

FAREHAM

BOROUGH COUNCIL

Report to Health and Housing Policy Development and Review Panel

Date **26 May 2016**

Report of: **Head of Housing, Revenues & Benefits**

Subject: **Annual Review of Discretionary Housing Payments**

SUMMARY

This report provides information and details about the use of the Discretionary Housing Payment Scheme for the financial year ending 31 March 2016.

RECOMMENDATION

That the Panel notes the information contained in this report.

INTRODUCTION

1. The Discretionary Financial Assistance Regulations 2001 provide the legal framework that allows Local Authorities to pay Discretionary Housing Payments (DHPs). Amendments have since been made to the regulations to include Universal Credit and the abolition of Council Tax Benefit. These amendments are contained within the Council Tax Benefit Abolition (Consequential Amendments) Regulations 2013 and the Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013.
2. All Local Authorities are allocated a ring-fenced sum by the Department for Work and Pensions each year to provide customers with further financial assistance towards their housing costs. This is generally where the level of Housing Benefit or Universal Credit (housing cost element) is lower than the actual rent liability and the customer is unable to make up that shortfall from their income. Local Authorities can use their own funds to top up their government contribution by an additional 150%.
3. Prior to 2011, Government funding towards DHPs was £20 million per year. Following the introduction of welfare reforms, this funding was increased to help Local Authorities extend transitional assistance to customers affected by the changes, and to make long term awards for those with on-going needs. By 2015/16 the total funding had increased to £125 million, increasing to £150 million for 2016/17.
4. The funding is allocated to Local Authorities on the basis of anticipated losses to Housing Benefit claimants as a result of the welfare reforms. The allocations are calculated by the Department for Work and Pensions using the official caseload statistics supplied by all Local Authorities. The following table shows the allocation of funding to Fareham Borough Council since 2011:

2011/12	£23,076
2012/13	£37,431
2013/14	£89,833
2014/15	£88,542
2015/16	£60,382
2016/17	£96,821

5. This report provides information and details about the use of the Discretionary Housing Payment funding for the financial year ending 31 March 2016

BACKGROUND

6. DHPs provide additional financial assistance towards housing costs. They are not payments of Housing Benefit or Universal Credit, however in order to receive a DHP, there must be an entitlement to either Housing Benefit or the housing cost support element within Universal Credit.
7. 'Housing costs' are not defined in the regulations, therefore giving Local Authorities

broad discretion to interpret the term. In general, housing costs means rental liability, but housing costs can be interpreted more widely to include rent in advance, rent deposits and other lump sum costs associated with a housing need such as removal costs.

8. Similarly, there is no definition of the phrase 'further financial assistance' in law. It is up to the Local Authority to interpret it, however in most cases a customer will need to demonstrate that they are unable to meet their housing costs from their available income or have a shortfall as a result of welfare reforms. The level of a DHP may cover all or part of a shortfall in rent or assist with the cost of taking up a tenancy.
9. There is no limit to the length of time over which a DHP may be made. A time-limited award is appropriate when an impending change of circumstances will result in an increase in benefit or to give a customer time to find alternative accommodation or gain employment. Long-term or indefinite awards are generally made where it is apparent that the customer's circumstances are unlikely to change – for example, a disabled customer who lives in significantly adapted accommodation but is subject to the removal of the spare room subsidy.

THE POLICY

10. The Council's DHP policy was agreed by Members in April 2006 and has been subject to regular review and minor amendments to ensure it continues to meet current legislation and national guidance.
11. A decision of the High Court in R v. Sandwell MBC, ex parte Hardy led to the most recent review of our policy. The judgement draws attention to how incomes from disability-related benefits, such as Disability Living Allowance or the Personal Independence Payment, are treated when considering DHP applications. The Department for Work and Pensions has updated the DHP Guidance Manual with reference to the judgement and states "*.....you should consider each DHP claim on a case by case basis having regard to the purpose of those benefits and whether the money from those benefits has been committed to other liabilities associated with disability*"..... Our policy already meets the requirement of the revised guidance as each application is treated individually with no blanket approach to decision making that could fetter our discretion.
12. Our policy can be seen at [Appendix A](#).

