

CABINET

12 MARCH 2013

DISCRETIONARY HOUSING PAYMENT POLICY

Portfolio Holder: Councillor Alan Jarrett, Deputy Leader and Portfolio Holder for Finance

Report from: Mick Hayward, Chief Finance Officer

Author: Jon Poulson, Revenues & Benefits Manager

Summary

This report seeks to inform Members of the changing nature of discretionary housing payments and to seek their approval of an updated discretionary housing payment policy.

1. Budget and Policy Framework

1.1 Funding of Discretionary Housing Payments (DHPs) is met by the Department of Work and Pensions (DWP) up to a given limit. Local authorities may increase their expenditure up to a maximum of 2.5 times the given limit but the additional cost falls on the General Fund. The DWP contribution for Medway in 2013/14 is £563,046.

2. Background

2.1 In accordance with the Discretionary Financial Assistance Regulations, 2001 DHPs have enabled authorities to help those entitled to Housing Benefit (HB) and Council Tax Benefit (CTB) who, in their opinion, require additional financial assistance with housing costs. In September 2002 the Cabinet confirmed the level of expenditure on DHPs and also approved the guidelines for the award of DHPs.

2.2 In 2012/13 the DWP allocated £60m across all local authorities. In 2013/14 the DWP has increased the funding to £165m to account for the additional pull on DHP for the Welfare Reform changes that affect the new rules relating to the size criteria in the social sector (commonly referred to as the bedroom tax) and benefit capping. Funding will then reduce to £135m for 2014/15.

2.3 From April 2013, although the national funding has increased, DHP can only be awarded to those in receipt of HB or Universal Credit Housing Element (UCHE). This means that as of April 2013 DHP cannot be awarded as a top

up to any shortfall between the council tax liability and the award of local council tax reduction.

- 2.4 The table below shows the recent history of DHPs paid and the estimated expenditure for the current financial year

Year	DWP maximum contribution	DHP awarded	DWP funded	Medway Council funded
2009/10	£62,160	£60,842	£62,160	£0
2010/11	£56,847	£56,888	£56,847	£41
2011/12*	£109,500	£82,505	£82,505	£0
2012/13**	£271,606	£175,000(estimated)	£175,000(estimated)	£0(estimated)
2013/14	£563,046			

* The DWP permitted any unspent funds to be carried forward to 2012/13. This is unlikely to be repeated in future years.

** The DWP contribution is made up of £250,518 in respect of 2012/13 and the £21,088 carried forward from 2011/12.

3. Advice and analysis

- 3.1 There will be an increase in the number of applications for DHPs from the most vulnerable members of society.
- 3.2 DHP funding awards to customers are only designed to be short term and they will therefore, naturally come to an end. They are designed to give the customer time to change their circumstances by, for example, increasing their income by finding work or increasing the number of hours they work, or negotiating a lower rent with the landlord, or move home etc.
- 3.3 The increased number of claimants will, in the main, be those affected by the key welfare reforms including;
- introduction of benefit cap;
 - introduction of size criteria in social rented sector;
 - reductions in local housing allowance.
- 3.4 Early indications are that certain groups such as foster families, carers and the disabled may be affected more by the welfare reforms than by other groups, but this does not necessarily mean that they are any worse off overall than any other groups. As such, some form of financial assessment of the customer's circumstances would give assurance that the funds are being targeted at those most in need.
- 3.5 Were the Council minded to spend in excess of the level of grant it would in effect be taking on financial responsibility for mitigating the effects of the government's welfare reforms.

4. Changes to the existing DHP policy

- 4.1 The DWP issued draft guidance on the DHP scheme in 2012, which recognized the role of local authorities in assisting customers affected by the Welfare Reforms from April 2013. The Council's existing policy has been amended to reflect these changes and can be found at Appendix 1.
- 4.2 The Council has adopted a Diversity Impact Standard to ensure policies and significant projects reflect potential impact on residents due to their racial group, gender, disability, sexual orientation, age and religion. In line with this, the first stage of a Diversity Impact Assessment has been carried out and is attached at Appendix 2. The findings of this indicate the revised policy does not need a full Diversity Impact Assessment.

