

**POLICY DOCUMENT**

**DISCRETIONARY HOUSING PAYMENTS**

**Agreed: October 2005**

**Due for Review: March 2008**

**Updated 01 September 2006 – Version 2**

**Updated 19 June 2007 –Version 3**

**Updated 15<sup>th</sup> October 2007 - Version 4**

**Updated 25<sup>th</sup> June 2008 - Version 5**

## **1 BACKGROUND**

- 1.1 The Discretionary Housing Payments [DHP] scheme provides for all Local Authorities discretion to top up the Housing and Council Tax Benefits statutory schemes. The legislation governing a DHP can be found in the Discretionary Financial Assistance Regulations 2001 (SI 2001 / 1167).
- 1.2 There are two separate DHP schemes, one covering shortfalls between rental liability and payment of Housing Benefit and one covering shortfalls between Council Tax liability and entitlement to Council Tax Benefit.
- 1.3 The main features of the scheme are that:
- the schemes are purely discretionary, a claimant does not have a statutory right to a payment;
  - the amount that can be paid out by the Council in any financial year is cash-limited by the Secretary of State [government funding applies to a specified amount within the cash limit];
  - the administration of the scheme is for the Council to determine (with a few specific exceptions);
  - DHP is not a payment of Housing Benefit or Council tax Benefit. However, the minimum amount of HB/CTB must be in payment in the benefit week that a DHP is awarded for.

## **2 THE POLICY**

### **General**

- 2.1 The purpose of this policy is to specify how Harrogate Borough Council will operate the scheme and to indicate some of the factors that will be considered when deciding if a DHP can be made. Each case will be treated strictly on its merits and all customers will be treated equally and fairly when the scheme is administered. The Council 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 be reflected in the administration of the DHP schemes.
- 2.2 The Council will consider making a payment of a DHP to claimants who meet the qualifying criteria as specified in this policy. The Council will treat all applicants on their individual merits, and will seek through the operation of this policy to:
- alleviate poverty;
  - safeguard residents of the district in their homes;
  - help those who are trying to help themselves;
  - keep families together.
- 2.3 The Council considers that the DHP scheme should be seen as a short-term emergency fund. It is not and should not be considered as a way around any current or future entitlement restrictions set out within the Housing and Council Tax Benefit legislation.
- ### **Making a claim**
- 2.4 A claim for a DHP must be made in writing, using the Council's preferred application form, and signed by the claimant.

- 2.5 On request, or in appropriate circumstances, the Council will issue the claimant with a DHP application form. The claimant will be required to return the form to the Benefits Service within one month of its issue and will be encouraged to include any relevant supporting evidence.
- 2.6 The Council may request any (reasonable) evidence in support of an application for a DHP and will make such requests in writing. The claimant will be asked to provide the evidence within one month of such a request although this will be extended in appropriate circumstances.
- 2.7 The Council reserves the right to verify any information or evidence provided by the claimant in appropriate circumstances.
- 2.8 If the claimant is unable to or does not provide the required evidence, the Council will treat the application as lapsed.
- 2.9 In all cases, the Council will decide the length of time for which a DHP will be awarded on the basis of the evidence supplied and the facts known.

### **Making an award**

- 2.10 The period of an award will normally be:
- the Monday after a written claim for a DHP is treated as made - this is the date the form is received by the Council or the date the request was first made if the form is returned within one month of that date;
  - the minimum period for which the Council will award a DHP is one week;
  - the Council will usually award a DHP for not less than 13 weeks;
  - the Council will usually not award a DHP for a period exceeding 26 weeks.
  - the Council will consider any reasonable request for backdating an award of a DHP, but such consideration will usually be limited to the current financial year.
- 2.11 In deciding whether to award a DHP, the Council will take into account the following:
- the shortfall between Housing and Council Tax Benefit and the eligible rent or council tax;
  - any steps taken by the claimant to reduce their rental or Council Tax liability;
  - the financial and medical circumstances of the claimant, their partner and any dependants and any other occupants of the claimant's home;
  - the income and expenditure of the claimant, their partner and any dependants or other occupants of the claimant's home;
  - any savings or capital that might be held by 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;
  - the amount available in the DHP budget at the time of the application;
  - any other special circumstances brought to the attention of the Benefits service.

