

## Members' Library Service Request Form

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|---------------------------|--|
| Date of Document          | 29/08/13                                   |
| Originator                | John Cunningham                            |
| Originator's Ref (if any) |  |
| Document Title            | Discretionary Housing Payment (DHP) Policy |

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|                      |
|----------------------|
| East Lothian Council |
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Additional information:

Devolved authority given to the Head of Council Resources to approve the draft DHP Policy given at Council Meeting of 26 February 2013. Draft Policy subsequently reviewed 29 August 2013 to include additional Government funding.

|               |                           |
|---------------|---------------------------|
| Authorised By | Jim Lamond                |
| Designation   | Head of Council Resources |
| Date          | 11 September 2013         |

|                      |          |
|----------------------|----------|
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**REPORT TO:** Members' Library Service

**MEETING DATE:**

**BY:** Depute Chief Executive (Resources and People Services)

**SUBJECT:** Discretionary Housing Policy

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## **1 PURPOSE**

- 1.1 To provide members with a copy of the finalised Discretionary Housing Payment, (DHP) Policy.

## **2 RECOMMENDATIONS**

- 2.1 Council notes the content of the finalised DHP Policy.

## **3 BACKGROUND**

- 3.1 At the Council Meeting on 26 February 2013 the Council following consideration of a draft, agreed to delegate authority to the Head of Council Resources to finalise the Discretionary Housing Payment, (DHP) Policy.
- 3.2 The DHP Policy was drafted to inform the decisions taken by the Council's Housing Benefit Service in light of the impact of Welfare Reform changes which were subsequently introduced on 1 April 2013.
- 3.3 The Policy was initially adopted in its draft form to allow the Benefits Unit's early experience of the welfare changes to inform a Policy review and the Combined Impact Assessment which was required by this report.
- 3.4 A revision of the draft Policy took place on 31 July 2013 to take account of lessons learned and additional UK Government DHP finding which was made available to the Council.

#### **4 POLICY IMPLICATIONS**

- 4.1 In accordance with the delegated authority, this revised Discretionary Housing Payment Policy becomes effective with immediate effect.

#### **5 EQUALITIES IMPACT ASSESSMENT**

- 5.1 An Equalities Impact Assessment has been completed and no negative impacts have been found.

#### **6 RESOURCE IMPLICATIONS**

- 6.1 Financial – Revised Government Contribution of £137k plus Council Contribution of £ 80k included in overall DHP Budget of £217k
- 6.2 Personnel - None
- 6.3 Other - None

#### **7 BACKGROUND PAPERS**

- 7.1 Appendix 1 - Approved Discretionary Housing Payment, (DHP) Policy

|                      |                   |
|----------------------|-------------------|
| <b>AUTHOR'S NAME</b> | John Cunningham   |
| <b>DESIGNATION</b>   | Benefits Manager  |
| <b>CONTACT INFO</b>  | 01620827706       |
| <b>DATE</b>          | 11 September 2013 |

Appendix 1

# **East Lothian Council**

## **Discretionary Housing Payment Policy, (Revised 31 July 2013)**

**2013/14**

# Appendix 1

## 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 2<sup>nd</sup> 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 for 2013/14, (revised)

The total funding within the UK for 2013/14 is £155m. The table below gives details of East Lothian Council's 'revised' 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 vire between each of the component parts. The table below illustrates the current funding position for East Lothian following the revised Government contribution of 31<sup>st</sup> July 2013:

## Appendix 1

|                  | Government Contribution | East Lothian contribution | Total DHP Budget |
|------------------|-------------------------|---------------------------|------------------|
| Baseline Funding | £16,252                 | £10,320                   | £26,572          |
| LHA reforms      | £32,503                 | £20,640                   | £53,143          |
| Under Occupancy  | £35,655                 | £15,520                   | £51,175          |
| Benefit cap      | £52,786                 | £33,520                   | £86,306          |
| Total            | £137,196                | £80,000                   | £217,196         |

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

# Appendix 1

## **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 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, (either by the customer or the person nominated to act on their behalf). 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

## Appendix 1

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?



## Appendix 1

- Could the customer reduce other outgoings so that they can meet the shortfall?
- 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.