5. Risk Management

Risk	Description	Action to avoid or mitigate risk
Failure to update scheme	Likelihood D (Low) Impact 2 (Critical) If an updated scheme is not in place the Council will be unable to safeguard vulnerable customers	Revised scheme to be adopted by cabinet prior to 01/04/2013
Effect on workloads	Likelihood C (Significant) Impact 3 (Marginal) The large increase in funding and extent of the welfare reforms will inevitably lead to a large increase in applications for DHPs	Adoption and advertising of clear guidelines to minimise applications likely to fail Adoption of clear procedures for processing applications

6. Financial and legal implications

- 6.1 The budget has been set at the DWP contribution level of £563,046 for 2013/14. Any expenditure over this level would be against the General Fund.
- 6.2 There are no legal implications other than those set out in the report.

7. Recommendations

- 7.1 That Cabinet adopt the revised discretionary housing payment policy at Appendix 1.

8. Suggested reasons for decisions

- 8.1 The Government's welfare reform policy will see the biggest changes to the welfare system for over 60 years. Some recipients of benefit may be affected by one change, whilst others may be affected by multiple changes.
- 8.2 DHPs are a means of protecting our most vulnerable customers from the effects of these changes, and as such it is imperative that the DHP policy is amended to reflect latest developments.

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Background papers

Localised council tax support scheme
<http://democracy.medway.gov.uk/ielssueDetails.aspx?Ild=9616&Opt=3>

Discretionary Housing Payments Policy

Purpose of policy document

This policy has been designed to ensure that any customers making an application for discretionary housing payment (DHP) are treated in a consistent and equitable manner. Medway Council is committed to working with the local voluntary sector, social landlords and other interested parties to maximise entitlement to all available welfare benefits and this will be reflected in the administration of the DHP scheme

This policy has been written to:

- provide a background and set guidelines for the factors to be considered in determining an application
- set out the policy objectives
- set out the process for the application, time period and award and notification of a DHP
- establish an appeals procedure for applicants dissatisfied with a decision
- set out the procedure for reviewing any award and dealing with any overpayment and subsequent recovery of a DHP
- provide guidance in relation to fraudulent activity and general publicity of the DHP scheme
- provide detail regarding the ongoing monitoring of the DHP fund

Background

DHP's were introduced in July 2001. The general provisions for DHP's are contained in Regulation 2 to the Discretionary Financial Assistance Regulations 2001 and are due to be amended to reflect the abolition of council tax benefit and the introduction of Universal Credit (UC)

The regulations currently state that a relevant authority may make payments by way of financial assistance, ("discretionary housing payments") to persons who –

- (a) are entitled to housing benefit¹; and
- (b) appear to such authority to require some further assistance (in addition to the benefit or benefits to which they are entitled) in order to meet housing costs.

It must be noted that although funded by central government the DHP's are not benefit payments and are cash limited.

The local authority (LA) must be satisfied that the customer is in need of further financial assistance with their housing costs. The main features of the scheme are that:

- payment is discretionary; there is no statutory right to a payment
- the amount available to the local authority is cash limited in any financial year by the Secretary of State
- the local authority has discretion in determining how to operate the scheme. This policy document specifies how Medway Council will operate it
- the DHP fund is allocated to each LA at the start of each financial year
- HB must be in payment in the benefit week/s for which the DHP award is made.

¹ Regulation to be amended to include the Housing Element of Universal Credit (UCHE)

Objectives

Medway Council will consider paying a DHP to claimants who meet the qualifying criteria that is set out in this policy. Each application for a DHP will be treated on its own individual merits and all customers will be treated equally and fairly when the scheme is administered. Medway Council will, through this policy, seek to:

- alleviate poverty
- support vulnerable young people in the transition to adult life
- encourage and Medway residents to obtain and remain in employment
- safeguard Medway residents in their homes and prevent homelessness
- help those who are trying to help themselves
- keep families together
- support the vulnerable in the local community
- help claimants through personal crises and difficult events

Medway Council considers that the DHP scheme should be seen as a short-term payment in the majority of cases. However, it recognises there may be exceptional circumstances which necessitate a longer award. No award will be made for a period in excess of the fund period. Medway Council considers that DHP should not be used as a safety net to provide for inadequacies or gaps in the Housing Benefit (HB) or Universal Credit (UC) schemes.

Claiming a DHP

A claim for a DHP must be made in writing and signed by the claimant. All letters telling claimants of our decisions about how much HB we will pay them will also tell them about their ability to apply for a DHP. It will be normal practice for claimants to complete a Medway Council DHP claim form which will be issued to them on request and available on the council's website. When these forms are returned to Medway Council, they will be processed within 10 working days or as soon as possible thereafter.

