

Report to: Cabinet



Date of Meeting 3 November 2021

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Review date for release NA

Discretionary Housing Payments Policy

Report summary:

This report advises of necessary changes made to the Discretionary Housing Payment (DHP) Policy (appendix 1). The report details the changes made in order for DHPs to be used to meet the aims of the Poverty strategy and Poverty Action plan.

Following the motion to Council on 20 October 2021 (regarding the impact the £20 cut in Universal Credit (UC) will have), I'm aware that Members are keen to better understand what financial support we have available for low income households who are struggling to afford day to day essentials. DHP's is one of a number of different funds the Council has available in order to provide extra financial support for low income households. In this instance DHPs can be used to help with shortfalls in rent for those claiming Housing Benefit or UC housing costs – see main report.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. That Cabinet recommends the approval of the updated Discretionary Housing Payment policy to senior officers.

Reason for recommendation:

This report sets out the reasons for the updates made to the DHP policy. The policy changes made take into account the Council's Poverty Strategy and Poverty action plan. The changes also take into account the work being carried out by the Financial Resilience team and the wider work with partner agencies, including those in the voluntary sector.

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance

- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information [Discretionary Housing Payment policy - East Devon](#), [Our poverty reduction strategy overview - East Devon](#), [Department for Works and Pensions Discretionary Housing Payments Guidance Manual](#)

Link to [Statement of Intent](#)

Priorities (check which apply)

- Better Homes and Communities for all
- Greener East Devon
- A resilient Economy
- Services that matter

Report in full

1. Background

- 1.1. Discretionary Housing Payment (DHP) is a means of providing extra financial support towards housing costs if a resident has a liability to pay rent, is in receipt of Housing Benefit or Universal Credit Housing Costs.
- 1.2. Funding for DHP is given by central government each financial year with Local Authorities able to top up government funds by an additional 150%. Any unspent government contribution at the end of the financial year must be returned to the Department for Works and Pension.
- 1.3. Spend of the DHP fund over recent years has consistently been over the amount of the government contribution and based on current spend this is set to be the case for financial year 2021/2022.

Financial Year	Government Contribution	Total Spend	Cost to EDDC
2021 - 2022	£211,157.00	£96,736.98 as at 11.10.21	
2020 - 2021	£279,520.00	£285,103.33	£5,583.33
2019 - 2020	£177,988.00	£183,206.00	£5,218.00

- 1.4. Whilst decisions are discretionary we are required to take into account the Department for Works and Pensions DHP guidance manual and we also look at best practice surrounding the use of discretionary funds.
- 1.5. The DHP policy was last reviewed in 2016 and focussed on supporting residents who were experiencing financial difficulties to access extra funds to help with payment of rental liabilities.
- 1.6. The current DHP policy is already wide enough to take into account a lot of different situations and allows for each resident's case to be looked at based on its own merits. There is also the potential within the existing policy to allow for exceptional situations that would not normally allow for a DHP to be paid. Now we have Financial Resilience Officers in post we are able to dedicate time to get a better wider understanding of a resident's

whole situation. Following the Council's adoption of the Poverty Reduction Strategy the changes allows us to focus on solving the root causes of poverty and reflect that we now use the DHP funding as a tool to achieve this. (Appendix 1)

2. The main changes to Policy

- 2.1 The work of the Financial Resilience team means that there is a fundamental shift in approach to DHP fund use from one where we only make a payment whilst the resident seeks to improve their own situation, to one where we seek to identify and help solve the underlying issue/s causing the financial hardship and poverty.
- 2.2 To solve the root causes of poverty we need to work with other partners both internally and externally through a referral process.
- 2.3 To make it more clear that the DHP fund, along with other discretionary funds such as the Exceptional Hardship fund for Council Tax and the Hardship fund for help with emergency support, are now being used as a tool to help achieve the aims of the Poverty strategy, rather than a set amount of money that is administered in isolation within the Benefits team.

3. Feedback from partner agencies

- 3.1 As part of updating our DHP policy we have consulted with Citizens Advice East Devon, some of our partner Housing Associations and East Devon's Housing Department, as we recognise the importance of their feedback in helping to ensure that our policy is reflective of local issues and needs. Their feedback showed agreement of the changes to the policy. None felt anything was missing, nor were there any amendments to make.

4. Overall

- 4.1. The changes to the policy give more focus to the Poverty Strategy and Poverty Action plan and the work of the Financial Resilience Team.
- 4.2. Updates build in the commitment of the Financial Resilience team and the Benefits team to working with partner agencies.

Financial implications:

EDDC cost element as outlined in the report is contained within existing budget provision.

