

ISLE OF ANGLESEY COUNTY COUNCIL

REPORT TO:	EXECUTIVE COMMITTEE		
DATE:	18 MARCH 2013		
SUBJECT:	ADOPTION OF A LOCAL DISCRETIONARY HOUSING PAYMENTS POLICY SCHEME		
PORTFOLIO HOLDER(S):	COUNCILLOR JOHN CHORLTON		
LEAD OFFICER(S):	HEAD OF SERVICE (FINANCE)		
CONTACT OFFICER:	GERAINT JONES	(ext.2651)	

Nature and reason for reporting

To approve a revised Local Discretionary Housing Policy (DHP) Scheme effective from 1st April 2013, taking into account the welfare reforms. It is a revision to a policy approved by the Executive and requires Executive endorsement.

A - Introduction / Background / Issues

This revision to a DHP policy previously approved by the Executive takes account of changes to the benefits system by the UK Government, such as the abolition of Council Tax Benefit, recent Local Housing Allowance (LHA) changes in the private sector, the “bedroom tax” in the social sector and future introduction of Universal Credit.

DHP’s provide claimants with *‘further financial assistance’* to meet their housing costs in addition to any other welfare benefits they receive, where the Local Authority considers that such additional help is necessary.

The Department for Work and Pension (DWP)’s annual funding for DHP was £20m up to April 2011. To help local authorities manage the impact of the housing benefit reforms announced in the June 2010 budget, DHP funding was increased to £30m in 2011/12 and up to £60m annually for 2012/13 and for the remainder of the Spending Review period (i.e. until 2015). Since the June 2010 budget announcement, further additional funding of £30m and £65m has been made available to local authorities to deal with the impact of the welfare reforms – particularly the Social Sector Size Criteria (known as ‘bedroom tax’) and the Benefit Cap respectively. The total funding available nationally for the DHP scheme in 2013/14 is £155m and up to £125m in 2014/15.

In addition to the DWP funding, local authorities are allowed to spend up to two and a half times the Government Contribution from their own resources.

For the Isle of Anglesey County Council, the Government’s contribution and spending under the Council’s DHP scheme for the last three years and for 2013/14 is as follows:-

Year	Government Contribution (£)	Overall limit (2.5x) (£)	Spent by Council (£)
2010/11	16,400	41,000	34,343 ¹
2011/12	28,500	71,250	20,866 ²
2012/13	73,538	183,845	44,198 ³
2013/14	136,536	341,340	-

- 1 Expenditure incurred in 2010/11 above the Government's contribution was as a result of the Menai Broad Rental Market Area being merged into the North West Wales Broad Rental Market Area and Local Housing Allowance Rates paid in the private Sector were reduced as a consequence.
- 2 The Council was allowed to carry over the unspent Government Contribution into 2012/13 due to the impact of transitional arrangements.
- 3 This is spent and committed DHP as at 04 March 2013. For 2011/12 and 2012/13 the current DHP policy was modified to take account of the anticipated additional demands resulting from changes to the LHA. The qualifying criteria were revised in anticipation of an increase in demand from those affected by the LHA changes. This has not proved to be the case and in recent months the qualifying criteria have been modified allowing additional expenditure under the policy. We understand that this has been the case in a number of local authorities.

The revised policy presented to the Executive to endorse, also takes into account the next stage of the UK Government's welfare benefit changes – "bedroom tax" and the "benefit cap". We anticipate that demand will increase substantially in 2013/14. However, there is still an element of uncertainty with regards to the level of demand for DHP's and during 2013/14 expenditure on DHP's and demand for DHP's will be monitored quarterly. Promotion of the scheme and the qualifying criteria can then be modified should the need arise.

Issues regarding the 2013/14 funding allocation

The total DHP allocation for 2013/14 has been split into four component parts:-

- original baseline before the private sector Local Housing Allowance (LHA) reforms;
- LHA reforms;
- Social Sector Size Criteria; and
- Benefit Cap.

