

Discretionary Housing Payment Policy - Overview and Scrutiny Task and Finish Group Report

*Lead Officers: Ian Potter, Revenues and Benefits Manager
Jo Gale, Scrutiny Manager*

Contact Details: ian.potter@southsomerset.gov.uk or 01935 462690

Purpose of the Report

This report sets out the purpose, methodology, findings and recommendations of the Task and Finish Group's review of the Discretionary Housing Payment Policy to take effect from 1 April 2017.

Actions Required

Scrutiny Committee members are asked to consider the detailed report of the Task and Finish Group and endorse the recommendations to District Executive.



SSDC Discretionary Housing Payment Policy

Report and Findings of the Overview and Scrutiny Task and Finish
Group

February 2017

Foreword

Discretionary Housing Payments (DHPs) were introduced in 2001 and are designed to provide additional support to help top up the difference between Housing Benefit (HB) and the rent charged. Government funding for DHP's has increased in recent years to mitigate some of the impact of the Welfare Reform programme.

The roll-out of Universal Credit (UC) by the Department for Work and Pensions (DWP) will mean support for housing costs will shift from Housing Benefit to Universal Credit. DHP's can be paid to UC recipients where their entitlement contains a housing cost element. Although UC is administered by DWP, DHP's will remain the responsibility of local councils to administer.

Government funding for DHP's is limited and while councils are permitted to top it up from its' own resources there is very limited scope to do so in the current financial climate. It is therefore important to ensure that support is effectively targeted.

The review seeks to ensure there is a clear policy framework that enables officers to make consistent and objective decisions while retaining a sufficient degree of discretion in recognition of the unique circumstances of each applicant.

Introduction

In July 2016, the Scrutiny Committee of South Somerset District Council agreed to establish a Task and Finish Group, in line with the constitutional arrangements, to review the authority's approach to administering Discretionary Housing Payments.

The Task and Finish Group consisted of the following members:

Councillor Jason Baker

Councillor Cathy Bakewell

Councillor Val Keitch

Councillor Sue Osborne

Councillor Sue Steele

This report sets out the results of that review and attached is the draft SSDC DHP policy which encompasses the work of the Task and Finish Group.

Process

The Task and Finish Group met on a monthly basis over a period of four months, during that time they familiarised themselves with the statutory and legislative requirements of the Discretionary Housing Payment scheme, current SSDC policy and practice and sought advice and guidance from other authorities and expert sources including Shelter and CAB.

As part of the process, members considered a number of anonymised case studies of previous DHP applications to demonstrate the various circumstances currently experienced by residents of South Somerset and the very real demand for the additional support provided by the DHP Scheme.

Once members had developed a better understanding of both the national and local context, they held meetings with Shelter South West and South Somerset MIND to ensure any recommendations coming forward would provide the best possible service to customers and not in any way disadvantage them. This work was in addition to looking at examples of best practice from both national and neighbouring local authorities.

In bringing forward the draft DHP Policy and accompanying recommendations, members of the Task and Finish Group are confident that they have conducted a wide ranging and evidence based review.

Reasons for this review

SSDC has a Discretionary Housing Payment Scheme policy that came into effect on 1st June 2014. Since that time, the number of applications for a DHP has increased as the pace of welfare reform has accelerated. This increase has come at a time of reducing budgets – and there is little capacity within SSDC to exceed the funding allocated by Central Government.

Against this background, members of the Scrutiny Task and Finish Group have reviewed the existing policy with a view to recommending a framework within which officers can allocate available funding in the most equitable way to those most in need – the success of an application should not depend on the point in the financial year it is submitted.

Background

Discretionary Housing Payments (DHPs) were introduced in 2001 and are designed to help top up Housing Benefit (HB) entitlement. Funding has increased to cover welfare reforms – but only covers a small part of the losses in HB.

DHP's are partly funded by Government. For 2015/16 the Government contribution for SSDC was £174k. Legislation allows SSDC to spend £463k (which equates to 2.5 times Government Allocation). The additional £262k would have to be found from within existing SSDC budgets. Any spend above this would be considered to be breaking the law.

In 2015/16 SSDC topped up the government allocation by £25k – and made 492 awards.

What are DHP's?

DHPs may be awarded when an LA considers that a claimant requires further financial assistance towards housing costs and is in receipt of a social security benefit which qualifies them for a DHP payment [Housing Benefit and Universal Credit].

The regulations covering DHPs are the Discretionary Financial Assistance Regulations 2001. Guidance associated with these regulations (issued in February 2016) state that whilst the regulations give local authorities broad discretion, decisions must be made in accordance with the principles of good decision making – i.e. administrative law. In particular, LA's have a duty to act fairly, reasonably and consistently. Each case must be decided on its own merits, and our decision making should be consistent throughout the year.