Legal implications:

Section 69 of the Child Support, Pensions and Social Security Act 2000 and regulations made thereunder give the Council power to make discretionary housing payments to persons who are entitled to housing benefit, council tax benefit or those on universal credit. The fundamental premise and procedural requirements in applying the policy have not altered since this matter was previously reported in 2016. The reasons for amending the policy and the scope of the changes are identified in the report and the revised policy appears to be legally compliant. While it is considered that the changes to the policy are relatively minor, so as not to necessitate an equalities impact assessment, it should be remembered that the public sector equality duty in section 149 of the Equality Act 2010 requires the Council to have due regard to the need to (in relation to nine protected characteristics of age, race/ethnicity, religion/belief and sexual orientation, disability, gender re-assignment, pregnancy/maternity and marriage/civil partnership) (i) Eliminate discrimination, victimisation and harassment, (ii) Advance equality of opportunity and (iii) Foster good relations between people. In considering whether to approve the revised policy members should consider this duty.



Discretionary Housing Payments (DHP) Policy

Issue details	
Title:	Discretionary Housing Payments (DHP) Policy
Version number	Version 2.0
Officer responsible:	Libby Jarrett, Service Lead – Revenues, Benefits, Customer Services & Corporate Fraud
Authorisation by:	Cabinet/Senior Officer
Authorisation date:	03 November 2021

History of most recent Policy Changes – Must be completed			
Date	Section	Change	Origin of change (eg change in legislation)
27/07/2016	Whole Document	Updated to replace the Discretionary Housing Payment (DHP) policy which was adopted in 2013.	Due for review
03/11/2021	Whole Document	Updated to replace the Discretionary Housing Payment (DHP) policy which was adopted in 2016 and to take into account adoption of the Poverty Strategy	Due for review

Discretionary Housing Payment (DHP) Policy

East Devon District Council

1 Previous Policies/Strategies

- 1.1 This Policy updates and replaces the Discretionary Housing Payment (DHP) Policy which was adopted in July 2016

2 What is the council's policy?

- 2.1 The DHP scheme has been in operation since 2nd July 2001 to provide additional help to tenants facing a shortfall in their Housing Benefit (HB) and housing costs who are facing exceptional hardship such as debt issues and need some additional financial assistance for a period of time. The scheme also includes support for moving costs, including rent deposits and rent in advance. From November 2015 this scheme includes help for customers receiving Housing Costs within their Universal Credit (UC).
- 2.2 This Policy is intended to ensure that DHPs contribute to the Council's aims and objectives for the development of the East Devon area promote social and financial inclusion, support the work of the Poverty Panel and to work towards achieving the aims of the Council's poverty Strategy.
- 2.3 There have been a number of significant welfare reforms in recent years which have impacted our customer's ability to meet their rent payments in full. DHPs can be used to provide support to customers affected by these key welfare reforms. Examples of some of these reforms include:
- The introduction and subsequent reduction of the Benefit Cap.
 - Size restrictions for customers living in social rented sector accommodation.
 - The introduction of the shared accommodation rate for single customers under 35 years of age.
 - The change to uprating Local Housing Allowance since 2013/14 by the Consumer Price Index (CPI) and by varying percentages and freezing of rates until April 2020 when rates were increased to the 30 percentile of local rents
 - The Localisation of Council Tax Support - There is a separate Exceptional Hardship Fund Policy which deals with additional help for Council Tax Support customers.
 - The introduction of Universal Credit (UC) which replaces Housing Benefit, Jobseekers Allowance, Employment and Support Allowance, Income Support, Working Tax Credit and Child Tax Credit into one monthly payment.
- 2.4 We need to manage the expectations of customers and welfare agencies successfully as DHP's will not be able to meet the full shortfall for all customers experiencing financial hardship.
- 2.5 Councils are given a grant each year from the Department for Work and Pensions (DWP) to use for DHP awards. The Council can however, spend up to a maximum of two and a half times the amount of the DWP's DHP grant. Any sum paid above the DWP grant level will be paid from EDDC's General Fund, any unspent grant at the end of the financial year must be returned to the DWP.

- 2.6 DHP's are discretionary and it is up to East Devon District Council to determine how to operate any such scheme. There is no statutory right to a payment of DHP and the Council must be satisfied that a customer is genuinely in need of further financial assistance with their housing costs to prevent exceptional hardship.
- 2.7 Each application will be considered on an individual basis with all customers being treated equally and fairly. All payments will be made in line with our Housing Benefit purpose statement, i.e. to pay the right person, the right amount at the right time.
- 2.8 DHP's cannot cover:
- Ineligible service charges. Service charges which are not eligible for HB or UC cannot be covered by DHP;
 - Increases in rent due to outstanding rent arrears;
 - Sanctions and reductions in benefit from Jobcentre Plus;
 - Benefit suspensions; and
 - Shortfalls caused by HB overpayment recovery.