Funding for the LHA reforms is based on each local authority's share of total anticipated losses through the introduction of the 30th percentile LHA rate. As regards the Social Sector Size criteria, the funding is aimed specifically at two groups - disabled people who live in significantly adapted accommodation and foster carers, including those who need an extra room when they are between fostering. The Benefit Cap funding is to provide short term support to those affected by the cap.

The proposed revision to the Authority's current DHP Scheme takes account of the welfare benefit changes, the additional funding available for DHP and the DWP's DHP Guidance Manual (which includes Local Authority Good Practice) April 2013.

B - Considerations

1. DHP awards must be made within the overall limit as determined by the DWP. Any award in excess of the overall limit is unlawful. The overall limit is 2.5 times the Government Contribution.
2. The Council has no specific budget allocated to meet the cost of awards made in excess of the Government Contribution up to the overall limit. This is a financial risk to the Council and, as at present, DHP expenditure will be subject to review on a quarterly basis.
3. Unspent Government Contribution grant must be returned to DWP at the end of the financial year.
4. With abolition of Council Tax Benefit from 1st April 2013, DHP's can no longer be made towards Council Tax liability.

5. The Council's proposed DHP Scheme has been revised to take into account the DWP's own revised 'Discretionary Housing Payments Guidance Manual (including Local Authority Good Practice Guide) which also comes into effect in April 2013. The DWP consulted widely on its proposed revised manual and has published the responses to its consultation.

<http://www.dwp.gov.uk/docs/discretionary-housing-payments-guide-draft.pdf>
<http://www.dwp.gov.uk/docs/discretionary-housing-payments-response.pdf>

6. In respect of the Council's proposed local scheme, an initial draft of the policy was issued to relevant internal and external stakeholders for consultation and comments during October and November 2012. Those consulted were Council benefit staff, Council Adult and Children's Services, Council Housing Services, Citizens Advice Bureau and Shelter. No adverse comments were received. The final version reflects most of the views expressed which include:-

- DHP to be paid in respect of foster carers even if the additional bedroom is vacant between fostering periods;
- The policy not to be too prescriptive thereby allowing staff discretion to consider each request, subject to challenge and review;
- The policy to include the DWP's broader definition of Housing costs as laid out in the DWP's Guidance Manual. This means that in addition to rental liability, housing costs can be interpreted to include - rent in advance, deposits and lump sums associated with housing needs e.g. removal costs and no requirement to repay any 'lump sum' payments made.

7. The Council undertook an Initial Impact Assessment of its proposed DHP Scheme. The Initial Impact Assessment identifies the groups likely to get assistance under the DHP Policy based on the DWP's own Impact Assessments regarding the groups affected by the UK Government's welfare reforms. The consultation and impact assessment assists the Council in satisfying the public sector equality duty in the Equality Act and are available from the Finance Department, Revenues and Benefits Section.

C - Implications and Impacts		
1	Finance / Section 151	
2	Legal / Monitoring Officer	
3	Human Resources	
4	Property Services (see notes – separate document)	
5	Information and Communications Technology (ICT)	
6	Equality (see notes – separate document)	
7	Anti-poverty and Social (see notes – separate document)	
8	Communication (see notes – separate document)	
9	Consultation (see notes – separate document)	
10	Economic	
11	Environmental (see notes – separate document)	
12	Crime and Disorder (see notes – separate document)	
13	Outcome Agreements	

CH - Summary

- DHPs provide customers with further financial assistance to meet their housing costs;
- The DWP's annual funding for DHP has been increased during the period of the Spending Review to meet the impact of the housing benefit changes;
- The DWP has consulted upon its DHP Guidance Manual which includes Local Authority Good Practice. The DWP's updated Guidance Manual will come into effect from 1st April 2013;
- The Council has reviewed its local DHPs Policy having regard to welfare reform, the additional funding available and broader interpretation by the DWP of what can be treated as housing costs, in addition to the usual rental liability;
- As Council Tax Benefit is being abolished from 1st April 2013, DHPs can no longer be made towards Council Tax liability.

