

**RIBBLE VALLEY BOROUGH COUNCIL
REPORT TO POLICY AND FINANCE COMMITTEE**

Agenda Item No 13

meeting date: 26 MARCH 2013
title: REVIEW OF REVENUES AND BENEFITS DISCRETIONARY POLICIES
submitted by: DIRECTOR OF RESOURCES
principal author: MARK EDMONDSON

1 PURPOSE

- 1.1 To agree updated policies for Discretionary Housing Payments (DHP) and Discretionary Council Tax and Business Rates discounts due to Welfare Reform.

2 BACKGROUND

- 2.1 Local authorities have the power to grant Discretionary Housing Payments (DHP) and discretionary discounts for Council Tax and Business Rates.
- 2.2 The recent Welfare Reforms have made significant changes to this area and it is therefore necessary to review our current policies.
- 2.3 DHP's can be awarded for both housing payments and Council Tax until 31 March 2013.
- 2.4 The replacement of Council Tax Benefit with Localised Council Tax Support schemes from 1 April 2013 means that DHP's no longer apply to Council Tax.
- 2.5 Housing Benefit reforms including, social sector size criteria changes, Local Housing Allowance uprating, and the benefit cap mean that there will be a significant number of claimants facing shortfalls from April 2013.

3 ISSUES

- 3.1 The Government recognises that local authorities will be faced with significantly increased applications for DHP's from April 2013 and have therefore increased our funding from £14,088 in 2012/13 to £46,969 for 2013/14.
- 3.2 Whilst this is a significant increase in funding we estimate that the shortfall in Housing Benefit created by these reforms will exceed £200,000 and therefore we will only be able to provide assistance to a quarter of those affected.
- 3.3 There will also be a significant additional burden relating to the administration of DHP's from April 2013 and no additional funding has been provided for this.
- 3.4 We have adopted a Local Council Tax Support scheme that retains most of the features of the current Council Tax Benefit scheme but applies an 8.5% reduction to entitlement for those of working age.
- 3.5 We have approximately 1,100 claimants of working age who will be affected by the changes to Council Tax Benefit. However, the vast majority of claimants will have to pay no more than an additional £100 per year as a result of these changes.
- 3.6 New policies relating to DHP's and Discretionary Council Tax and Business Rates discounts are attached at Annex 1 and 2.

4 RISK ASSESSMENT

4.1 The adoption of the attached policies will have the following implications:

- Resources - the cost of DHP's is funded by Central Government so will have no impact on our resources. Part of the cost of any Discretionary Council Tax and Business Rates discounts will fall on Council Tax payers but these will only be granted in exceptional circumstances.
- Technical, Environmental and Legal - Government guidance states that local authorities should have policies in place to cover these areas.
- Political - None
- Reputation - these welfare reforms will have a significant impact on some of the most vulnerable residents of the Ribble Valley. It is essential that we exercise our discretion correctly to reduce this impact wherever possible.
- Equality and Diversity - the welfare reforms apply equally to all sections of the community.

5 CONCLUSION

5.1 The Welfare Reforms will have a significant impact on the number of applications that local authorities receive for discretionary assistance.

6 RECOMMENDATION

6.1 Approve the revised policies attached at Annex 1 and 2.

HEAD OF REVENUES AND BENEFITS

DIRECTOR OF RESOURCES

PF21-13/ME/AC
12 March 2013

BACKGROUND PAPERS: None

For further information please ask for Mark Edmondson.

Ribble Valley Borough Council



Policy for the Award of Discretionary Housing Payments

Version 113
February 2013

BACKGROUND

From 2 July 2001 a new scheme was introduced which grants councils powers to make Discretionary Housing Payments (DHP) to top up the Housing Benefit and Council Tax Benefit Statutory Schemes. The legislation governing DHP can be found in the Discretionary Financial Assistance Regulations 2001 (S1 001/1167) - (DFA Regulations).

From 1 April 2013 Council Tax Benefit (DHP) was abolished and replaced by the Council Tax Reduction/Support fund and the DHP scheme now covers Universal Credit (UC).

The main features of the scheme are that:

- ❖ The claimant does not have a statutory right to a payment.
- ❖ DHP will **not** be payments of benefit.
- ❖ The amount that can be paid by an authority in any financial year is cash limited by the Secretary of State.
- ❖ The operation of the scheme is for the Council to determine, apart from a few specific areas.
- ❖ It is completely separate from the Statutory Housing Benefit (HB) Scheme, apart from the fact the HB must be in payment and the weekly DHP amount awarded must not exceed the maximum housing benefit or council tax benefit that could be awarded in the case.
- ❖ The customer is entitled to Housing Benefit (HB) or Universal Credit (UC) and has a rental liability and requires further financial assistance with housing costs.

