



Policy and Resources Committee - 11 March 2013

Discretionary Housing Payments Policy and Procedure

Purpose of report

To seek Members' approval of the revised Discretionary Housing Payments Policy and Procedure.

Attachment(s)

Appendix 1: Discretionary Housing Payments Policy and Procedure.

1.0 Background

- 1.1 Since 2001, Discretionary Housing Payments (DHP) have given local authorities the discretion to develop their own policy to determine to whom they will award further financial assistance with housing costs.
- 1.2 The policy and procedure relating to this scheme were last approved by the Policy and Resource Committee on the 11 April 2011
- 1.3 The Department for Work and Pensions (DWP) provides an annual grant to each local authority to pay DHP. Any element of the grant not spent must be returned in full to the DWP. A local authority may spend more than its DWP grant up to an upper limit 2.5 times the DWP grant. Any amounts paid over the DWP grant fall upon the Councils general fund to finance.
- 1.4 The table below shows the number of DHP applications paid for each financial year up to this point and the amount spent in relation to the DWP grant.

Financial Year	Number of DHP applications paid	DWP contribution £	Amount spent £
2007/2008	21	8,925	7,829
2008/2009	29	6,806	6,841
2009/2010	44	8,280	7,206
2010/2011	27	6,647	7,828
2011/2012	22	13,950	7,967
2012/2013	28	30,317	16,956 (to date)

2.0 Funding

- 2.1 The Department for Work and Pensions annual funding for DHP was £20m up until April 2011. To help Local Authorities (LAs) manage the impact of the Housing Benefit reforms announced in the June 2010 budget, Ministers agreed to increase DHP funding to £30 million in 2011/12 and to £60 million annually for 2012/13 and for the remainder of the Spending Review period. Since these announcements, further additional funding of £30m and £65m has been made available to LAs to deal with the impact of these welfare reforms - Social Sector Size Criteria and the Benefit Cap respectively. The total funding available for 2013/14 is £155m.
- 2.2 In 2012/13 the DHP allocation to East Northamptonshire Council was £30,317, for 2013/14 it has increased to £85,490. Although the funding has increased it is not

comparable to the impact the welfare reforms will have on our customers and consequently we expect an increase in applications for discretionary awards.

- 2.3 The purpose of the additional funding is to provide LAs with more flexibility to help a greater number of new and existing customers who face a shortfall in rent because of changes to Local Housing Allowance, Social Sector Size Criteria and the Benefit Cap that will all come into effect from 1 April 2013.
- 2.4 A Member Briefing issued on 4 March 2011 outlined the changes to Local Housing Allowance.
- 2.5 A Member Briefing issued on 10 May 2012 informed Members of the introduction of the Benefit Cap.
- 2.6 A Member Briefing issued on 18 September 2012 informed Members of the introduction of the Housing Benefit size criteria restrictions.
- 2.4 To ensure that this funding reaches the right customers a review of the Councils DHP policy and procedure has been undertaken.

3.0 Changes to the DHP Policy

- 3.1 Council Tax Benefit will be abolished from April 2013 and replaced with Council Tax Support. Council Tax Support is not a DWP benefit therefore help with Council Tax costs can no longer be made from this fund. All references to Council Tax Benefit and Council Tax costs have been removed from the policy.
- 3.2 The overall impact of Welfare Reform has been factored into the decision making process. This is specifically in relation to Local Housing Allowance reforms, social sector size criteria restrictions for disabled people living in accommodation that has been substantially adapted for their needs, foster carers including those between foster placements and the Benefit Cap.
- 3.3 The policy now makes reference that DHPs may be awarded for an indefinite period until the customer's circumstances change.
- 3.4 Consideration has been given to the revised best practice guidance provided by the DWP.

4.0 Equality and Diversity Issues

- 4.1 An initial Equality Impact Assessment was carried out in April 2011 which resulted in no negative impacts being identified. The changes to the policy outlined in this paper are positive, because they broaden the scope of circumstances under which someone is eligible to be awarded DHP, and so a further Equality Impact Assessment has not been completed.

5.0 Legal Implications

- 5.1 DHP awards are made under the provisions set out in the Discretionary Financial Assistance Regulations 2001 (DFAR). These regulations require local authorities to administer a DHP scheme.
- 5.2 The regulations set out key qualifying criteria for making payments under the scheme and give details of when payments cannot be made.
- 5.3 Although the legislation gives the LA a very broad discretion, decisions must be made in accordance with ordinary principles about good decision making. In particular, LAs have a duty to act fairly, reasonably and consistently.

