

EAST RENFREWSHIRE COUNCILCABINET14th December 2023Report by Director of Business Operations & PartnershipsDISCRETIONARY HOUSING PAYMENT POLICY**PURPOSE OF REPORT**

1. To provide an update on Discretionary Housing Payments and bring forward an updated Discretionary Housing Payment Policy, which is administered by Revenue Services.

RECOMMENDATIONS

2. Cabinet is asked to approve the revised Discretionary Housing Payment Policy.

BACKGROUND

3. A Discretionary Housing Payment (DHP) is an award of additional financial assistance provided to a claimant, where a Local Authority considers that further help with housing costs (which includes rent payments, deposits, advance rental, rent prior to moving in or removal costs) is required. To be eligible a claimant must be in receipt of Housing Benefit or Housing element of Universal Credit. Each claim will be considered on an individual case by case basis, with the outcome being to ensure a claimant is in receipt of the DHP to which they are entitled.

4. Responsibility for DHP's was devolved to the Scottish Government in 2017. The Scottish Government will allocate funding on an annual basis to each Local Authority (noting Local Authorities are able to add more funding from their own resources). Local Authorities have responsibility for administration of DHP's and in 2023/24 the budget allocated for DHP spend in East Renfrewshire is £465,850. Spend in 2022/23 was £476,620 and this supported 691 DHP awards.

5. In Scotland it is mandatory that Discretionary Housing Payments are awarded to fully mitigate the impact of (i) Removal of the Spare Room Subsidy (RSRS) from 2013, also known as the 'bedroom tax' and (ii) Benefit cap from 1 January 2023. The majority of spend on DHP is on RSRS, with 90.8% of spend for this support within East Renfrewshire, similar to the national trend.

6. The Benefit Cap means that the total amount of benefit paid to working age claimants is subject to a cap. Where the benefit cap applies the Local Authority/Department for Work and Pensions must reduce Housing Benefit/Universal Credit entitlement by the sum of which the total welfare benefits exceed the cap. In Scotland, from 1 January 2023, DHP has been used as the driver to mitigate the effects of the Benefit Cap.

7. The existing Policy is out-dated and was last revised in 2013. The updated Policy provides an appropriate framework and level of guidance when considering a DHP application. There is a DHP guidance manual which is available for Local Authorities in England and Wales. Currently there is no equivalent for Scotland, with no timescale for this to be produced.

Consequently given the discretionary nature of the award, the approach to DHP Policies varies across Local Authorities.

8. While discussions are ongoing between Government & Local Authorities regarding DHP's, recognising the existing ERC policy is dated, it is proposed to introduce a revised policy at this time. Any future changes and impacts arising, will be reflected in ERC policy moving forward.

REPORT

9. The following sets out the key elements of the updated policy:

- The aims and principles within the policy, are to help protect the vulnerable and those facing financial hardship, by ensuring they receive DHP funding to which they are entitled;
- DHP's are discretionary and eligibility will be considered on an individual case by case basis. However the guidance provided will help ensure decisions made are fair and reasonable;
- Pending production of further Scottish Government guidance, through engagement with Internal and External parties, to ensure the approach taken is consistent and broadly aligns with other Local Authorities;
- Provides a clear structure and framework to be adhered to, while removing some complexity within the earlier policy;
- Reflects current legislation and Scottish Government reporting requirements.

10. DHP reporting is provided by the Revenues & Benefits system. While these reports provide the necessary data for reporting to the Scottish Government, there is recognition that the reports could be enhanced to allow further data analysis and insight, and this is under review with the system supplier.

FINANCE AND EFFICIENCY

11. Scottish Government provide funding on an annual basis, with Local Authorities administering. The allocated budget of £465,850 is anticipated to be adequate for demand in 2023/24. However, should this change in the future a budget bid would be submitted for consideration. The purpose of the updated Policy is to help ensure claimants receive DHP award to which they are entitled. As referenced within the Background section, in Scotland, DHP has been used as the driver to mitigate the effects of the Benefit Cap.

CONSULTATION

12. The Money Advice & Rights Team (MART) have been engaged as part of the Policy Review.

PARTNERSHIP WORKING

13. ERC Revenue Services form part of wider external forums where relevant discussions take place. In this regard a recent workshop was held with the Institute of Revenues, Rating and Valuation (IRRV) on DHP's. Given the discretionary nature of the award, it was noted that

it was effectively down to individual Local Authorities' judgement and assessment. The provision of additional Government guidance would assist.