- Where necessary, Medway Council can request reasonable evidence in support of an application for a DHP. These requests will be made in writing and the claimant will have one month in which to supply the evidence; this period can be extended in appropriate circumstances.
- Medway Council reserves the right to verify any information and evidence provided by the claimant where it is reasonable to do so.
- If claimants are unable or unwilling to provide the required evidence, Medway Council will still consider the application taking account of what evidence is available including that held on the claimants' personal benefit files.

Period of award

In all cases, Medway Council will decide the length of time for which a DHP will be awarded on the basis of the evidence supplied and the known facts.

A DHP award will normally start from:

- the Monday following the day on which a fully completed DHP claim form was received by Medway Council or,

- the date on which entitlement to HB/Universal Credit Housing Element (UCHE) started, providing the claim for a DHP was received within one month of the date on which the HB/UCHE claim was decided.
- any other date which is seen to be reasonable, based on the evidence presented to the council

A DHP cannot be awarded for any period that is outside an existing benefit period granted under the HB/UCHE schemes.

Medway Council will not normally award a DHP for a period exceeding 12 months.

Medway Council will consider any reasonable request to backdate a DHP but such consideration will be limited to the relevant claim periods and be subject to the claimant showing good cause for not applying for a DHP earlier.

Awards of DHP

When deciding whether or not to award a DHP, Medway Council will take account of:

- the shortfall between HB/UCHE and the rental (net of any ineligible charges)
- any steps taken by the customer to reduce their rental or council tax liability
- 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 debt of the claimant and family
- any exceptional circumstances of the claimant or family members
- any special reasons which make it necessary or especially desirable for the claimant to occupy the dwelling in respect of which the liability arises
- the probable 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
- discriminatory impact of legislation (for example restrictions on the rent and applicable amount of younger single claimants or in regard to children with severe disabilities)
- 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, for example the pressure on priority homeless accommodation
- any other special circumstances brought to Medway Council's attention.

Medway Council will decide how much DHP to award based on all of the circumstances. The award of a DHP does not guarantee that a further award will be made at a later date even if the claimant's circumstances have not changed.

Payment of DHP's

As far as possible, Medway Council will pay a DHP to the person to whom the HB/UCHE entitlement is normally paid. However, Medway Council will look at the circumstances of each case to decide the most appropriate person to pay.

DHP's will normally be paid by the same payment method that is used to pay the HB entitlement. However, Medway Council will look at the circumstances of each case to decide the most appropriate payment method to use.

The frequency for paying DHP's will normally be in line with that used to pay HB entitlement.

Notification

Medway Council will tell the claimant in writing of the outcome of their application within 10 working days of receiving it or as soon as practical thereafter.

Where the application is unsuccessful, the notification letter will set out the reasons why. Where the application is successful, the letter will set out:

- the weekly amount of DHP awarded
- whether it is paid in arrear or in advance
- how long the DHP will be paid for
- how, when and to whom the DHP will be paid
- the requirement to tell Medway Council about a change in circumstances

All DHP notification letters will tell the claimants about their right to ask for a review of the decision that has been made.

Right to Seek a Review

DHP's are not payments of HB/UCHE and, therefore, are not subject to the statutory appeals mechanism. Whenever a claimant wishes to dispute the decision that has been made about an application for a DHP, the following procedure will be followed:

- the claimant or appointed representative will write to Medway Council to ask for the decision to be looked at again. The letter must be received by Medway Council within one month of the date the original decision letter was sent to the claimant and must contain reasons why the decision is disputed.
- where appropriate, an independent appeals officer from Medway Revenues and Benefits Service will review and explain the DHP decision to the claimant and will try to resolve the matter in conjunction with the Revenues and Benefits Manager
- where agreement cannot be reached, the request for review will be referred to the Chief Finance Officer who will make a final decision on the matter
- Medway Council will provide the Chief Finance Officer with any case documentation that is relevant to the original decision and will give access to the staff who made that decision
- The review will be completed within 10 working days of the request being referred to the Chief Finance Officer or as soon as practical thereafter.
- The Chief Finance Officer will write to the claimant or appointed representative to tell him/her about the review and the decision that has been made. This notification letter will give detailed reasons about the decision that has been made by the reviewer.

In exceptional circumstances, Medway Council or the Assistant Director may accept late applications for DHP decisions to be reviewed.

Changes of Circumstance

Medway Council may revise an award, either increasing or decreasing the DHP, if the customer's circumstances change.