3 DHP Administration

- 3.1 We will consider each application in line with the Council's corporate aims and objectives, and seek to:
- alleviate poverty;
 - safeguard residents in their own homes;
 - sustain tenancies and help prevent homelessness;
 - help customers through personal crisis and difficult events over which they have no control;
 - keep families together;
 - support vulnerable or elderly customers in the local community;
 - help those who are trying to help themselves;
 - encourage residents to obtain and sustain employment;
 - support vulnerable young people, such as those leaving care, in the transition to adult life;
 - help customers to move to affordable accommodation which they can maintain without the need for ongoing DHP awards;
 - signpost residents seeking advice and guidance about money advice and debt;
 - Refer residents to partner agencies who can help address the underlying issue/s contributing to the root cause of poverty to help them towards obtaining future financial resilience;
 - support the work of foster carers; and
 - support disabled people to remain in adapted properties
- 3.2 The Revenues and Benefits service is committed to working with other Council services and the wider community on Financial Resilience work such as Housing Services, landlords and the voluntary sector, to provide an inclusive approach to addressing financial difficulties. We will deal with claims for DHP in a professional and fair manner that shows respect for customers, members of staff and anyone else involved in the process.
- 3.3 The spirit of the DHP scheme is:
- To offer short-term emergency assistance to enable tenants to take the appropriate actions to change their personal situation.

- To offer longer-term support, for example, if a resident who has a disability and has had substantial adaptations to their home and where it may not be considered reasonable to expect them to move in the short-term.
- To offer help with costs associated with moving to an affordable and sustainable tenancy, removing the dependence on future DHP awards and other discretionary awards

3.4 Some examples of when we may give temporary help via the DHP Fund are:

- reductions in HB or UC where the benefit cap has been applied;
- reductions in HB or UC for under-occupation in the social rented sector especially in the following cases:
 - a) where disabled people are living in significantly adapted accommodation (including any adaptations made for disabled children) ; and
 - b) Foster carers, whose Housing Benefit is reduced because of a bedroom being used by, or kept free for foster children.
- reductions in HB or UC as a result of LHA restrictions;
- rent shortfall to prevent a household becoming homeless whilst Housing Options explore alternative options with the resident;
- rent officer restrictions such as local reference rent or shared accommodation rate;
- non-dependant deductions;
- reductions due to income tapers;
- a customer experiences unexpected changes in their income/expenditure which they have no control over but are still tied into the terms of their current tenancy;
- when someone is treated as temporarily absent from their main home, for example because of domestic violence and they have a liability to pay rent on two homes which is not being met in full by HB or UC;
- to help a customer to move into work after a period of unemployment;
- families where a disabled child who requires an additional bedroom but is not receiving the middle or highest rate of Disability Living Allowance;
- if benefit is less than the full rent because a customer's disability or vulnerability makes it hard for them to move to cheaper accommodation;
- a person has moved to cheaper accommodation and there is an unavoidable overlap in rent costs;
- people affected by domestic violence who remain in a property which has been adapted under a sanctuary scheme;
- families expecting a first child where housing allocation has been made on this basis;
- approved or prospective adoptive parents who are required to have a bedroom for an adopted child;
- people approaching pension age, where work is not a realistic option;
- parents needing an additional room under child access arrangements where alternative housing options, including options in the private sector, are not appropriate; and
- to help a customer move into more affordable accommodation by paying the deposit for the new property, rent in advance and other lump sum costs associated with a housing need such as removal costs.

The above list is not exhaustive.

3.5 Rent deposits, rent in advance and moving costs

- 3.6 DHPs can be awarded for a rent deposit and/or rent in advance for a property that the customer is yet to move into as long as they are already entitled to HB or UC at their present home. The award will help a resident move into more affordable accommodation by paying

the deposit for the new property, rent in advance and also other lump sum costs associated with a housing need, such as removal costs. These payments will be considered in conjunction with other funding available for example from rent deposit bonds and charitable payments which the customer may be eligible to receive.

3.7 When awarding DHP's for a rent deposit or rent in advance or assisting with removal costs we will ensure that:

- the new property is affordable for the tenant; and
- the tenant has a valid reason to move; and
- the deposit or rent in advance is reasonable.