D - Recommendation

To adopt the Discretionary Housing Policy Scheme as set out in Appendix A.

Name of author of report: GERAINT JONES
Job Title: REVENUES AND BENEFITS MANAGER
Date: 5 MARCH 2013

Appendices:

Appendix A - local Discretionary Housing Policy Scheme.

Background papers

- DWP's Discretionary Housing Payments Guidance Manual (including Local Authority Good Practice Guide) April 2013;
- DWP Housing Benefit and Council Tax Benefit Circular HB/CTB S1/2013 – "Details of the government funding to local authorities for DHP's in 2013/14".
- Finance Department (Revenues and Benefits Section) Initial Impact Assessment , Outcome Report and Action Plan – October 2012



DISCRETIONARY HOUSING PAYMENTS POLICY 2013

Date	Version	Name
11 October 2012	First	Kevin Spice
16 October 2012	second	Kevin Spice
17 October 2012	Third	Kevin Spice
8 January 2013	fourth	Kevin Spice
21 January 2013	Fifth	Kevin Spice

1. BACKGROUND

- 1.1 The Discretionary Housing Payment (DHP) scheme is intended to provide customers with '*further financial assistance*' with their housing costs in addition to any other welfare benefits where the Local Authority (LA) considers that such help is necessary.
- 1.2 Regulations covering payment of DHP are The Discretionary Financial Assistance Regulations 2000. Whilst the regulations give LAs very broad discretion as to how they administer the scheme, decisions must be made in accordance with good principles of administrative decision making. In determining whether to make an award the LA must always act fairly, reasonably and consistently.
- 1.3 All DHP awards must be made within the overall cash limits as determined by the Department of Works and Pensions (DWP). The DWP will award the LA an annual sum (*government contribution*) towards administration of the scheme. In addition to the Government Contribution the LA may spend up to two and a half times that amount (*permitted total*) in DHP. Any awards in excess of the permitted total would be illegal.
- 1.4 The amount of money left from the government contribution must not be a factor in decision making; each decision must be made on its own merits; decision making must be consistent throughout the year.
- 1.5 Unspent DHP funds must be returned to DWP at the end of the financial year.

2 WHAT CAN DHP BE USED FOR?

- 2.1 Housing costs are not defined in the regulations so this gives LAs a broad discretion to interpret the term as they wish. In addition to rental liability housing costs may also be interpreted to include:-
 - Rent in advance;
 - Deposits;
 - Lump sum costs associated with housing need such as removal costs (where such 'lump sum' payments are made, there will be no requirement for them to be repaid by the recipient).
- 2.2 Specific circumstances where DHP may be relevant will include:-
 - Reductions in Housing Benefit (HB) or Universal Credit (UC) where the benefit cap has been applied;
 - Reductions in HB or UC for under-occupation in the social rented sector;
 - Reductions in HB or UC as a result of Local Housing Allowance (LHA) restrictions;
 - Rent shortfalls to prevent a household becoming homeless whilst the Authority's Housing Department explores alternative options;
 - Rent Officer restrictions such as Local Reference Rent or shared room rate;
 - Non dependant deductions;
 - Claimants affected by the "bedroom tax" who foster children;
 - Claimants with specific medical issues that may result in them incurring additional expenditure or needing additional accommodation;
 - Income tapers.
- 2.3 When considering DHP awards for rent in advance or deposits the LA should be satisfied that the property is affordable and suitable for the tenant's needs.

- 2.4 DHP is intended as a safety net for those experiencing difficulty in meeting their housing costs. The scheme should not be seen as a means of allowing applicants to maintain a certain level of lifestyle that they may have become accustomed to. To this end, the assessing officer may choose to reduce or refuse DHP where the applicant is clearly not prepared to make reasonable compromises with regards to their expenditure and lifestyle.
- 2.5 Following the abolition of Council Tax Benefits in 2013, **DHP can no longer be made towards Council Tax Liability.**

3. CRITERIA FOR MAKING DHP AWARD

3.1 Before making an award LAs must be satisfied that the claimant is entitled to:-

- HB; **or**
- UC; **and**
- Has a rental liability; **and**
- Requires further financial assistance with housing costs.