Overpayments

Medway Council will seek to recover all overpaid DHP's. Normally this will involve issuing an invoice to the claimant or the person to whom the DHP was paid. Overpaid DHP will not be recovered from HB unless the claimant specifically requests this in writing.

Investigation into Fraud

Medway Council is committed to fight fraud in all its forms. Anyone who tries to fraudulently claim a DHP by falsely declaring their circumstances or providing a false statement or evidence in support of an application may have committed an offence. Where Medway Council suspects such a fraud has occurred, the matter will be investigated and this could lead to criminal proceedings being instigated.

Publicising DHP

The availability of the scheme, together with a copy of this policy document, is publicised on the council's internet and on letters advising customers about their housing benefit awards.

The Benefits Service is committed to working with other departments within the council and the wider community such as the voluntary sector and social landlords to provide an inclusive approach to addressing financial difficulties

Monitoring

All payments of DHP are recorded as part of the relevant claim on the council's computer system. Total DHP expenditure will be monitored on an ongoing monthly basis and is reported as part of the revenues monthly report.

Details will be recorded; to

- monitor the reasons for the awards (for example due to under occupation changes, benefits capping, wider welfare reforms or any other reason).
- enable ongoing monitoring to ensure consistency of application
- highlight possible inequalities, investigate their underlying causes and remove any unfairness or disadvantage in the DHP process.
- to check that the total expenditure will not exceed the budget prescribed by the DWP

Diversity Impact Assessment: Screening Form

Directorate BSD	Name of Function or Policy or Major Service Change Discretionary Relief for Council Tax		
Officer responsible for assessment	Date of assessment	New or existing?	
Jon Poulson	20 February 2013	New	
Defining what is being assessed			
1. Briefly describe the purpose and objectives	The Discretionary Financial Assistance Regulations, 2001 have enabled authorities to help those entitled to Housing Benefit (HB) and Council Tax Benefit (CTB) who in their opinion, require additional financial assistance with housing costs through discretionary housing payments (DHPs). With a number of welfare reforms being implemented from 1 April 2013 and consequential changes to the regulations, a revised policy is needed for making DHPs.		
2. Who is intended to benefit, and in what way?	All recipients of housing benefit or Universal Credit housing element could potentially qualify including all those that have one or more of the protected characteristics listed below.		
3. What outcomes are wanted?	The prevention of financial hardship arising from housing costs.		
4. What factors/forces could contribute/detract from the outcomes?	Contribute Communicating discount & exemption options effectively Ensuring accurate assessment of liability	Detract People not being aware of options available to them Insufficient funding	
5. Who are the main stakeholders?	Housing benefit recipients (approx 20,000 claimants)		
6. Who implements this and who is responsible?	Medway Revenues & Benefits Service – Jon Poulson, Revenues & Benefits Contract Manager		
Assessing impact			
7. Are there concerns that there could be a differential impact due to racial/ethnic groups?	YES	The benefit recipients fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt	
	NO		
What evidence exists for this?			

8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i>?	YES	The benefit recipients fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt
	NO	
What evidence exists for this?		
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i>?	YES	The benefit recipients fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt
	NO	
What evidence exists for this?		
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i>?	YES	The benefit recipients fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt
	NO	
What evidence exists for this?		
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i>?	YES	The benefit recipients fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt
	NO	
What evidence exists for this?		
12. Are there concerns there <u>could</u> be a differential impact due to people's <i>age</i>?	YES	The benefit recipients fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt
	NO	
What evidence exists for this?		
13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i>?	YES	The benefit recipients fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt
	NO	
What evidence exists for this?		
14. Are there any <i>other</i> groups that would find it difficult to access/make use of the function (e.g. speakers	YES	The benefit recipients fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability

of other languages; people with caring responsibilities or dependants; those with an offending past; or people living in rural areas)?	NO	to negate a debt
What evidence exists for this?		
15. Are there concerns there <u>could</u> be a have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?	YES	The benefit recipients fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt
	NO	
What evidence exists for this?		

Conclusions & recommendation

16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	YES	Brief statement of main issue
	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	YES	Please explain
	NO	
Recommendation to proceed to a full impact assessment?		
NO	This function/ policy/ service change complies with the requirements of the legislation and there is evidence to show this is the case.	
NO, BUT ...	What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)?	Monitoring applications and awards to ensure that these are reflective of benefit recipients as a whole.
YES	Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)	