3.8 We will also establish with the customer whether they:

- are due to have a deposit or rent in advance in respect of their existing tenancy returned to them; or
- have received assistance from another department within EDDC towards a rent deposit (such as a rent deposit guarantee scheme or similar)

3.9 Applying for a DHP

3.10 Customers can apply for a DHP by:

- completing an application form on our website
- telephoning the Council
- emailing the Council
- writing to the Council
- visiting the Council offices, outreach surgeries or at a visit to the customer's home.

It is particularly important that the most vulnerable residents know how to apply.

3.11 The Revenues and Benefits Service may request evidence in support of the application and reserves the right to verify any information or evidence provided by the resident.

3.12 In deciding whether to award a DHP, we will take into account the following criteria:

- Whether the resident has already accessed or is engaging for assistance with budgeting and financial/debt management advice. A DHP award may not be made until the customer has accepted assistance either from the Council's Financial Resilience Team or a third party, such as Citizens Advice or similar organisations, to enable them to manage their finances more effectively;
- the shortfall between HB or UC and the actual housing costs;
- any steps taken by the resident to reduce their rental liability;
- household income, including type and amount and expenditure, and also including savings and capital;
- household expenditure will be considered on a case by case basis;
- income from disability-related benefits such as Disability Living Allowance and Personal Independence Payment are considered on a case by case basis, looking at the purpose of the benefits and whether the money from those benefits have been committed to other liabilities associated with disability;
- unavoidable costs such as fares to work for people who have had to move as a result of welfare reforms;
- regular debt repayments;
- exceptional circumstances (including ill health and disability);

- the possible impact on the Council of not making such an award, e.g. the pressure on priority homeless accommodation;
- the period that the customer anticipates the DHP will be needed for; and
- any other special circumstances brought to the attention of the Council.

3.14 Applications for DHP's will normally be subject to an income and expenditure review. DHP's will **not** normally be considered where:

- Suitable alternative and more affordable housing is an option. This will include accommodation in the private rented sector. The issue of whether the accommodation is suitable will take into account whether it is reasonable to expect the tenant to move, having regard to the impacts on health and schooling where children are present;
- Alternative income sources are available. This will include unclaimed benefits and tax credits, income from other adults living in the household and savings over an agreed level;

3.15 We will work with the Housing Options Team and other partners including those in the voluntary sector in order to address wider support issues. For example, customers may need help to reduce household running costs and expenditure which will then remove the reliance on DHP's.

In all cases we will look carefully at a customer's circumstances before coming to a decision.

3.16 A DHP award may be made based upon conditionality. This may include, amongst other things:

- a) engaging with money/debt advice assistance;
- b) actively engaging in Devon Home Choice and accepting accommodation which the resident has been successful in bidding for; and
- c) in the case of benefit cap cases engaging with Jobcentre Plus in order to secure employment of 24+ hours per week;

3.17 No award can be made past the end of the financial year in which the award starts. In general, short term awards may be appropriate if a resident needs time to sort out their financial circumstances; longer term awards may be appropriate, depending on the resident's circumstances and the likelihood of change.

3.18 The level of DHP award

3.19 In cases where a DHP is awarded due to a rent shortfall between housing benefit paid and rent due, the level of DHP awarded will not exceed the weekly or monthly eligible rent on the home. This includes the maximum amount of housing costs within UC towards a rental liability.

3.20 The UC award is made up of various elements such as personal, child and housing costs; however the final award consists of one monthly payment. If the customer is in receipt of a housing element within their UC, then the maximum DHP we can pay is the shortfall between the UC and the eligible rent.

3.21 For lump sum payments such as deposits or rent in advance the weekly limit does not apply.

3.22 Length of payments

- 3.23 There is no limit to the length of time over which a DHP may be made. A time-limited award may be appropriate when an impending change of circumstances will result in an increase in HB or UC. The start and end dates of an award are decided on a case by case basis.
- 3.24 In the case of long term awards these can only be awarded for a financial year at a time. At the start of the financial year, we will review the resident's circumstances at the same time as looking at renewing the award.
- 3.25 Backdating a DHP**
There are no restrictions on the length of backdating period (apart from any date prior to 2nd July 2001).
- 3.26 A backdated DHP award can only be made for a period where the linked HB or UC is payable.
- 3.27 Examples of where we may consider a backdated DHP award where:
- A customer is subject to a rent shortfall due to welfare reforms has accrued rent arrears during the transition period between a reduction in benefit and moving into employment.
 - A customer has accrued rent arrears as a result of welfare reforms and the customer wants to move to more affordable accommodation, but the landlord is preventing this due to these arrears.
- 3.28 Notifying our decision**
- 3.29 We will aim to make a decision about awarding a DHP within 14 days of receiving all the information required.
- 3.30 We will tell all residents the outcome of their application for DHP, whether successful or not, and let them know:
- the reason for the decision;
 - that they can ask us to look at our decision again;
 - that they have the right to take the application to a judicial review.
- 3.31 For successful applications, our letters will include the following information;
- the amount of the award;
 - the period of the award;
 - the need to notify of any changes in circumstances;
 - advice that we cannot guarantee any future applications for help will be successful, even if circumstances have not changed because DHP is cash limited and the threshold set by Government cannot be exceeded.
- 3.32 The Revenues and Benefits Service will decide on the most appropriate person to pay DHP to depending on the circumstances of each case. Payments of DHP will be made in line with the frequency of Housing Benefit payments.
- 3.33 Appeals**
- 3.34 Residents have no statutory right of appeal against DHP decisions because DHP's are not payments of benefit and therefore cannot be appealed to the HB tribunal.