THE COUNCIL'S POLICY

Purpose

The purpose of this policy is to specify how this Council will operate the scheme and to indicate the factors that will be considered when deciding if DHP can be made. We aim to treat all claimants fairly, reasonably and consistent when administering the scheme.

Statement of Objectives

The Council will make DHP to claimants who meet the qualifying criteria as specified in this policy. The Council will treat all applications on their individual merits but will seek, through the operation of this policy, to:

- ❖ Alleviate poverty;
- ❖ Safeguard people's housing;
- ❖ Keep families together; and
- ❖ Help people through personal crises and difficult events.

Claiming a DHP

A claim for DHP must be made in writing, either by the claimant or someone acting on their behalf, e.g. an appointee.

The Council may request, in writing, any reasonable evidence in support of an application for DHP. The claimant will be asked to provide the evidence within one month. Evidence and information provided to decide the HB/UC claim may be taken into account.

If the claimant does not provide the required evidence the Council will still consider the application. However, the Council may disregard any unsubstantiated statements or draw its own conclusions from other evidence available.

The Council may, in any circumstances, verify any information or evidence provided by the claimant by contacting third parties, other organisations and the claimant.

Period of Award

The Council will decide the length of time for which DHP will be awarded, if a payment can be made under this scheme.

The Council will consider which date to treat the claim for DHP as starting. This date will be:

- i) The date on which the Council receives the claim for DHP; or
- ii) The date on which entitlement to HB/UC commenced (providing the application for DHP is received within one calendar month of the claim for HB/UC being decided)

Whichever is the earlier or the more appropriate

- ❖ The minimum period for which the Council will award DHP is one week.
- ❖ The Council can award DHP for a period outside an existing HB/UC period granted under the HB/UC statutory scheme.
- ❖ The Council will not award DHP for a period exceeding six months without reviewing the claim.

The Council will consider any reasonable request for backdating an award of DHP. All such requests should give the reasons why the application was not made at an earlier time. The Council reserves its discretion to make backdated awards of DHP, but in any case will not make awards where:

- a) The underlying conditions for an award are not met; and
- b) The application will only be considered for a period where the linked HB/UC is in payment.
- c) The application was made more than three months after the period for which it is made.

The Amount of DHP Awarded

The award of DHP will be the exception rather than the norm. The Council will consider whether to award DHP and the amount of any such award. It will take into account:

- ❖ The amount of housing benefit or universal credit in payment.
- ❖ Where a customer is not in receipt of housing benefit but in receipt of universal credit the Council will decide the amount of DHP to award this will not exceed the weekly eligible rent.
- ❖ For lump sum payments such as deposits, rent in advance or removal costs the Council will have regard to the overall DHP budget.
- ❖ The liability of the claimant to pay rent, net of any deductions specified by Regulation 3 of the Discretionary Financial Regulations 2001.
- ❖ Whether a person's maximum housing benefit or universal credit has been restricted by the Valuation Office Agency or the Council; and if so:
 - a) The amount of the restriction.
 - b) The reason for the restriction.
 - c) The length of time that the restriction has been imposed.

- ❖ Steps taken by the claimant to reduce their rental liability.
- ❖ Reduction in HB or UC for Under Occupation in the social rented sector – especially for foster carers who are in between placements or for people whose houses have been substantially adapted.
- ❖ Reduction in HB or UC where the benefit cap has been applied for a limited period whilst the claimant sorts out a move or finds work/more work.
- ❖ Reduction in HB or UC as a result of local housing allowance restrictions – for a limited period to find a cheaper home.
- ❖ The circumstances surrounding the application.
- ❖ The financial and social health/medical circumstances of the claimant, their partner and any dependants, and any other occupants of the claimant's home.
- ❖ The income and "essential" expenditure of the claimant or their family.
- ❖ Any savings or capital that might be held by the claimant, their partner and any dependants, or other occupants of the claimant's home.
- ❖ The availability and any steps taken by the claimant to obtain extra income or to reduce expenditure of the claimant or their family.
- ❖ The level of indebtedness of the claimant and their family.
- ❖ The exceptional nature of the claimant and their family's circumstances.
- ❖ Whether there have been any previous awards of DHP, and if so:
 - a) The number, length and dates of those awards; and
 - b) What action the claimant has taken to reduce the need for DHP.
- ❖ The impact any award of DHP will have on the Council's budgets and its ability to make further awards of DHP to other claimants within the financial year.
- ❖ The impact the non-award of DHP will have on the claimant and other customers.
- ❖ The amount of money available to the Council to spend on this scheme within the cash limits specified by the Secretary of State from time to time. The Council may take into account expenditure and estimated committed expenditure.