3.2 Following the introduction of Universal Credit, LAs will have to consider DHP claims from customers who are not receiving HB. Customers receiving UC will not receive a specific amount towards housing costs. In such cases you should ensure that the UC award:-

- Does include a housing costs element; and
- The amount of DHP awarded does not exceed the claimant's weekly eligible rent.

4. WHAT DHP CANNOT COVER

4.1 There are certain elements of a claimant's rent that cannot be included in housing costs for DH because the regulations exclude them. Excluded elements include:-

- Ineligible service charges;
- Increases in rent due to outstanding rent arrears;
- Certain sanctions and reductions in benefit.

4.2 In addition to the above, DHP will not be paid in respect of shortfalls resulting from:-

- A claimant choosing to lead a lifestyle which is clearly beyond his/her means (determining lifestyle may require a home visit);
- Repayment of overpayments and fines.

5. APPLICATION PROCESS

5.1 Regulations require that there must be a claim for DHP before the LA can consider making an award.

5.2 The LA will actively promote the DHP scheme with internal and external partners as well as with HB/UC claimants. Where staff identify situations where DHP may be relevant, they should invite the customer or his/her representative to make an application.

5.3 Applications must be made in writing and may be received by the Revenues and Benefits Section or any department within the LA acting on their behalf. Where an application is made to a department other than the Revenues and Benefits Section, it will be passed to them for determination.

- 5.4 Applications for DHP should be accompanied by a statement of the applicant's income and expenditure in order to determine whether they are suffering financial hardship. If requested, the claimant may also be required to provide documentary evidence in support of stated expenditure. Applicants for 'one off' payments may be required to provide bank statements in support of their application for DHP.
- 5.5 DHP applications will normally be made by the person entitled to HB or UC. However, claims can also be accepted from third parties such as appointees or advocates acting on behalf of the claimant if they are vulnerable.

6. THE DECISION MAKING PROCESS

- 6.1 Each application for DHP should be considered on its merits. Decisions should be fair and consistent throughout the year. The amount of funding available in the DHP 'pot' should not be a consideration in the decision making process.
- 6.2 When calculating entitlement the LA should consider income and expenditure from all sources. Certain benefits, normally disregarded in the means testing process will not necessarily be disregarded when assessing eligibility to DHP; the assessing officer will have discretion to decide whether or not to take such benefits/allowances into account.
- 6.3 Where the applicant can show that benefits/allowances have been used for the specific purposes that they were intended, the assessing officer may choose to disregard them as income when assessing DHP.
- 6.4 The assessing officer may ask for a Revenues and Benefits Visiting Officer to call at the home of the applicant in order to obtain a clearer view of the applicant's circumstances and living conditions.
- 6.5 Should the assessing officer determine that an applicant's stated expenditure on certain items is excessive, they have discretion to disregard part or all of that expenditure in the financial assessment. Similarly, where the officer deems that the applicant is living beyond their means in an unreasonable manner; they may choose to disregard such expenditure from the calculation.
- 6.6 DHPs are not normally intended as long term solutions to rent shortfalls. Consequently, unless there are exceptional circumstances, no further applications for DHP will be considered for that address from that claimant, or anyone in their household, for a period of 12 months.
- 6.7 Expenditure on fines or overpayments will not be considered in the financial calculation; DHP cannot be seen to be paying off such liabilities.
- 6.8 With regards to expenditure relating to debts, the assessing officer will need to determine the monetary value of the debt and how it was incurred when making their determination. Factors to be considered with regards to deciding whether expenditure on servicing debt can be justified will include:-
 - 6.8.1 Has the claimant sought to re-negotiate non priority debts? *e.g.* credit card agreements
 - 6.8.2 Have they sought professional advice on how to clear their debts?
 - 6.8.3 Could the claimant afford to service the debt before they began claiming benefits?
 - 6.8.4 Have the debts been incurred as a result of irresponsible borrowing/expenditure whilst in receipt of welfare benefits?