5.4 The regulations also set financial limits for payments on Councils and these are updated annually.

6.0 Risk Management

6.1 Due to increase in demand the DHP government grant may be fully allocated early in the financial year.

6.2 Table 1.5 shows the history of DHP paid in relation to the DWP grant.

6.3 Although there isn't the traditional appeals mechanism, limiting DHP paid to the amount of the DWP grant may lead to customers requesting a judicial review or contacting the local government ombudsman if there is an allegation of maladministration.

6.4 Since the DHP Policy was approved in April 2011 there have not been any appeals, judicial reviews or contact with the local government ombudsman regarding DHP decisions made.

7.0 Financial Implications

7.1 ENCs 2013/14 financial legal limit for DHP is £213,725, however there is the risk of £128,235 being allocated from the Councils general fund. This is the difference between the financial legal limit of £213,725 and the government grant of £85,490.

7.2 If early indications show that the Government grant of £85,490 is likely to be exceeded officers will report back to the Committee.

8.0 Corporate Outcomes

8.1 Approval of the revised Discretionary Housing Payments Policy and Procedure will contribute to the following Corporate Outcomes:

- Good Quality of Life - healthier
- Good Quality of Life - sustainable

Awards of DHP can be the difference between a customer affording to pay the rent on their home or not, and falling into arrears. Whenever a customer falls into arrears with their rent there is an increase risk of eviction and fear of losing their home. By paying DHP we will enable local residents to retain affordable homes and prevent homelessness. In addition DHPs give us the ability to support the most vulnerable in the community such as customers going through personal crises and difficult events or residents trying to sustain employment.

9.0 Recommendation

9.1 The Committee is recommended to approve the revised Discretionary Housing Payments Policy and Procedure.

(Reason – To ensure East Northamptonshire acts fairly, reasonably and consistently when deciding a Discretionary Housing Payment application.)

Legal	Power: The Discretionary Financial Assistance Regulations 2001
	Other considerations:
Background Papers:	Policy and Resources Committee Report 11 April 2011 Equality Impact Assessment screening form
Person Originating Report:	Lucy Hogston, Benefits Manager
Date:	24 February 2013

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(Committee Report Normal Rev. 22)



East
Northamptonshire
Council

Discretionary Housing Payments Policy and Procedure



East Northamptonshire Council's policy and procedure
when dealing with Discretionary Housing Payments

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Links to other documents

Document	Link

Additional Comments to note

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1.0 Introduction

- 1.1 This policy and procedure sets out how East Northamptonshire Councils' Benefits Service will operate the Discretionary Housing Payment scheme (DHP) and indicate some of the factors that will be considered when deciding if a DHP can be made.

2.0 Legislation and funding

- 2.1 DHP awards are made under the provisions set out in Discretionary Financial Assistance Regulations 2001 (DFAR). These regulations require local authorities to administer a DHP scheme and set out key qualifying criteria for making payments under the scheme.
- 2.2 In particular, the regulations give details of when payments cannot be made and explain the general qualifying criteria (such as entitlement to Housing Benefit. The regulations also set financial limits for payments on Councils and these are updated annually.
- 2.3 The Department for Work and Pensions (DWP) provides an annual grant to each local authority to pay DHP. Any element of the grant not spent must be returned in full to the DWP. A local authority may spend more than its DWP grant up to an upper limit (2.5 times the DWP grant) but any amounts paid over the DWP grant fall upon the Councils general fund to finance.
- 2.4 If the upper limit is changed this policy will be reviewed.

3.0 Scope

- 3.1 This policy and procedure applies to all employees of the council dealing with DHP applications.

4.0 Statement of intent

- 4.1 This policy contributes towards East Northamptonshire Councils' (ENC) corporate aims of a healthier and sustainable quality of life.
- 4.2 To contribute towards these aims, ENC will make DHP wherever appropriate and will publicise the existence of DHPs.
- 4.3 The council will do everything possible to make it easy for potential beneficiaries of DHP to claim it. Claims for DHP shall be considered carefully and fairly.
- 4.4 The Benefits Manager (BM) shall make decisions on DHP claims. Reasons for their decisions will be recorded and the person claiming can ask for the reasons for our decision, either verbally or in writing.
- 4.5 In making decisions on claims for DHPs, officers shall have regard to the relevant legislation, the principles of natural justice, equality the Equality Act 2010 and the additional guidance set out in this policy.

