

REPORT TO: East Lothian Council

MEETING DATE: 26 February 2013

BY: Executive Director (Support Services)

SUBJECT: Welfare Reform Service Changes

1 PURPOSE

- 1.1 To provide the Council with a further update on Welfare Reform and specifically to make recommendations in respect of the Council Tax Reduction scheme (CTR), the Scottish Welfare Fund (SWF), and Discretionary Housing Payments (DHPs).

2 RECOMMENDATIONS

- 2.1 That the Council notes the changes associated with the implementation of the Council Tax Reduction (CTR) scheme which replaces the existing Council Tax Benefit scheme from 1 April 2013.
- 2.2 That the Council notes the changes associated with the implementation of the new Scottish Welfare Fund, (SWF) which is being introduced on 1 April 2013 under the DWP Social Fund successor arrangements.
- 2.3 That the Council notes the changes to the Discretionary Housing Payment (DHP) scheme and delegates authority to the Head of Council Resources in consultation with the Head of Housing and Environment to finalise the DHP Policy currently under development.

3 BACKGROUND

- 3.1 The Council has received several reports providing information on the UK Government's welfare reform agenda and the likely impact on East Lothian residents. These reports have provided advance notice of the changes to the Housing Benefit and Council Tax Benefit schemes as a consequence of the Welfare Reform Act (2012) and have outlined the measures the Council is taking to respond to the welfare reforms, in particular the establishment of cross-service Welfare Reform Task Group.

- 3.2 The Welfare Reform Task Group has considered the immediate service implications of the various welfare reforms and in response has drafted a Welfare Reform action plan. The Task Group asks that the Council supports the changes recommended in this report to ensure that they can be completed by 1st April 2013 in line with the group's Action Plan.

Council Tax Reduction Scheme

- 3.3 The abolition of Council Tax Benefit which is currently administered by the Council's Benefit Unit on behalf of the Department for Work and Pensions (DWP) has led to the Scottish Government introducing the Council Tax Reduction (CTR) scheme. Unlike the Social Security benefit it replaces, the CTR scheme will be prescribed by Scottish Ministers using powers in the Local Government Finance Act 1992.
- 3.4 The Council Tax Reduction, (Scotland) Regulations 2012 provide for individuals, (upon application) to a reduction in their Council Tax liability if certain criteria are met. Whilst the assessment of this entitlement is broadly the same as that carried out currently for Council Tax Benefit it is important to note that the legislative and funding framework for the new scheme is fundamentally different.
- 3.5 The funding that has been transferred from the DWP to the Scottish Government for 2013/14 will be 10% less than the equivalent 2012/13 Council Tax expenditure. Whilst the Scottish Government in conjunction with CoSLA have agreed to make up this shortfall it will still mean that Scottish Councils will receive a fixed allocation rather than AME funded subsidy.
- 3.6 The similarities to the previous scheme should ensure that Benefits Unit staff should be able to adapt to the administration of the new CTR without too much difficulty. The fact that current Council Tax Benefit claimants should see little or no change financially in their CTR awards in 2013/14 should also mean that the overall change should have a low impact. However the ongoing funding shortfall may mean that the scheme could be subject to further changes in advance of 2014/15.
- 3.7 The major challenges in introducing the CTR scheme will be technical ones. Whilst claimants of the scheme and Officers assessing their claims may experience little change this will rely on the successful implementation and testing of comprehensive software changes prior to Council Tax Annual Billing in February 2013. The main costs associated with this change are software related.
- 3.8 The Scottish Government has offered Scottish Council's £4.156m in respect of the CTR scheme set up costs. At time of writing East Lothian is yet to be advised of its allocated share of this funding however IT Software licence costs for 2013/14 of £38k have already been paid from current budgets to ensure that annual billing could be completed and it is understood that a similar liability in respect of software licence costs for 2014/15 will apply.