- 2.12 The Council will decide how much to award based on all of the circumstances. This may be an amount below the difference in liability and the payment of Housing Benefit and / or Council Tax Benefit. An award of a DHP does not guarantee that a further award will be made at a later date even if the claimant's circumstances have not changed.

*In respect of new and repeat applications from 01 July 2008, the previous restriction that awards will be no higher than £10.00 per week is removed. These conditions to be reviewed on an ongoing basis and, if necessary, amended subject to the approval of the Head of Revenues and Benefits*

(inserted 25 June 2008)

### **Making payment**

- 2.13 The Council will decide the most appropriate person to pay based upon the circumstances of each case. This could include paying:
- the claimant;
  - an appointee;
  - their landlord (or an agent of the landlord); or
  - any third party to whom it might be most appropriate to make payment.
- 2.14 The Council will pay an award of DHP by the most appropriate means available in each case. This could include payment:
- by cheque;
  - by crediting the claimant's Council Tax and / or rent accounts;
  - payment frequency will normally be made in line with how the Housing Benefit and / or Council Tax Benefit are paid.

### **Notification and Appeal**

- 2.15 The Council will inform the claimant of the outcome of their application within 28 days of receipt. Where the application is unsuccessful, the Council will set out the reasons why this decision was made and explain the right of review. Where the application is successful, the Council will advise:
- the weekly amount of DHP awarded;
  - the period of the award;
  - the requirement to report a change in circumstances.
- 2.16 A DHP is not a payment of Housing or Council Tax Benefit and is not therefore subject to the statutory appeals mechanism. The Council will operate the following policy for dealing with appeals about a refusal to award a DHP, a decision to award a reduced amount of DHP, a decision not to backdate a DHP or a decision that there has been an overpayment of a DHP.

- 2.17 A claimant (or their appointee or agent) who disagrees with a DHP decision may dispute the decision. A request for a review shall be delivered in writing to the Council within one calendar month of the written decision about the DHP being issued to the claimant. Where appropriate, Officers from the Council's Benefits Service will explain the DHP decision to the claimant by telephone, at interview or in writing and will seek to resolve the matter. If it cannot be resolved, the customer will have a further right of appeal, which will be considered by the Cabinet Member [Resources]. The decision would then be notified in writing and any appeal against the decision would be by way of an application for Judicial Review in the High Court.

### **Overpayment recovery**

- 2.18 The Council will seek to recover any DHP found to be overpaid. Normally this will involve issuing an invoice to the claimant or the person to whom the award was paid. Careful consideration will be given on recovery of any overpayment caused by a Harrogate Borough Council "official error". Under no circumstances will recovery be made from any amounts of Housing and / or Council Tax Benefit due to the claimant (except if the claimant requests this method of recovery specifically in writing). The decision letter that notifies a decision that there is an overpayment will also set out the right of review. The appeals process set out in paragraph 2.17 will apply to decisions on recovery.
- 2.19 A copy of this policy statement will be made available for inspection. Information about the amount spent will not normally be made available except at the end of the financial year.
- 2.20 The Council is committed to the fight against fraud in all its forms. A claimant who tries to fraudulently claim a DHP by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968. Where the Council's Benefits Service suspects that such a fraud may have occurred, the matter will be investigated as appropriate and this may lead to criminal proceedings being instigated.

Endorsed by Councillor A Skidmore (Cabinet Member for Resources)

– 26 October 2005 (version 1)

Endorsed by Councillor Andrew Jones (Cabinet Member for Resources)

– 27 September 2006 (version 2)

Endorsed by Councillor Andrew Jones (Cabinet Member for Resources)

– 25 July 2007 (version 3)

Endorsed by Councillor Andrew Jones (Cabinet Member for Resources)

– 31 October 2007 (version 4)

Endorsed by Councillor Andrew Jones (Cabinet Member for Resources)

– 25 June 2008 (version 5)