to appeal to change a decision on a Discretionary Housing Payment.

Nevertheless, the Council will look at decisions again where the claimant is not satisfied and they ask us within a reasonable time (usually within one month of the decision). The claimant will need to state why they are not satisfied, whether anything has changed or if there is extra information they did not provide before.

In cases where the claimant remains dissatisfied, a Team Leader in the Revenues and Benefits Service (someone not involved in the original decision) will look at the decision again and decide whether there are valid reasons to change it or not.

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