Scottish Welfare Fund

- 3.9 For 25 years, the 'Social Fund' has been an important part of the UK welfare system which has financially assisted people dealing with various types of crisis. The Welfare Reform Act 2012 has required The Scottish Government to put in place Social Fund 'successor arrangements' to accommodate the transfer of 2 elements of the fund to local authority control.
- 3.10 In response CoSLA Leaders and the Scottish Government have agreed to implement an interim (2 year) scheme called the Scottish Welfare Fund, (SWF) which will offer grants or support in kind for two purposes
- To provide a safety net in an emergency when there is an immediate threat to health and safety, 'Crisis Grants' (CGs). These grants are intended to meet a one-off need as opposed to on-going expenses.
 - To enable independent living or continued living, preventing the need for institutional care, 'Community Care Grants' (CCGs)
- 3.11 Much of the information required to verify claims and inform Scottish Welfare Grant decisions is accessible via the DWP's Customer Information System, (CIS). The fact that the Benefits Unit contains the only ELC staff group currently able to access CIS and given that these staff are familiar with exercising some discretion whilst administering existing welfare schemes, has contributed to the decision to locate the SWF administration within the Benefits Unit.
- 3.12 On 31 January 2013, the Scottish Government notified Local Authorities regarding their respective funding allocations for set up costs, administration and grant funding. East Lothian Council's allocation is as follows:

Set up Costs	Admin' 2013/14	Admin' 2014/15 *	Crisis Grants	Com' Care Grants
£	£,000	£,000	£,000	£,000
32,906	57.12	52.21	125.757	264.481

Asterix denotes that the figure for 2014/15 is indicative

- 3.13 The appointment of a 'Lead Officer' by CoSLA in June 2012 to help co-ordinate Council's implement the SWF led to the formation of a SWF Practitioner's Group. Aside from facilitating collaboration and sharing of knowledge with other Councils this arrangement has also been instrumental in helping the ELC Welfare Reform Task Group obtain useful statistical information relating to the volumes of claims being made by East Lothian residents to the DWP in respect of Crisis 'Loans' and Community Care Grants.

- 3.14 Projections based on DWP volume figures for 2011/12 indicate the Benefits Unit can expect to deal with 2070 CG claims per year, (40 per week) and 840 CCG claims per year, (16 per week). These figures have informed the Council's SWF funding allocation and form the basis of a separate Staffing Report that recommends establishment of 2 additional posts within the Benefits Unit to ensure that it is sufficiently resourced to deal with the additional work.
- 3.15 The new SWF service will require close integration with the existing Housing Benefit and DWP data already being processed by the Benefits Unit. Given this, it has been decided to implement Capita Software Services, (CSS) hosted solution under a single point procurement arrangement to administer SWF. CSS already supply the Benefits Unit's Housing Benefit System and it is envisaged that the potential for integration between these systems will provide the best option for delivering the service.
- 3.16 The set up and configuration costs for the Capita SWF System have been estimated at £14,000, (over the 2 years of the interim scheme). In addition to this, additional costs will be incurred in setting up appropriate payment methods for making grant awards and in setting up methods of sourcing white goods and other household items necessary for the delivery of the CCG service.
- 3.17 Whilst a small number of paper copies of the SWF claim form will be available it is envisaged that the majority of SWF claims will be initiated via an on-line e-form either by claimants accessing this themselves via the Council's website or by ELC staff assisting claimants face to face in Council offices or over the telephone.
- 3.18 Delivering the SWF awards will require a range of options to be developed and deployed. Whilst all of the grant awards will have a cash value it is envisaged that direct cash payments will be kept to a minimum. As an additional alternative to cash, the Benefits Unit plans to investigate the feasibility of providing vouchers for the supply of specific items such as white goods, food and other essentials and the potential of taking part in bulk purchasing and/or re-use schemes.
- 3.19 Wherever appropriate the Benefits Unit will also endeavour to sign-post CG claimants to other forms of support that the claimants may be entitled to.
- 3.20 A new Scottish Welfare Fund Policy will be developed to ensure that the Fund is administered within an East Lothian context in line with SWF Guidance supplied by the Scottish Government. The development of this Policy will also draw on the Unit's early experience of delivering this new service.