# Appendix 1

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

## Appendix 1

- 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' policy on equal opportunities. 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 reassignment
- Pregnancy and maternity
- Race
- Religion and Belief
- Sexual Orientation
- Sex

# Appendix 1

## **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 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.

**East Lothian Council**

**Combined Impact Assessment: The Paperwork**

|                            |                                      |
|----------------------------|--------------------------------------|
| <b>Title of Initiative</b> | Discretionary Housing Payment Policy |
| <b>Completion Date</b>     | 6 September 2013                     |
| <b>Contact Person</b>      | John Cunningham,                     |

**Type of Initiative:**

- Policy/Strategy
- Programme/Plan
- Project
- Service
- Function
- Other .....
- New or Proposed
- Changing/Updated
- Review or existing

**1. Briefly describe the policy you are assessing.**

Set out a clear understanding of the purpose of the policy being developed or reviewed, including the context within which it will operate.

Discretionary Housing Payments (DHPs) provide customers already in receipt of Housing Benefit, (HB) with further financial assistance with their housing costs in order to alleviate hardship and allow customers time to find alternative solutions to housing issues and/or shortfalls in income. Consequently the DHP Policy is an important tool in the Council's desired outcome that *'fewer people in East Lothian will experience poverty'*.

The DHP Policy has been drafted to provide guidance for Housing Benefit Decision Makers to ensure a consistent approach to DHP decision making which is in line with the DWP's own guidance on DHP.

**2. What will change as a result of this policy?**

The DHP Policy has been introduced to take account of the changes introduced by the Welfare Reform Act 2012, the broader range of HB claimants that may make a claim as a result of the welfare changes and the increased DHP budget. Having previously been claimed predominantly by private sector claimants in receipt of LHA the welfare changes will generate a higher demand for DHP from claimants renting from the Council and other Registered Social Landlords, (RSLs). This policy provides a framework to allow for decisions to be made in a consistent manner in East Lothian.

### 3. Do I need to undertake a Combined Impact Assessment?

| High Relevance   | Yes/no |
|--|--------|
| The policy is Council wide or public facing  | Yes    |
| The policy has consequences for or affects significant numbers of people                                       | Yes    |
| The policy has potential to make a significant impact on equality  | Yes    |
| The policy has the potential to make a significant impact on the economy and the delivery of economic outcomes | No     |
| The policy is likely to have a significant environmental impact  | No     |
| Low Relevance  |        |
| The policy has consequences for or affects very few people   | N/A    |
| The policy has little relevance to equality  | N/A    |
| The policy has negligible impact on the economy  | N/A    |
| The policy has no/ minimal impact on the environment   | N/A    |
| <b>If you have identified low relevance please give a brief description of your reasoning here.</b>            |        |
|  |        |

If you have answered yes to high relevance above, please proceed to complete the Combined Impact Assessment. If you have identified a low risk, please ask the Head of Service to sign the end of this form and send it to [equalities@eastlothian.gov.uk](mailto:equalities@eastlothian.gov.uk)

4. What information/data/ consultation have you used to inform the policy to date?

The DHP Policy was drafted in accordance with the Department for Work and Pensions, (DWP) Guidance and takes into account the impact of the UK Government’s welfare changes, available information about the numbers of households affected and increased DHP funding. The draft policy was circulated for comment and took account of feedback from; ELC Council Members, Community Housing Service, Adult and Children’s Wellbeing Services, ELC Revenues Service, ELC Welfare Rights, East Lothian Tenants and Resident’s Panel, Local Housing Associations/RSLs, Citizen’s Rights Bureau, (CAB)

**5. How does the policy meet the different needs of groups in the community?**

|  | Comments   |
|--|--|
| <p><b>Equality Groups</b></p> <ul style="list-style-type: none"> <li>• Older people, people in the middle years, young people and children</li> <li>• Women, men and transgender people (includes issues relating to pregnancy and maternity)</li> <li>• Disabled people (includes physical disability, learning disability, sensory impairment, long-term medical conditions, mental health problems)</li> <li>• Minority ethnic people (includes Gypsy/Travellers, non-English speakers)</li> <li>• Refugees and asylum seekers</li> <li>• People with different religions or beliefs (includes people with no religion or belief)</li> <li>• Lesbian, gay, bisexual and heterosexual people</li> <li>• People who are unmarried, married or in a civil partnership</li> </ul> | <p><b>To-date the welfare reform changes have predominantly impacted on ‘working age’ claimants. Whilst this may mean that the Council can expect less DHP applications from people of ‘pension age’ the DHP Policy will be applied equally to all age groups.</b></p> <p><b>Whilst the under occupancy change to Housing Benefits has disadvantaged a number of disabled people the DHP Policy ensures that the decision making process will take health problems, illness or disability into consideration.</b></p> <p><b>The DHP is applied on a case by case basis with the individual circumstances of each case taken into account. This allows informed decisions to be made to support those in most need.</b></p> |