- 4.6 The Benefits Service will work actively with the local voluntary sector, social landlords and other interested parties in the district to maximise entitlement to all available state benefits and this will be reflected in the administration of DHP schemes.

5.0 Policy Outcomes

- 5.1 The outcomes to be delivered by this policy are:

Policy outcomes	Links to corporate outcomes (delete as appropriate)
<ul style="list-style-type: none"> • Reduced deprivation. • Alleviate poverty. • Enable local residents to retain affordable homes and prevent homelessness. • Encourage and sustain ENC residents in employment. • Help those who are trying to help themselves. • Keep families together. • Support the vulnerable in the local community. • Promote stability in the private rented sector. • Help customers through personal crises and difficult events. 	<ul style="list-style-type: none"> • Good quality of life: healthier. • Good quality of life: sustainable.

6.0 Claiming a Discretionary Housing Payment

- 6.1 A claim for DHP must be made on the approved form and received by ENC at a designated office for the receipt of benefit claims. The claim must:
- identify the claimant and the address that the claim relates to
 - be properly completed
 - contain sufficient reasonable information and supporting evidence to allow the Council to make a DHP decision.
- 6.2 Where a claim does not comply with the above requirements the Senior Benefit Officer (SBO) will take reasonable steps to remedy the DHP application. The SBO may request any reasonable and relevant information or evidence in support of a claim for DHP.
- 6.3 The customer will be asked to provide the information or evidence within 1 calendar month. The SBO will have discretion to extend the time limit if appropriate in the interests of promoting the objectives of this policy.

- 6.4 If the customer does not provide the required information or evidence, the Council will consider the application taking into account any available evidence, including that held on the Housing Benefit (HB) records.

7.0 Awarding a Discretionary Housing Payment

- 7.1 Once a complete application form is received the SBO dealing with the claim shall consider the full circumstances of the claimant and their household and make a recommendation on how much, if any, DHP to award. The SBO will pass this recommendation to the BM who shall agree or amend the recommendation.
- 7.2 Whenever possible, the BM will make a decision on any claim for a DHP within two weeks of receiving the necessary information and evidence, or as soon as is reasonably practicable thereafter.
- 7.3 In deciding whether to award a DHP, the BM will take into account any of the following factors, which may be relevant:
- the current best practice guidance from the DWP and legislation
 - the amount of the shortfall between HB the rent (net of any ineligible charges) and the reasons for that shortfall coming about
 - any steps taken by the customer to reduce their rental liability
 - any steps that could be reasonably taken by the customer to mitigate the need for DHP such as but not limited to moving home or applying for unclaimed benefits
 - the financial and medical or social needs and circumstances of the claimant, their partner and any other persons in the household
 - the income and expenditure of the claimant, their partner and any other persons in the household
 - any savings or capital held by the claimant or family members
 - the level of overall debt of the claimant and family
 - any exceptional circumstances of the claimant or family members
 - any special reasons which make it necessary or particularly desirable for the claimant to occupy the dwelling in respect of which the liability arises
 - the likely consequences of rent arrears for the claimant or family members, especially if any of them are vulnerable by reason of age, sickness or disability
 - action taken by the landlord to recover arrears of rent
 - the discriminatory impact of legislation (e.g. restrictions on the rent and applicable amount of younger single claimants)

- the overall impact of Welfare Reform specifically in relation to Local Housing Allowance reforms, social sector size criteria restrictions for disabled people living in accommodation that has been substantially adapted for their needs, foster carers including those between foster placements and the Benefit Cap.
- the amount available in the council's DHP budget or within the limits of the permitted total
- the possible impact on the council of not making an award, e.g. the pressure on priority homeless accommodation
- any other special circumstances brought to the officer's attention.

7.4 The SBO will recommend how much to award based on all the circumstances. This may be any amount within the limits prescribed by the DFAR.

7.5 An award of DHP does not guarantee that a further award will be made at a later date even if the claimant's circumstances have not changed. In all cases where additional DHP payments are sought, a customer will be required to submit a full re-application on the approved form.