REASONS FOR AWARDING DHPS

13. The types of shortfalls that a DHP can cover include (but are not limited to) are:
 - Reductions in Housing Benefit or Universal Credit where the Benefits Cap has been applied
 - Reductions in Housing Benefit or Universal Credit due to the maximum rent (social sector) size criteria
 - Reductions in Housing Benefit or Universal Credit as a result of Local Housing Allowance restrictions
 - Rent Officer restrictions such as local reference rent or shared accommodation rate

- Non-dependant deductions in Housing Benefit, or housing cost contributions in Universal Credit
- Rent shortfalls to prevent a household becoming homeless whilst we explore alternative options

14. DHP's can also be awarded for a rent deposit or rent in advance for a property that the customer is yet to move into (only if they are already entitled to Housing Benefit or Universal Credit at their present home). When awarding DHPs for a rent deposit or rent in advance, consideration is given to the reason for the move and the long-term affordability of the property.

15. The regulations also allow for awards of DHPs on two homes when someone is temporarily absent from their main home, for example because of domestic violence.

APPLICATIONS AND AWARDS 2015-16

16. During 2015/16, 193 applications for DHP were received by the Benefits Service, with 183 awards made, resulting in a total expenditure of £57098.40

17. The Government grant for 2015/16 totalled £60,382 therefore the Council incurred no additional expenditure during this financial year.

18. The awards are broken down as follows:

Reason for award	Number of awards	Amount
Benefits Cap	3	£866.30
Removal of the spare room subsidy	97	£24,781.66
Local Housing Allowance restriction	19	£7,360.11
Financial hardship	47	£13,031.93
Rent deposit/advance	17	£11058.40

19. As the table demonstrates, the most common use of DHPs are for those customers affected by the removal of the spare room subsidy. On inspection of these cases, those occupying council owned properties (18 cases), DHP was paid for short periods of time in 14 cases, with 4 cases having long term awards due to medical reasons (2 cases) or awaiting downsizing (2 cases).

APPLICATIONS REFUSED

20. During 2015/16, 10 applications for DHP were turned down. In 7 of these, the application was made as the level of Housing Benefit did not fully meet the customer's rent liability, however on investigation of the household income and expenditure, it was determined that there was sufficient income to meet the shortfall. In two cases, DHP had been paid for preceding periods of time but the customers had not taken

appropriate steps to improve their situation so the temporary assistance ceased. The remaining case was a request for a rent deposit, however the application was made after the date the new tenancy was taken up, therefore the deposit had already been paid by the customer.

21. All customers that have made a claim for DHP but have been turned down have remained in their properties or have moved to new accommodation.

REPORTING MEASURES

22. From April 2013, Local Authorities have been required to provide data twice yearly to the Department for Work and Pensions detailing the information shown in point 18 above.

RISK ASSESSMENT

23. There are no significant risk considerations in relation to this report

CONCLUSION

24. Having reviewed the applications for DHP, it is clear that all were considered against the Council's DHP policy.
25. As in previous years, a significant number of customers have managed to improve their financial situations during the period of the DHP award. This is by way of taking debt management and/or budgeting advice, securing smaller, cheaper accommodation or moving away from claiming benefits all together. The additional financial assistance provided them with a period of time to take decisive action to improve their situation. For those customers who receive long-term or indefinite awards, such as disabled people living in significantly adapted accommodation, DHP has enabled them to remain in their current home which is more cost effective than moving to smaller accommodation that needs to be adapted.

Background Papers:

Reference Papers:

Enquiries:

For further information on this report please contact Caroline Newman (Ext 4645)

FAREHAM

BOROUGH COUNCIL

DISCRETIONARY HOUSING PAYMENT POLICY

2016/17

Introduction

This document sets out Fareham Borough Council's Discretionary Housing Payments Policy for 2016/17. In response to the Government's continuing welfare reform program, we intend to offer support for those mainly affected by changes made to Local Housing Allowance rates, reductions in Housing Benefit entitlement due to the introduction of size criteria in the social rented sector and the revised income limits of the Benefit Cap.

To help Local Authority's manage the impact of the Housing Benefit reforms announced in the Summer Budget 2015, the overall Discretionary Housing Payment funding nationally will be £150 million for 2016/2017. The funding has been allocated on the basis of each Local Authority's share of total anticipated losses experienced by Housing Benefit claimants as a result of the reforms.

The funding for 2016/2017 for Fareham Borough Council is £96821.00.