|   |  |
|---|--|
|   |  |
| <p><b>Those vulnerable to falling into poverty</b></p> <ul style="list-style-type: none"> <li>• Unemployed</li> <li>• Single Parents</li> <li>• Pensioners</li> <li>• Looked after children</li> <li>• Those leaving care settings (including children and young people and those with illness)</li> <li>• Homeless people</li> <li>• Carers</li> <li>• Those involved in the criminal justice system</li> <li>• Those living in the most deprived communities (bottom 20% SIMD areas)</li> </ul> | <p><b>Wherever appropriate, the DHP Policy seeks to provide short term/temporary financial assistance for customers already in receipt of HB to alleviate hardship to allow customers time to find alternative solutions to housing issues and/or shortfalls in income.</b></p> <p><b>Given that people in the stated vulnerable categories are more likely to require help with their housing costs, DHP will inevitably be an important element of financial support for the Council to provide.</b></p> |
| <p><b>Geographical communities</b></p> <ul style="list-style-type: none"> <li>• Rural communities</li> <li>• Urban Communities</li> <li>• Coastal communities</li> <li>• Business community</li> </ul>  | <p><b>DHP is an important form of financial assistance enabling people to sustain their existing tenancies within their communities for longer, giving time for alternative solutions to their housing requirements to be established.</b></p>   |

**6. Are there any other factors which will affect the way this policy impacts on the community?**



The DHP fund is cash limited and therefore will not meet the needs of everyone in the East Lothian community suffering detriment as a result of the Welfare Changes. It is important therefore that the DHP Policy be followed to ensure consistent decision making on DHP awards in order that the financial assistance is directed at the most vulnerable customers.

**7. Is any part of this policy/ service to be carried out wholly or partly by contractors?**

**No**

If yes, have you done any work to include equality and human rights considerations into the contract?

**8. Is the policy a qualifying PPS as defined by The Environmental Impact Assessment (Scotland) Act 2005?**

**No**

**9. Please consider how your policy will contribute to the following?**

| Sustainability Objective  | Positive | Neutral | Negative | Comments |
|---|----------|---------|----------|----------|
| <b>Environmental</b>  |          |         |          |          |
| Reduce greenhouse gas (GHG) emissions in East Lothian (including carbon management) |          | Neutral |          |          |
| Plan for future climate change  |          | Neutral |          |          |
| Improve air quality   |          | Neutral |          |          |
| Protect coastal and inland waters   |          | Neutral |          |          |
| Enhance biodiversity  |          | Neutral |          |          |
| Encourage resource efficiency (energy, water, materials and minerals)               |          | Neutral |          |          |
| Minimise waste generation   |          | Neutral |          |          |
| Reduce need to travel / promote sustainable forms of transport                      |          | Neutral |          |          |

|   |   |
|---|---|
| <b>Social</b>                                 |   |
| Improves health and well being                | Positive: since DHP awards have the potential to avert a household's housing crisis therefore helping provide a more stable home environment, (important for health and well being).                            |
| Promotes good relations between groups        | Neutral   |
| Promotes participation and inclusion          | Positive: since DHP applications require a higher level of tenant engagement with ELC services and are already the subject of discussion between ELC, tenant's groups and 3 <sup>rd</sup> sector organisations. |
| Builds family and support networks            | Positive: since anything that helps sustain tenancies underpins family and support networks   |
| Reduces poverty                               | Positive: since DHP is very much about tackling poverty & hardship.   |
| <b>Economic</b>                               |   |
| Helps young people into positive destinations | Positive: since DHP helps support tenancies it is therefore key in helping providing a more stable home environment for young people  |
| Supports local business                       | Neutral   |
| Helps people to access jobs                   | Positive: since DHP helps support tenancies it is therefore key in helping providing a more stable home environment for job seekers   |

### 10. Action Plan

| Identified negative impact | Mitigating circumstances | Mitigating actions | Timeline | Responsible person |
|----------------------------|--------------------------|--------------------|----------|--------------------|
|                            |                          |                    |          |                    |
|                            |                          |                    |          |                    |
|                            |                          |                    |          |                    |

### 11. Sign off by Head of Service

Name     Jim Lamond  
Date     11 September 2013