8.0 Period of award

8.1 The BM will decide the length of time for which a DHP will be awarded on the basis of the known facts and the evidence supplied. The start date of a DHP award will usually be:

- the Monday after the council receives the DHP claim, or
- the date on which entitlement to HB started, providing that the DHP claim is made within one month of the Council's notifying the customer of the HB decision, or such reasonable extension of time as officers may consider appropriate in the particular circumstances of the case, or
- the Monday after a relevant change in circumstances giving rise to the need for the DHP.
- a DHP cannot be awarded for any period for which the customer has no entitlement to Housing Benefit under the HB statutory scheme.
- the minimum period for which a DHP may be awarded is one week, in most cases DHPs will be not be awarded for more than 16 weeks, however in some cases indefinite awards may be considered.
- the BM may set a review date for a DHP award in order to ascertain whether circumstances have changed. Furthermore, the customer will be under a duty to report all changes of their circumstances in writing to the Council's designated office.
- the BM will consider any reasonable request for backdating of a DHP claim, but such backdating will not usually be extended for more than 13 weeks before the date on which we received the customer's request for backdating. Backdating should be considered in line with existing benefit case law which states that the further the backdating is required, the more compelling the reason should be.

9.0 Change of circumstances

- 9.1 ENC may revise or revoke an award of DHP where the customer's circumstances have materially changed or where false, misleading or incomplete information has been supplied to the Council. Such amendments will lead to the issue of a new decision notice with new appeal rights.

10.0 Method of payment

- 10.0 As a general rule DHPs will be paid together with HB.
- 10.1 The BM will decide on the most appropriate person to pay, the method and timing of payments, based upon the particular circumstances of each case. In most cases, payment with HB will be the most convenient payment method.

11.0 Notification

- 11.1 Once a decision has been made, the BM will notify the customer of the outcome of their application within one working day or as soon as is reasonably practicable thereafter.
- 11.2 Where the DHP application is unsuccessful, the notification will state briefly the reasons for the decision and what the BM considered in making their decision.
- 11.3 Where the application is successful, the notification will advise:
- the weekly amount of DHP awarded
 - the period of the award
 - how, when and to whom the DHP will be paid
 - the requirement to report any relevant change
- 11.4 All notifications will advise the customer of their rights to ask for a review (an appeal).
- 11.5 A record will be kept of all successful applications, this will enable the BM to monitor DHP expenditure to date.

12.0 Appeals

- 12.1 DHPs are not payments of HB and are therefore not subject to the statutory appeals mechanism. Accordingly, Benefit Services will operate the following policy for dealing with appeals against any decision on a claim for DHP:
- A claimant or person acting on their behalf who disagrees with a DHP decision may dispute the decision or request the full reasons for it.
 - A request for a review or for reasons shall be made in writing and must be delivered to Benefit Services by any method, which is acceptable for a DHP claim.
 - Any request for a review must be made within one month of the customer being notified of the decision.
 - The Head of Service (HOS) will consider the appeal.

- Where the HOS decides not to revise the original decision, they will notify the appellant of the outcome of the review, setting out the reasons for confirming the original decision.
- In exceptional circumstances the HOS may extend the time limit for an appeal.
- There is no right of appeal against a decision by the HOS not to extend the time limit for appealing.
- There is no statutory right of further appeal beyond the HOS for any DHP matter.
- The customer can request a judicial review.

13.0 Overpayments

- 13.1 If a DHP has been overpaid, the BM will consider whether it is appropriate to recover it in full, in part or not at all.
- 13.2 Overpaid DHPs will always be recoverable from the claimant, the payee or any party who has knowingly made false or misleading statements to the Council. ENC will issue a sundry debtor invoice to the party liable to repay the overpayment.

14.0 Fraud

- 14.1 ENC is committed to the fight against fraud in all its forms. (For details, see the council's Benefits Counter Fraud Strategy). A claimant or other party who knowingly supplies false or misleading information or fails to report relevant information may have committed an offence under the Theft Act. In these cases details of the alleged offences will be passed to the Benefit fraud team for further investigation.
- 14.2 If fraud is found to have occurred, action will be taken in line with the Council's Sanctions / Prosecution Policy and may include the full recovery of overpaid monies and, if appropriate, criminal proceedings.

15.0 Publicity

- 15.1 ENC will promote the availability of DHPs and will work with all interested parties including both voluntary and statutory organisations, to achieve this.
- 15.2 When undertaking benefit take-up work it will also promote the DHP scheme.

16.0 Policy Review

- 16.1 This policy will be reviewed after 12 months to ensure that it is fit for purpose.

17.0 Glossary of terms

Term	Definition
DHP	Discretionary Housing Payments
DFAR	Discretionary Financial Assistance Regulations 2001
ENC	East Northamptonshire Council
HOS	Head of Service
BM	Benefits Manager
SBO	Senior Benefit Officer
HB	Housing Benefit
DWP	Department for Work and Pensions