The amount of funding for Discretionary Housing Payments will not fully compensate for the loss of benefit income to tenants in Fareham. It is the Government's intention that tenants take positive action to improve their financial situation through finding work, increasing the hours they work and/or move to more suitable accommodation. Therefore Discretionary Housing Payments must be seen as short term financial assistance to 'bridge the gap' whilst the claimant improves their personal situation.

Background

The Child Support, Pensions and Social Security Act 2000 introduced a scheme of Discretionary Housing Payments with effect from 2 July 2001. The Discretionary Financial Assistance Regulations 2001(SI2001/1167) enable Local Authorities to authorise Discretionary Housing Payments to those who may "*require some further financial assistance.....in order to meet housing costs*".

Amendments were made to the regulations from April 2013 to include Universal Credit.

These powers are also supported and guided by the Department for Work and Pensions [Discretionary Housing Payment Guidance Manual](#).

Discretionary Housing Payments can only be awarded to customers who are in receipt of Housing Benefit or Universal Credit (which includes a housing element).

Purpose

The purpose of this policy is to set out how Fareham Borough Council's Benefits Service will administer Discretionary Housing Payments. Following the introduction of the Government's welfare reforms, Discretionary Housing Payment funding enables us to continue to provide temporary assistance to customers affected by those reforms and to also make long term awards for those with on-going needs.

Each case will be treated strictly on its merits and all customers will be treated equally and fairly.

The Benefits Service is committed to working with the local voluntary sector, social landlords and other interested parties in the Borough to maximise entitlement to all available state benefits and this will continue to be reflected in the administration of Discretionary Housing Payments.

The Benefits Service will continue to work closely with the Housing Options Team and advise them of each application received, comment on the assistance they may or may not be providing with regard to housing advice and to obtain information they may hold that will assist in making the Discretionary Housing Payment decision. If financial or housing advice is needed then the Housing Options Team will contact the customer direct to offer this service.

Statement of Objectives

The Benefits Service will consider making a Discretionary Housing Payment to customers who can demonstrate a need for further financial assistance with their housing costs. The Benefits Service will treat all applications on their individual merits and act fairly and equally in their decisions making process. In conjunction with other Council policies and strategies, the Council will seek through the operation of this policy to:

- alleviate poverty
- prevent homelessness and thereby reduce the need and use of temporary accommodation for homeless households
- encourage and sustain Fareham residents in employment
- safeguard Fareham residents in their homes
- help those who are trying to help themselves
- keep families together
- support the vulnerable in our community
- help customers through personal crises and difficult events
- assist those who are in substantially adapted accommodation
- support those providing foster care

Claiming Discretionary Housing Payments

The regulations require that there must be a claim for Discretionary Housing Payments before the Local Authority can consider making an award. An application can be made in writing, by letter or email. Alternatively a verbal request can be made by visit or telephone call to the Benefits Service.

The Benefits Service may request any (reasonable) evidence in support of the application. Additionally an appointment may be offered in order to discuss the application in more detail.

Period of award

The Benefit Service will decide the start and end dates of an award based on the individual merits of the application, the known facts and the evidence supplied.

It may be appropriate to make a short term award to give the customer time to sort out their financial or housing situation, particularly if they are trying to secure alternative accommodation. An indefinite award until a claimant's circumstances change could be considered, particularly if a customer is living in significantly adapted accommodation but who is subject to a reduction in Housing Benefit due to the Social Sector Size Criteria.

An award can also be made to meet a one off housing need such as a deposit or rent in advance. This will generally be if the claimant cannot be assisted through the Council's deposit guarantee scheme or they are not due to have a deposit or rent in advance returned to them in respect of their existing tenancy. A Discretionary Housing Payment for a rent deposit will only be made if the landlord places the deposit in a Government approved tenancy deposit protection scheme. Further information about this can be found at <http://www.gov.uk/tenancy-deposit-protection/overview>.

Amount and payment of award

The amount awarded will be based on the individual merits of the case and the overall budget available. However, where the award is to meet a shortfall, the level of Discretionary Housing Payment must not exceed the weekly or monthly eligible rent for the customer's home (as specified in Regulation 12(1) of the Housing Benefit Regulations 2006 and Schedule 4 of the Universal Credit Regulations). For lump sum payments, such as deposits or rent in advance, this limit does not apply.