The award of DHP at one time does not guarantee that a further award will be made at a later date, even if the claimant's circumstances remain the same. The Council cannot fetter its discretion in making one decision on a claim with regard to a later claim by the same claimant.

The Council, taking into account the above matters and limited to the statutory limits imposed by DFA regulations, will decide the amount of any DHP award. The Council may decide not to award anything or any amount up to the maximum allowed under the DFA regulations.

Change of Circumstances

As claimants for DHP must be in receipt of housing benefit or universal credit they are required, under the regulations, to inform us of changes in their circumstances that might affect their claim for HB/UC.

The Council's policy will be that a change in the claimant's circumstances will not affect the level of their DHP providing:

- ❖ They retain entitlement to housing benefit and/or universal credit.
- ❖ The level of their housing benefit and/or universal credit, plus DHP does not exceed their liability to pay rent, less the deductions specified in Regulation 3 of the Discretionary Financial Regulations 2001.

- ❖ The change of circumstances was not specifically defined as being critical to the award of DHP in the notification of the award to the claimant. The Council may specify changes in circumstances that will need to be notified to the Council as it is considered that the amount or need for DHP will change on such an event. In these cases the Council may revise the DHP award.

Method of Payment

We will decide to whom we will make payment of DHP based upon the circumstances of each case. This could include:

- ❖ The claimant;
- ❖ Their partner;
- ❖ An appointee;
- ❖ Their landlord (or an agent of the landlord); or
- ❖ Any third party to whom it might be appropriate to make payment.

We will pay any award of DHP by the most appropriate means available in each case. This could include payment:

- ❖ With housing benefit;
- ❖ Payment into a bank account for customers in receipt of universal credit
- ❖ By offsetting the DHP against any other liability the claimant or partner has to the Council to reduce indebtedness and reduce their expenditure.

Payment will be made in accordance with the current payment schedule of the claimant.

Notification

We will inform claimants of the outcome of the application in writing, as soon as is reasonably practicable of making a decision about their DHP claim. We will notify:

- ❖ Those whose application is unsuccessful
 - ✧ The reasons why we have decided not to award DHP.
- ❖ Those whose application is successful:
 - ✧ The weekly amount of DHP awarded.
 - ✧ The period of the award.
 - ✧ How, when and to whom the award will be paid.
 - ✧ A summary of the reasons for the award.
 - ✧ Any requirement to notify us of changes in circumstances that could affect the DHP award.
- ❖ All claimants:
 - ✧ A reminder of the requirement to notify the Council of changes in circumstances.
 - ✧ Their appeal rights regarding housing benefit.

Appeal Rights

DHP are not payments of housing or universal credit and are therefore not subject to the statutory benefits appeals mechanism where appeals are decided by HM Courts & Tribunals Service, which is an independent statutory body. However, the route of judicial review is available, and the

local government ombudsman if there is an allegation of maladministration. The Council will therefore decide appeals.

We will therefore operate the following policy for dealing with appeals about DHP:

- ❖ A claimant (or their appointee or agent) who wants an explanation of a DHP decision may request one in writing during the period of the DHP award.
- ❖ A claimant (or their appointee or agent) who disagrees with a DHP decision may dispute the decision.
- ❖ Any such dispute may be made, in writing, but must be made within one calendar month of the written decision about the DHP being issued to the claimant. Officers will explain the DHP decision verbally to the claimant by telephone, or by interview, and seek to resolve the disagreement. Where this cannot be achieved officers will formally review the decision.
- ❖ The officers will reconsider the award of any DHP that has been disputed and notify the claimant of the outcome of the review. A review will be suspended if we need more information from a claimant until the information is received.
- ❖ In the event that, following an internal review of a decision, the officers decide that the original decision should not be revised we will notify the claimant. There are no further rights of appeal against a decision.