IMPLICATIONS OF THE PROPOSALS

14. The updated policy will help ensure our more vulnerable customers and those living in poverty will receive any DHP award to which they are entitled.

15. An Equality Fairness and Rights Impact Assessment (EFRIA) has been completed, which highlights that the improved clarity of the updated policy may have a positive impact on the elderly, vulnerable, disabled, those suffering chronic sickness, helping sustain tenancies and prevent homelessness. It may also support individuals and communities experiencing socio-economic disadvantage and have a positive impact on children and young people, by reducing levels of poverty.

CONCLUSIONS

16. The Council and its partners require to find ways to support our more vulnerable members of our local communities and support them on the journey to more sustainable financial circumstances.

17. In conclusion the Discretionary Housing Payment Policy requires updating to:-

- Ensure awards are provided where a claimant is entitled;
- Help protect our most vulnerable customers and those suffering financial hardship;
- Provide clear instruction and guidance;
- Provide consistency and transparency;
- Reflect current and future social and economic factors;

RECOMMENDATIONS

18. Cabinet is asked to approve the revised Discretionary Housing Payment Policy.

Director of Business Operations & Partnerships
December 2023

REPORT AUTHOR

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BACKGROUND PAPERS

Discretionary Housing Payment Policy 2013

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Discretionary Housing Payment Policy

November 2023

Approved:

Owner:

Version: 1

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1. Introduction

This policy provides a framework which sets out how East Renfrewshire Council (ERC) Revenue Services will manage Discretionary Housing Payments (DHP). This includes aims and objectives, administration of applications and guidance on when a DHP may or may not be paid. It is important to note that consideration for any payment award will be assessed on an individual case by case basis.

DHP's are not payments of benefit. In Scotland where claimants rent their home and are in receipt of Housing Benefit or Housing Costs (within Universal Credit), but continue to have difficulty in meeting their full housing costs, a claimant can apply for a DHP requesting financial support, with any payments made at the discretion of ERC. DHP's will not be provided to meet expenditure which is not eligible for benefit.

Full responsibility for DHP's was devolved to the Scottish Government in 2017. Scottish Government allocates funding for DHPs to each Local Authority, who are then responsible for the administration of DHP's. Local Authorities have discretion to make DHPs, decide how financial hardship is assessed, the amount that is to be paid (within certain limits) and how long the payments are to be made for.

The DWP has published good practice guidance about DHP's for Local Authorities in England and Wales. Currently there is no Scottish guidance, however Local Authorities in Scotland may still use the DWP guidance. The main difference in Scotland is that the Scottish Government will fully pay back Local Authorities for any DHP made to mitigate (i) the effect of the "bedroom tax" or under occupancy charge for Local Authority and housing association tenants and (ii) from 1st January 2023 to cover any Benefit Cap reductions.

2. Policy Aims

The aim of this policy is to set out how East Renfrewshire Council's Revenue Services area will manage DHP's. The policy will provide guidance for staff in terms of specifying key factors to consider when deciding if a DHP should be awarded.

There is no pre-determined qualifying criteria, reflecting the need to consider each application on an individual case by case basis. Throughout the process all applications received from claimants will be treated in a fair, reasonable and consistent manner.

Revenues Services are committed to working with both Internal and External Stakeholders to ensure that claimants receive the maximum amount of Benefit to which they are entitled.

3. Principles

East Renfrewshire Council's vision is to be a modern, ambitious council creating a fairer future with all and our ultimate aim is to make people's lives better.

We work together with our partners to achieve the best outcomes for early years and vulnerable young people; learning, life and work; the economy and environment; to deliver safe and supportive communities and for older people and people with long term conditions.

We achieve these outcomes by focusing on 3 capabilities: prevention, empowering communities, digital change.

And in everything we do, we seek to live by our values of Ambition, Kindness and Trust.

Through our Discretionary Housing Payment Policy, our guiding principles are to:-

- Assist with alleviating poverty;
- Assist with preventing hardship;
- Encourage claimants to seek and sustain employment;
- Help claimants sustain tenancies, homelessness prevention and safeguarding claimants;
- Assist in keeping families together;
- Provide support to vulnerable and elderly people in the local community;
- Provide support to young people in the transition to adult life;
- Provide support to domestic violence victims, trying to move to a place of safety;
- Supporting the work of foster and kinship carers;
- Supporting disabled people to remain within adapted properties.