Discretionary Housing Payments

- 3.21 The UK Government has increased the DWP's allocation of Discretionary Housing Payment (DHP) funding to Councils following recent welfare reforms. The UK Government's contribution has increased to support specific groups of people; those affected by the size criteria in the social rented sector, those affected by the benefit cap and those affected by LHA reductions.
- 3.22 The UK Government's contribution to East Lothian Council's DHP funding pot is set to increase from £53,794 (in 2012/13) to £125,982 (in 2013/14). However it should be noted that ELC is set to exceed the Government contribution for 2012/13 by approximately £17,308 and it is envisaged that the increased value for 2013/14 will not be adequate to meet the anticipated, increased level of demand for DHPs following the introduction of the Under Occupancy changes to Housing Benefit.
- 3.23 Whilst the Government contribution for 2013/14 has been set by the DWP, the Council has the ability to provide additional funding for DHP awards from within its own resources. It should be noted that the Council approved additional DHP funding provision for 2013/14 within the Revenues & Benefits budget approved at the council meeting on 12 February 2013.
- 3.24 Recognising the scale of change that can be anticipated, it is necessary to develop a new DHP Policy for introduction on 1 April and a draft DHP Policy is now attached as Appendix 1 for the Council's consideration. This Policy aims to assist Benefit staff in considering DHP claims being made by people facing a wider range of hardship than could previously be considered under DHP guidance. At the time of writing this report, it has not been possible to finalise the policy but to enable implementation from 1 April, members are asked to provide comments upon the draft and delegate authority to the Head of Council Resources in consultation with the Head of Housing and Environment to finalise the policy before implementation date.

4 POLICY IMPLICATIONS

- 4.1 A Scottish Welfare Fund Policy will be developed to facilitate the consistent delivery of Crisis Grants and Community Care Grants elements of the Scottish Welfare Grants Service. Policy development will be informed by the Scottish Government SWF Guidance and will draw on the Benefits Unit's early experience in delivering the service.
- 4.2 A copy of the draft Discretionary Housing Payments, (DHP) Policy is attached for comment and delegated authority is sought to finalise the report in advance of the implementation date. A copy of the final policy will be lodged in the Members Library Service.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 Equalities impact assessments will be completed in respect of both policy documents currently under development.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – CTR set up costs (distribution of £4.156m ‘national’ set up costs to be confirmed by Scottish in Feb 2013). The Council will receive one off set up costs of £32,906 which will be used to establish a software solution for the administration of the SWF service over the 2 year life of the interim scheme, (at a cost of £14,000). Additional costs will be incurred and met from within the SWF budget. ELC budget decision on 12 February approved additional DHP contribution.
- 6.2 Personnel - 2 additional full time equivalent posts, (grade 5) to be created on a 2 year fixed term basis within the Benefit Unit to ensure that it has sufficient staffing resources to deliver the SWF service. The staff costs for these 2 additional posts are expected to be £46,638 per annum which will be met from within the new, approved SWF administration budget.
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Council Tax Reduction Scheme funding documentation
- 7.2 Scottish Welfare Fund Budget Allocation Letter, (31 January 2013)
- 7.3 Draft Discretionary Housing Payments, (DHP) Policy – attached as Appendix 1

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East Lothian Council

DRAFT Discretionary Housing Payment Policy

2013/14

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Introduction

Discretionary Housing Payments (DHPs) provide customers with further financial assistance with their housing costs to alleviate hardship to allow customers time to find alternative solutions to housing issues and/or shortfalls in income. The availability of DHPs will be promoted by the benefits service and the Authority will do everything possible to make it easy for potential beneficiaries of DHPs to apply and assist claimants during the process.

Background

On 2nd July 2001 the DHP scheme was introduced. It granted all local authorities power to make a discretionary award to top up the Housing Benefits (HB) statutory schemes. The legislation governing DHPs can be found in the Discretionary Financial Assistance Regulations 2001 (SI2001/1167) and the subsequent amendment regulations. Until recently, the UK government contribution towards the DHP scheme was £20m per year. LAs are permitted to contribute 2 ½ times the UK government contribution. Following recent welfare reforms, the Government contribution has increased to support specific groups of people, as follows:

- Those affected by the benefit cap
- Those affected by the size criteria in social rented sector
- Those affected by local housing allowance reductions

DHP funding from 2013/14

The total funding within the UK for 2013/14 is £155m. The table below gives details of East Lothian Council's government contribution and overall expenditure limit for Discretionary Housing Payments. Taking into account discussions DWP had with the Local Authority Associations about the distribution formula, it was agreed to target resources according to need. To achieve this aim, the methodology applies a different approach to the four component parts of the total DHP allocation for 2013/14. Although authorities are free to vary between each of the component parts. The table below illustrates the current funding position for East Lothian:

	Government Contribution	East Lothian contribution (TBC)	Total DHP Budget
Baseline Funding	£16,252	£10,320	£26,572

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LHA reforms	£32,503	£20,640	£53,143
Social Size Criteria	£24,441	£15,520	£39,961
Benefit cap	£52,786	£33,520	£86,306
Total	£125,982	£80,000	£205,982

Although the scheme conveys a large degree of discretion, we will take account of the purpose of the increased funding when considering applications for DHPs.