The Benefits Service will decide on the most appropriate person to pay (this could include an appointee or landlord), and the method and timing of payments, based upon the particular circumstances of each case. In most cases, payment with Housing Benefit will be the most convenient payment method.

Factors considered

In deciding whether to award a Discretionary Housing Payment, officers will take into account any of the following factors which may be relevant:

- The impact of welfare reforms (Benefits Cap, Social Sector Size Criteria, reduction in local housing allowance rates)
- The shortfall between Housing Benefit and the rental liability (net of any ineligible charges)
- The steps taken by the customer to reduce their rental liability
- Any unavoidable overlap of rental liability on two homes
- The financial and medical or social needs and circumstances of the customer, their partner and any other persons in the household
- Any savings or capital held by the customer or family members
- The level of indebtedness of the customer and family
- Any exceptional circumstances of the customer or family members
- Any special reasons which make it necessary or specially desirable for the claimant to occupy the dwelling in respect of which the liability arises
- The probable consequences of rent arrears for the customer or family members, especially if any of them are vulnerable by reason of age, sickness or disability
- Any action taken by the landlord to recover arrears of rent
- The amount available in the Discretionary Housing Payment budget or within the limits of the permitted total
- The possible impact on the Council of not making an award, e.g. the pressure on priority homeless accommodation
- The cost and availability of suitable alternative accommodation within the borough
- The cost of moving prohibiting the customer from moving to suitable affordable accommodation
- Any reason why a household cannot move immediately for reasons such as health, education or child protection.
- Any other special circumstances brought to the officer's attention.

DHPs can cover the following, but are not limited to:

- Reductions in Housing Benefit or Universal Credit where the Benefit Cap has been applied
- Reductions in Housing Benefit or Universal Credit due to the Maximum Rent (social sector) Size Criteria
- Reductions in Housing Benefit or Universal Credit as a result of Local Housing Allowance restrictions
- Rent Officer restrictions, such as Local Reference Rent or shared accommodation rate

- Non-dependant deductions in Housing Benefit or housing cost contributions in Universal Credit
- Rent shortfalls to prevent a household becoming homeless whilst alternative accommodation is being sought
- Rent deposits, rent in advance and associated costs such as removals costs
- Income taper reductions
- Rent on two homes when a customer is treated as being temporarily absent from their main home, for example due to domestic violence

DHP's cannot cover:

- Ineligible service charges
- Increases in rent due to outstanding rent arrears
- Certain sanctions and reductions in benefits

Notification of award

The Benefits Service will notify the customer within one working day of making the Discretionary Housing Payment decision. This notification will include the reasons for the decision that was made; the amount (if any) awarded; the period of the award; how, when and to whom the payments (if any) will be made and the requirement to report any relevant change in their circumstances.

Changes of Circumstances

Recipients of Discretionary Housing Payments remain under a general requirement within the Housing Benefit legislation to inform the Benefits Service of changes in their circumstances that might affect their claim for Housing Benefit. Similarly where the customer is in receipt of Universal Credit and a Discretionary Housing Payment, the customer has a duty to keep the department administering Discretionary Housing Payments updated with their circumstances. The Benefits Service may need to revise an award where the claimant's circumstances have changed.

Overpayments

In the event that a Discretionary Housing Payment is found to have been overpaid, officers will consider whether it is appropriate to recover it in full, in part or not at all. As a general rule, overpayments caused by official error will not be recovered unless the customer caused or contributed to the error or was aware that too much was being paid.

Disputes

Discretionary Housing Payments are not payments of Housing Benefit and are therefore not subject to the statutory appeals process.

The customer, or person acting on their behalf, must write to the Council, giving reasons why they disagree with the decision that has been made. A senior officer within the Benefits Service will look at the decision again and notify the customer of the outcome of their review and the reasons.

Only in exceptional circumstances and if it appears that the interests of natural justice would not be served by the usual procedure, or if the customer still disagrees with the outcome of an internal review, officers will consider whether to submit an appeal to the Head of Housing, Revenues & Benefits for consideration. This decision will be final and binding and may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman.

Fraud

The Council is committed to protecting public funds and will ensure that any financial assistance awarded through the DHP scheme is only to those who have a true need for it.

Where a customer has failed to provide information or has knowingly supplied false or misleading information, the Council reserves the right to investigate any alleged offences, to levy penalties in accordance with the law and to prosecute anyone who has committed a criminal offence.