Overpayments

The Council will seek to recover any DHP found to be overpaid. We will seek recovery from the claimant and/or their partner, regardless of how and to whom the DHP was paid. We will do this by invoicing the claimant and/or partner and a decision letter will notify a decision that DHP is overpaid. An appeal may be made against this decision.

The Council will allow an appeal against a decision that an overpayment of DHP has been made. These appeals will be allowed on the following grounds only:

- ❖ The calculation of the overpayment.
- ❖ That the overpayment should not be recoverable as it was caused by Council error.

Fraud

The Council is committed to the fight against fraud in all its forms.

Any cases where the Council suspects that fraud has occurred will be investigated and, subject to the actions available within the Council's Anti-Fraud Policy, this may lead to our commencing criminal proceedings against suspected claimants.

If the Council decides that DHP are being, and/or have been, made because someone has misrepresented or failed to disclose a material fact, be it fraudulently or otherwise, the Council will stop making any further DHP. We will also stop making further DHP where they have been paid as a result of an error.



**Discretionary Council Tax, Additional Local Support for Council Tax in
Exceptional Circumstances and
Business Rates Discounts Policy**

**March 2013
Version 1**

Introduction/policy requirements

The Council is aware of its duties and powers in accordance with section 13A of the Local Government Finance Act 1992 as amended by section 76 of the Local Government Act 2003 in respect of Council Tax and Section 47 of the Local Government Finance Act 1988 as amended by Clause 69 of the Localism Act 2011. This Policy sets out how the Council will use its powers and the criteria that must be satisfied.

Section 13A of the Local Government Finance Act 1992 as amended empowers a billing authority to reduce the amount of Council Tax due as it thinks fit. Section 47 of the Local Government Finance Act 1998 as amended empowers a billing authority to reduce the Business Rates due as it thinks fit.

Criteria

Council Tax (Section 13A(1)(c))

Each case will be considered on 'its merits' however all of the following criteria should be met:

- Requests for reductions in Council tax liability will be required in writing from the customer, their advocate/appointee or a recognised third party acting on their behalf.
- There must be evidence of hardship or personal circumstance that justifies a reduction in Council Tax Liability.
- The Council must be satisfied that the customer has taken reasonable steps to resolve their situation prior to application.
- The Council's finances allow for a reduction to be made.
- The customer does not have access to other assets that could be realised and used to pay Council tax.
- The customer is not entitled to Council Tax Support.
- All other eligible discounts/reliefs have been awarded to the customer.

Additional Local Council Tax Support (LCTS) Due to Exceptional Hardship (Section 13A(1)(a))

Each case will be considered on 'its merits' however all of the following criteria should be met:

- Requests for additional LCTS will be required in writing from the customer, their advocate/appointee or a recognised third party acting on their behalf.
- There must be evidence that failure to grant additional LCTS will result in exceptional hardship occurring.
- The Council's finances allow for the additional LCTS to be granted.
- The additional LCTS is limited to the reduction in LCTS applied to their case i.e. 12% (8.5% for 2013/14)
- All other eligible discounts/reliefs have been awarded to the customer.

Business Rates

Each case will be considered on its merits however all of the following criteria should be met:

- Requests for reductions in Business Rates will be required in writing from the ratepayer or a recognised third party acting on their behalf.
- The Council's finances allow for a reduction to be made.
- It must be in the interest of Council Tax payers for the local authority to grant a reduction.
- All other eligible discounts/reliefs have been awarded to the ratepayer.

Responsible officer

The responsibility for making discretionary decisions will rest with the Director of Resources. In exercising this discretion the Director of Resources may decide to refer individual applications to the Council's Policy and Finance Committee.

The Head of Revenues and Benefits will liaise with the applicant in each case to obtain sufficient detail (in line with the criteria as laid out in this policy) in order that a decision can be made.

Decision making process

The decision making process will involve, at stage 1, the Head of Revenues and Benefits making a recommendation to the Director of Resources after considering the application against the criteria set out in this policy, based upon the information provided by the applicant.

Stage 2 the Director of Resources will consider the application and the recommendation of the Head of Revenues and Benefits and determine whether to award a discretionary discount.

Notification of decision

The Council will notify the applicant of its decision within 14 days of receiving sufficient information to make a decision.

Review of decision/re-determination requests

Under the Local Government Finance Act 1992, there is no right of appeal against the Council's use of discretionary powers. However, the Council will accept an applicant's request for a re-determination of its decision.

Notification of review/re-determination decision

The Council will notify an applicant of its decision within 14 days of receiving a request for a review/re-determination.