4. Eligibility

DHP's provide financial support towards housing costs and are paid by Local Authorities. To be eligible for a DHP, a claimant must be in receipt of either:

- Housing Benefit (HB);
- Housing element of Universal Credit (UC);

Owner occupiers are not eligible for DHP.

A claimant will either be impacted by

- Removal of the Spare Room Subsidy (RSRS) and/or Benefit Cap; or
- In need of further financial assistance with housing costs and are clearly able to demonstrate this to the Local Authority (Housing costs are not defined in the Discretionary Financial Assistance Regulations 2001. In general, housing costs usually refer to rental payments, rent deposits, rent in advance, rent prior to moving in and removal costs).

Further financial assistance is not defined in law, however in general claimants will have to demonstrate that they are unable to meet housing costs from their income.

Application forms and any information which requires to be submitted, are set out in the ERC website.

5. When DHP may be paid

A claimant may apply by submitting an application to ERC.

The following examples outline circumstances where DHP applications will be considered. The list is not exhaustive and all applications will be considered on a case by case basis.

- Where a claimant is chronically sick or disabled;
- Where a claimant is experiencing hardship;
- To cover the reasonable costs of renting a particular type of accommodation to suit a particular need;
- Where a member of the household moves out of the property and this reduces the household's bedroom entitlement;
- Benefit Cap means the total amount of benefit paid to working age claimants is subject to a cap. Where the Benefit Cap applies the Local Authority/Department for Work and Pensions must reduce HB/UC entitlement by the sum of which the total welfare benefits exceed the cap. In Scotland, from 1 January 2023, DHP has been used as the driver to mitigate the effects of the Benefit Cap;
- Where a claimant moves into ERC and it is clear the support is essential to the household (if leaving ERC the claimant would need to apply for DHP from their new Local Authority);
- To cover the rent shortfall of accommodation which is either too big or too expensive, where the tenancy started at a time when the claimant could easily afford the rent without help from Housing Benefit;
- To cover housing costs (which include rent payments, rent deposits, rent in advance, rent prior to moving in and removal costs);
- To facilitate a move to a smaller or more affordable home that would allow the household to cover their housing costs.

Where appropriate a referral will be made to the Money Advice and Rights Team (MART) or Citizens Advice Bureau (CAB) to assist claimants with income maximisation and/or budgeting.

6. When DHP will not be paid

DHP will not be paid to a claimant under the following circumstances:

- Where a tenancy was not affordable when taken on (except in exceptional circumstances where no other reasonable alternative was available);
- Where benefit fraud has been committed;
- To reduce water and wastewater charges;
- Where a benefit is in payment and is subject to a reduction, sanction or suspension;
- To cover a reduction in Housing Benefit resulting from a Housing Benefit overpayment which is being recovered from ongoing entitlement;
- To cover service charges which are ineligible for Housing Benefit;
- Where an increase in rent has been made by the landlord to cover rent arrears;
- Where non dependant deductions that are not being paid by the non-dependant, for example this may be when adults normally live in the home and would be expected to contribute towards the rent costs (except in exceptional circumstances);
- DHPs will not be awarded simply because a claimant is in debt. However a view will be taken on the type, reason and level of debt and the actions that the claimant has

taken to repay the amounts outstanding. Claimants will be expected to take a reasonable attitude towards debt and only borrow what they can reasonably repay;

- Where the tenant is entitled to another benefit that they are not already claiming.

7. Decision making

ERC will consider the application and endeavour to make a decision in 10 working days considering:-

- The date which the DHP application is treated as having been made by the claimant;
- The date on which the application for DHP is deemed to be received by ERC;
- The date on which entitlement to HB, or UC housing element commenced;
- The period that is considered appropriate;
- Whether the period of the award should be restricted;
- Whether a one-off payment would be appropriate;
- Any reasonable request for a backdated award of DHP to be considered.

8. Level and Period of Award

The level and period of award will be based on the individual personal circumstances of the claimant, with this including.