- 6.9** In cases where the applicant is at risk of becoming homeless, Revenues and Benefits staff should consult with the Housing Options Team in order to determine whether there may be another course of action or alternative source of funding that may be more relevant than DHP.
- 6.10** In some instances it may be possible for the Housing Department's Landlord Liaison Officer to negotiate a reduction in rent liability with the claimant's landlord before a final determination is made regarding DHP. Even in cases where such a reduction has been negotiated, it will not necessarily preclude the payment of DHP if there is still a shortfall of income over expenditure.
- 6.11** Where it is deemed relevant for the Landlord Liaison Officer to approach the applicant's landlord, they should do so as soon as possible so as not to delay the DHP determination.
- 6.12** In some instances it may be necessary to discuss the DHP application with other departments or agencies before making a final determination on the matter. In such instances the approval of the claimant to share information should always be obtained.
- 6.13** The length of the award will be determined by the person dealing with the claim. In some circumstances an open ended award may be relevant. Where an award is indefinite, it should be reviewed annually to ensure that there has been no material change in circumstances.
- 6.14** Payment will normally be made to the claimant; however, in some instances, payment to a third party may be appropriate:-
- Landlord in the case of rent in advance or deposit;
 - Landlord if the claimant is considered vulnerable and is already having HB payments made to the landlord;
 - Removal company for removal expenses;
 - By way of a credit on the rent account in respect of Rent Rebate shortfalls.
- 6.15** Applications should be considered in the light of the applicant's current circumstances as well as their previous history.
- Have they received returned deposits from their previous tenancy?
 - Was the applicant able to afford the rent liability when they first moved into the property?
 - Do they frequently move to properties with unreasonably high rent?
 - Do they have a history of renting properties larger than they need?
 - Is the applicant or his partner expecting a child and is moving to a larger property in anticipation of the need for an additional bedroom?
 - Do they have any medical or family circumstances that would warrant payment of DHP
 - Has the applicant demonstrated that they have made reasonable efforts to find cheaper alternative accommodation?
 - Are there any exceptional circumstances that would warrant the award of DHP?
- 6.16** With regards to lump sum payments, there will be no need to establish entitlement to HB at the address from which the application is received. As long as the applicant was in receipt of HB/UC at their previous address (even if the property was outside the LA boundary) DHP may be paid. Checks should be carried out to establish whether or not the LA where the applicant previously resided have already paid DHP in respect of the move.
- 6.17** If the application for deposit/rent in advance is for a property outside Anglesey, payment can still be made if the claimant is currently entitled to HB or UC within the area.

6.18 In certain circumstances, payment of DHP on two homes may be appropriate e.g. someone fleeing domestic violence

6.19 Backdated awards can be considered, however, backdated DHP cannot be awarded in respect of a period before 2nd July 2001

7. TIMESCALES

7.1 DHPs are requested because the applicant is suffering financial hardship and finding difficulty in meeting their housing liabilities. Consequently, it is essential that applications are dealt with as quickly as possible. Unless exceptional circumstances prevent it, all DHP applications should be determined within one month of receipt.

7.2 Where the officer administering the DHP application deems a home visit to be appropriate, this should be undertaken as soon as is practical so as not to create unnecessary delay to the determination process.

8. THE AMOUNT OF DHP

8.1 The amount and length of an award will vary depending on individual circumstances. It may take the form of a 'one off' payment or regular periodic payments. In some cases, an indefinite award may be appropriate. Where such an award is made, it should be reviewed on an annual basis in order to ensure that there has been no change in circumstances that may be relevant to the award.