DHPs can cover shortfalls between eligible rental liability and payment of Housing Benefit and help towards housing costs.

Housing costs are not defined in the regulations. In general, housing costs can be interpreted more widely to include rent in advance, deposits or other lump sum costs associated with a housing need such as removal costs.

Consideration should also be given to the impact of recent welfare changes introduced with effect from April 2013.

The main features of the scheme are:

- The scheme is purely discretionary and a claimant does not have a statutory right to a payment
- Every year the Government allocate an amount that can be paid out by each local authority in any financial year. East Lothian Council is able to pay additional money but this must be funded from our own finances
- The administration of the scheme is for the local authority to determine
- DHP is not a payment of HB. However the minimum amount of HB must be in payment in the benefit week that a DHP is awarded for
- It cannot be used to offset overpayment recovery or to cover ineligible service charges

Purpose

The purpose of this policy is to specify how East Lothian Council will operate the scheme from 1st April 2013, to indicate some of the factors that will be considered when deciding if a DHP

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can be made and to provide guidance on periods of awards and repeat claims. Each case will be treated strictly on its merits and all customers will be treated fairly and equally. East Lothian Council is committed to working with the local voluntary sector, social landlords and other interested parties to maximise entitlement to all available state benefits and this will be reflected in the administration of the DHP scheme. The main objectives when considering an award in East Lothian are:

- Alleviating poverty
- Encouraging and sustaining people in employment
- Tenancy sustainment and homeless prevention
- Safeguarding residents in their own homes
- Helping those who are trying to help themselves
- Keeping families together
- Supporting domestic violence victims who are trying to move to a place of safety
- Supporting the vulnerable in the local community
- Helping customers through personal and difficult events
- Supporting young people in the transition to adult life
- Promoting good outcomes for children and young people

Claiming a DHP

A claim for DHP must be made in writing. Anyone enquiring about a DHP (either by phone, in person or correspondence) will be asked to complete a DHP form and their case referred to the Benefit section. The advice, assistance and support will be holistic in nature and consider all options in relation to alleviating the reasons for the DHP application being submitted. Additionally the local authority will be able to work cooperatively with the applicant/claimant in submitting any relevant information needed for the application to be considered. This form will incorporate a standard income and expenditure sheet that has been designed to ensure consistency of information and evidence gathering on financial matters. The council reserves the right to request any supporting evidence it deems to be relevant to the application. If the customer is unable or does not supply the required evidence, the benefits service will still consider the application and will take into account any other available factors. If the customer has no valid reason for failing to supply the required evidence, the DHP will be refused.

Matters for consideration

In considering whether to make a DHP award, the customers' financial situation will be looked at. Some other factors that may be taken into account are:

- The extent of the shortfall, including whether the customer has capital or disregarded income which can be used to meet it, or whether anyone else is able and willing to help meet the shortfall?
- Is the reason for the shortfall due to welfare reform changes?
- Is there a real risk of eviction because of the shortfall, or will the landlord accept a reduced payment?
- If the customer has recently taken up the tenancy, did they make enquiries with the local authority or any other service providers about how much benefit they could be expected to get prior to signing up? Could the recently signed tenancy agreement be considered as affordable in relation to the applicant's income?
- What steps has the customer taken to try to reduce their rental?
- What steps has the customer taken to alleviate the problem?
- Does the customer, or anyone in the household, suffer from a health problem, illness or disability, which means that their choice of housing is restricted?
- Does the customer have other debts to pay, which make meeting the shortfall more difficult?
- DHPs are not to be provided to pay off other debts. The dates the debts were incurred are relevant, particularly where arrangements were entered into when rent is being restricted. Customers should take some responsibility for their level of debt, and the amount they can afford to pay from their income
- If the customer has debts, have they taken advice on how to manage them effectively?
- Does the customer or anyone in the household have any unusual or unusually large expenses which make it harder than normal for them to meet the shortfall?
- Has there been a change of circumstances, which makes it more difficult to meet the shortfall?
- Could the customer reduce other outgoings so that they can meet the shortfall?