- The amount of HB, or UC housing element, in payment;
- The remaining net liability for rent;
- All relevant household and income circumstances;
- Whether there has been any previous award of DHP and the circumstances prevailing at that time;
- The impact that an unsuccessful application for DHP may have on the claimant and their household;
- In the case of a shortfall, the amount of DHP will not exceed the weekly eligible rent;
- In the case of lump sum payments, no period will apply but due regard will be given to the DHP funding available, for example a rent deposit;
- Payment may be made to the claimant, agent, appointee, landlord or 3rd Party;
- Payment of DHP will stop if a claimant fails to disclose a material fact or obtained the funds under false pretences or the payment was made in error;
- The award will be for a minimum of 1 week and no more than 26 weeks. A claimant is free to re-apply when the award is ending and this will be further assessed at that time;
- The DHP scheme should not be relied upon to provide a long term solution to financial hardship. However each case will be looked at on an individual basis to determine the length of the award;
- Claimants are required to notify Revenue Services of any change in their circumstances. The level and period of award of DHP will be reviewed if there is a change in the circumstances of the claimant and payments will be reduced or stopped if no longer required;
- ERC reserves the right to advise the claimant to reduce expenditure if it is unreasonably high. It may also be reasonable to expect the claimant to reduce expenditure on non-essential items, such as mobile phones, cable/satellite television, cigarettes, alcohol and entertainment;
- Advice will be provided on the appropriate agencies/contacts to assist claimants with managing their money.

9. Method of Payment

- Revenue Services will decide how payment is to be made, consequently the payment may be made to the claimant, their partner, an appointee, landlord or agreed third party;
- Payment will be made by BACS. In exceptional circumstances payment by cheque may be considered.

10. Backdating

- Consideration may be given to backdating a DHP where this has been fully mitigated against SSSC (Social Sector Size Criteria), Bedroom Tax & Benefit Cap;
- The claimant must explain the reason for the delay in making the DHP claim. Revenue Services will consider the reasons provided together with the potential impact of refusing to backdate any award;
- The minimum period that a backdated award re DHP can be made is one week and there is no maximum period.

11. Overpayments

- ERC have the right to recover all overpaid DHP's where it is subsequently identified that the claimant was not entitled, including;
 - Misrepresentation or failure to disclose a material fact, fraudulently or otherwise;
 - An error was made when the claim was determined.
- Revenue Services is committed to identifying and subsequently investigating suspected fraudulent claims for Benefit and DHP. Individuals who falsely declare their circumstances in order to claim Housing benefit (and as a result have a DHP award) will have committed a criminal offence, which may lead to criminal proceedings being instigated;
- Claimants have a duty to notify Revenue Services of any change in circumstances which would impact upon receiving or continuing to receive a DHP. The Revenue Services team have the right to revise a DHP award at any time to take into account a change of circumstances and where this resulted in an overpayment, to recover the amount due;
- ERC may recover sums by different methods with these including reduction in future entitlement and Sundry Debt process collection

12. Right of review

- There is no Statutory right of review. If unsuccessful the claimant may request a review of the decision by Revenue Services. This would be undertaken by an appointed member within the Team who was not involved in the original decision;
- Request for review must be in writing within 1 month of the decision to decline, providing the basis for review and any further relevant information to assist;
- ERC will endeavour to make a decision within 10 days. If the claimant does not agree with the outcome, they are entitled to proceed with a complaint under ERC Complaints procedure.

13. Monitoring and Reporting

- DHP’S are subject to regular Key Performance Indicator monitoring and reporting;
- LA’s are required to send monthly returns to Scottish Government including:-
 - The number of DHP applications received in the year to date;
 - The number of DHP awards made in the year to date;
 - The total value of DHP awards spent or committed in the year to date;
 - Bi-annual Report required showing breakdown of DHP spend for specific areas i.e. Benefit Cap, LHA, Under Occupancy.

14. Legislation, Funding and Financial control

- The key legislation, which impacts DHP’s include:-
 - The Scotland Act 2016, which devolved DHP to Scottish Government;
 - The Discretionary Financial Assistance Regulations 2001, which provides the Regulations for Discretionary Housing Payments;
 - The Welfare Reform Act 2012 (Consequential Amendments) Regulations 2013 which allows DHP to be awarded to claimants in receipt of the housing costs element of UC;
 - Section 69 of The Child Support, Pensions and Social Security Act 2000, which introduced “Discretionary financial assistance for housing” which allows LA’s to make payment by way of Discretionary Housing Payments.
- Funding will be provided by the Scottish Government on an annual basis. Consequently the amount which can be paid out is subject to budgetary constraints;
- Budget versus Spend requires to be controlled to ensure DHP’s are managed within allocated budget, with regular reporting in place (both Internal and External) to monitor this.

15. Data

All data will be managed in accordance with East Renfrewshire Council Policy and Procedures.

16. Ownership and Control

Owner:	Alison Ballingall, Senior Revenues Manager
Review date:	Ongoing and minimum formal review every 5 years
Updates and Changes:	Version 1, November 2023