8.2 The level of award may cover all or part of a shortfall in rent or assist with the costs of taking up a tenancy. However, awards must not exceed the amount of the claimant's eligible rent (this will not apply in the case of 'one off' payments such as deposits, rent in advance or removal costs)

8.3 Where 'one off' payments for rent in advance or rent deposits are made, the applicant should be made aware that the award must be used for the purpose stated. Failure to use the award for the stated purpose may result in the sum having to be repaid by the claimant.

9. APPEALS

9.1 DHP are not part of the HB scheme and are, therefore, not subject to normal appeal rights. However, the interests of natural justice dictate that there should be recourse to a formal review process where the applicant disagrees with the LA determination.

9.2 Where the applicant disagrees with the decision not to award DHP or the amount or length of award, they can request that the decision be reconsidered. The reconsideration will be undertaken by a different officer at a more senior level

9.3 Should the applicant disagree with the reviewing officer's determination, they can then request that the matter be referred to a panel of the Council's elected members for a final determination on the matter. When considering their decision elected members should ensure that their decision is made in accordance with the Council's DHP policy and be mindful of the fact that any award must not result in the Council's 'permitted total' being exceeded.

9.4 Should the applicant feel dissatisfied with the way that the matter has been dealt with by the LA, they also have recourse to the Local Government Ombudsman Service or Judicial Review

10. NOTIFICATIONS

10.1 Following determination of an application for DHP the applicant must be notified of the outcome in writing. Notifications will include the following:-

- The amount of award;
- Whether the award is to be paid as a lump sum or over a period;
- The period of the award including the date of termination if relevant;
- The method of payment;
- Where the award is for less than the amount of shortfall; an explanation of how and why the figure was determined;
- Explain that the award is intended to -
 - Allow the applicant time to seek cheaper alternative accommodation;
 - Negotiate a lower rent with the landlord;
 - Help alleviate short/medium term financial hardship.
- Explain that awards made on the grounds of misrepresentation or failure to declare material facts may be recovered;
- Explain that the applicant is required to notify the HB section if their financial circumstances change during the period of DHP award;
- An explanation of the appeals process.

10.2 Where the award is for a deposit it should include information about landlords' legal obligations to protect the deposit in government approved *tenancy deposit protection scheme*

10.3 Where DHP has been refused, the notification must give sufficient information to allow the applicant to decide whether to request that the matter be reconsidered or to lodge an appeal. The notification should state the reasons for the decision and the factors taken into account when reaching that decision.

10.4 The notification should also clearly distinguish that appeal rights relating to the determination for DHP are separate from the appeal rights relating to HB and UC.

10.5 Where DHP is paid with HB, notifications must clearly show how much is HB and how much is DHP.

11. PAYMENT CYCLES

11.1 Payment cycles will vary depending on the circumstances of the applicant and the reason for the award. Where a 'one off' payment is awarded, the notification should make that fact clear to the claimant.

11.2 Periodic payments will normally be made on a four weekly basis; however, weekly payments may be relevant should the claimant indicate that they have problems with money management/budgeting.

12. OVERPAYMENTS AND RECOVERY

12.1 Where an award of DHP has been made as a result of a misrepresentation or failure to disclose a material fact, fraudulently or otherwise, any resulting overpayment may be recovered.

12.2 Any overpaid DHP awards cannot be recovered from other prescribed benefits. The only method of recovery is to request repayment of the debt from the claimant. This may be via the council's sundry debtor system, debt collecting agencies or the courts.

12.3 There is no requirement for DHP awards in respect of rent deposits to be repaid so long as the award has to be used for the purpose stated.

13. RECORD KEEPING

13.1 DWP are required to monitor how DHPs are being used by customers affected by welfare reform. Consequently, LAs are required to record the main reasons for making awards. Each DHP award should be recorded under the following categories:-

- i.** To support customers affected by the benefit cap ;
- ii.** To support customers affected by the social rented sector size criteria;
- iii.** To support customers affected by LHA reforms
- iv.** Any other reason