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- Is this a repeat request for a DHP? If it is, what steps has the customer taken to try to alleviate the problem since the last application?
- Is the situation short term?
- If the DHP application is successful, what steps does the customer plan to take during the payment period to alleviate their position in preparation for when the payment ends.

Period of award

The benefit service will decide the length of time for which a DHP will be awarded on the basis of the known facts and evidence supplied. The award can be reviewed at regular intervals.

The minimum period of award will be one week, with the maximum of 52 weeks. The start date of a DHP award will usually be:

- The Monday following receipt of the DHP claim, or
- The date on which entitlement to HB commenced (providing the claim is received within one calendar month of the HB decision, or
- The Monday after a relevant change in circumstances giving rise to the need for the DHP

A DHP shall not be awarded for any period for which the customer has no entitlement to HB.

The benefits service may need to revise or revoke a DHP award where the customers' circumstances have materially changed. It is the customers' responsibility to notify the council as soon as any change occurs. Any amendment to the claim will be effective from the date of change.

In exceptional circumstances the benefits service will consider a request for backdating a DHP application. Such backdating will only be considered for a maximum of 3 months or 6 months in line with other benefit legislation for HB.

The Decision

The Benefit service aims to deal with all applications for DHP within 14 days of the claim form and all accompanying information being received.

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Customers will be notified in writing of the outcome and the letter will state the reasons for the decision.

Where the application is successful the notification will advise:

- The weekly amount of the DHP award
- The period of the award
- How, when and to whom the DHP will be paid
- The requirement to report any relevant change

All notifications of decisions on DHP claims will offer the opportunity for the customer to seek review.

The right to seek a review

DHPs are not payments of Housing benefit and are therefore not subject to the statutory appeals.

The benefits service will operate the following policy for dealing with appeals against any decision on a claim for DHP:

- A customer, or person nominated to act on their behalf, who disagrees with a DHP decision may dispute the decision in writing, within one month of the notification letter
- The Benefit Manager will consider the dispute. They will review all of the evidence held and make a decision within 14 days. Their decision will be deemed as final and the customer will only be able to make representations through the councils' corporate complaints procedure, seek a judicial review or by complaint to the Local Government Ombudsman.

Method of payment

The benefit DM will decide the most appropriate person to pay based upon the circumstances of each case. This could include paying:

- The customer
- Their partner
- An appointee

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- Their landlord or agent
- Any third party to whom it might be most appropriate to make payment

We will normally pay an award of DHP by BACS. Payment frequency will normally be made in line with the HB award.

Overpayments

The benefits service will seek to recover any DHP found to be overpaid. Normally this involves issuing an invoice to the customer or the person to whom the award was paid. Recovery may be made from any ongoing DHP entitlement. The overpayment notification letter will also set out the right of review.

Monitoring

All DHPs will be recorded on the benefits service software system (Capita). Total DHP expenditure will be monitored on a monthly basis by the Benefits Team Leader who will ensure expenditure is within budget and correctly profiled throughout the year.

Quarterly reports will be submitted to the Benefits Manager.

A random sample of decisions will be checked for fairness and consistency. All checks will be recorded.

All claims for DHP will be treated equally and fairly in accordance with East Lothian Councils' policies on race, diversity and equality. East Lothian Council will endeavour to ensure that no-one who applies for DHP receives less favourable treatment on the grounds of any irrelevant consideration including age, disability, gender, religious beliefs, marital status, nationality, race or sexual orientation.

Fraud

East Lothian Councils' Benefit Service is committed to prevent any fraud and error, and to investigate and detect any fraud within the system.

A customer who tries to fraudulently claim a DHP by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968. Where East Lothian Councils' Benefit Service suspect that a

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fraud may have occurred, the matter will be investigated, and this may lead to criminal proceedings being instigated.

Review

This policy will be reviewed and revised to take into account any changes in legislation and to improve effectiveness. The effectiveness of this policy will be regularly monitored and results reported to senior officers and Members.

East Lothian Council reserves the right to adjust the way this policy operates from time to time, in all aspects, in the light of experience, prevailing economic climate and national benefit changes.

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