- 3.35 If a resident (or their appointee or agent) disagrees with a DHP decision we will review it. The review will always be undertaken by someone other than the original officer to ensure a fair review and in order to mitigate the risk of legal challenge or allegation of maladministration.
- 3.36 If a resident's application has been reviewed and they are still not happy with the outcome they can:
- seek a Judicial Review;
 - make a complaint in accordance with the Council's complaint Policy, which explains how it can be escalated to the Ombudsman.

3.37 Change of circumstances and overpaid DHP

- 3.38 The Revenues and Benefits Service may revise an award of DHP where the resident's circumstances have changed, which either increases or reduces their HB or UC entitlement. Awards of DHP may also be revised when there is no change to the amount of HB or UC.
- 3.39 We cannot recover overpaid DHPs from ongoing Housing Benefit because they are not benefit awards. We can recover DHP overpayments by issuing an invoice to the person to whom the DHP payment was made.
- 3.40 Overpayments will be recovered in-line with the Council's Corporate Debt Policy.
- 3.41 East Devon District Council is committed to fighting fraud and therefore we will always aim to investigate any DHP applications which are suspected of being fraudulent. Submitting a fraudulent claim for DHP is a criminal offence and offenders may be prosecuted.

3.42 Publicity

- 3.43 We will raise awareness of DHPs in a wide variety of ways including:
- using the Council's website;
 - leaflets;
 - in letters advising customers about their Housing Benefit awards;
 - when customers come to us to discuss a claim;
 - by working closely with our Housing Team;
 - by making landlords and Social Services aware of the scheme;
 - by involving key voluntary sector organisations such as Citizens Advice, Homemaker etc.
- 3.44 This will promote the overall aim of linking the scheme to the council's vision.

3.45 Responsibility for administration of DHPs

The Revenues and Benefits Service are responsible for administering, determining and awarding DHPs.

- 3.46 The Service Lead for Revenues, Benefits, Customer Services & Corporate Fraud will monitor the overall budget expenditure.
- 3.47 In order to monitor and manage the DHP budget effectively and fulfil its duty to act fairly, reasonably and consistently we will record the following:
- amounts awarded;
 - reason for the award;
 - duration of the award;
 - resident's characteristics.

4. Appendices and other relevant information

Links related Policies/Strategies, Procedures and Legislation

4.1 Related Policies:

- Corporate Strategy
- Homeless Strategy 2019-2023
- Homes and Communities Plan 2017 - 2020
- Corporate Debt Policy 2021 - 2026
- Poverty Strategy 2021

4.2 Legislation:

- Section 69-70 of The Child Support, Pensions and Social Security Act 2000.
- The Discretionary Financial Assistance Regulations 2001
- Article 7 of The Discretionary Housing Payment (Grants) Order 2001
- Schedule 1 to the Housing Benefit Regulations 2006 and Schedule 1 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006
- Regulation 11(3) of the Housing Benefit Regulations 2006 and Regulation 11(2) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006
- The Human Rights Act 1998
- Data Protection Act 1998

Data Protection

Along with details of personal circumstances a personal income and expenditure form will be collected, and evidence of this could be required so that assessment to entitlement can be made. This data will be stored and used in line with the [Council's Data Protection Policy](#) and the [Administration of Benefits Privacy notice](#).

Policy consultation

Consultation of this policy has been undertaken with stakeholders such as Citizens Advice East Devon, Housing Associations and East Devon's Housing Department.

Policy review

The Service Lead for Revenues, Benefits, Customer Services & Corporate Fraud is the responsible officer for this policy. It will be reviewed in 2026, or earlier if required due to changes in legislation or guidance.