For clarification, Housing Costs in relation to DHPs are not defined in the regulations and so SSDC has a broad discretion to interpret the term. For the purpose of this review, we have adopted a working principle that the SSDC will consider providing financial assistance if the following factors have created a shortfall between rent and HB (referred to as Housing Costs);

- Benefit cap
- Social Sector Size restriction
- Local Housing Allowance restrictions
- Local reference Rent and Shared Accommodation Rate
- Non-dependent deductions and equivalent in Universal Credit
- To prevent homelessness; and
- Income taper reduction.

DHPs cannot be awarded towards Council Tax liability, ineligible service charges, increases in rent due to outstanding rent arrears and certain benefit sanctions.

Financial Assistance can also be awarded to fund rent deposits and rent in advance to secure tenancies, however, budget limitations and increasing demand in the face of recent and on-going welfare reforms mean that SSDC is not able to make awards in these circumstances.

Agreeing principles

Members of the Task and Finish Group wished to replicate the successful principle established by previous Task and Finish Reviews of meaningful member involvement in reviewing this important policy area.

A primary objective of this review was to ensure that there is consistency in how the team administers DHPs, making the process as objective as possible and removing a reliance on subjective decision making.

Members were asked to consider how much funding SSDC is prepared to allocate in addition to the government's allocation for DHPs.

A key component of assessing DHP applications is assessing expenditure – this Task and Finish Group spent a considerable amount of time establishing criteria for reasonable expenditure. This work involved consultation with local and national advisory agencies such as SHELTER and CAB.

Members agreed that the resulting DHP policy should look beyond the financial assistance that can be provided. The policy should look at other ways in which we can help in providing more long term help, for example by offering budgetary advice, advice on energy suppliers etc. This approach supports the 'self-help' element of Universal Credit.

Members were mindful of the need to consider the level of resources required to adopt such an approach against the potential budgetary benefits of reducing number of applicants.

Current practice

Current practice is governed by the Discretionary Housing Payment Scheme Policy introduced in June 2014

The Revenue and Benefits team currently make awards based on assessing income and expenditure and have the ability to exercise discretion to take into account some exceptions such as pregnancy etc.

In line with the regulations and guidance, each case presented is judged on its merits in terms of whether to make an award, the level of award and the duration of an award.

This approach is in line with the regulations and provides a valuable service to some of our most vulnerable customers. However, the demand for DHPs is increasing as the welfare reforms already introduced start to take effect and with more planned the increase in applications is anticipated to continue.

The purpose of this review has been to revisit the original policy in light of evidence and information gathered over the past 3 years and reassure the authority that the principles of equity and fairness can continue to be upheld.

DHP regulations and guidance leave a lot of the decision making to the discretion of the awarding authority, within broad guidelines. Whilst this allows for local conditions to be reflected, it is felt that there is a need to provide a more formal framework to support officers in exercising that discretion.

Evidence gathering

One of the primary concerns of members undertaking this review was to introduce an evidence based approach as far as possible. Members acknowledged that those officers administering the DHP process are continually asked to make judgments on the expenditure choices of applicants. When applying for a DHP, applicants are asked to complete the form attached at Appendix A. Officers then base their decisions on this information – currently there are no guidelines as to what constitutes ‘acceptable living allowances’ and officers could make different judgements – each entirely valid, but not effectively contributing to consistent decision making. Members were also conscious of the strain this could potentially put on officers, asking them to effectively judge the lifestyle choices of applicants.

In response to these issues, members sought the advice of national and local interest groups who support those most vulnerable in our communities, including CAB and Shelter. The Task and Finish Group were grateful to Vicki Sampson – Service Manager - Shelter South West who attended a meeting and provided invaluable advice and guidance to members.

Members’ focused on trying to establish a basis for reasonable living expenses. In pursuit of this, members considered various case studies provided by Shelter which demonstrated the very real day to day issues affecting potential DHP Applicants.

Before looking at detailed living expenses, members agreed a set of principles that they believe should underpin the DHP Policy.

In his paper presented to the European Consumer Debt Network in 2010, Nordenankur made the following statement about what constitutes a reasonable standard of living and advocates that this becomes the accepted position underpinning any related assessment activity.

“A reasonable standard of living should be seen to meet the physical, psychological and social needs of an individual– not to levels of luxury but similarly not at a subsistence level. Individuals in receipt of assistance should be able to :

- *participate in the life of the community as other citizens do;*
- *eat nutritious food, have clothes for different weathers and situations;*
- *keep a clean and tidy home;*
- *have furniture and equipment at home for rest and recreation;*
- *be able to devote some time to leisure activities, to read books and watch television “*

The Task and Finish Group supported this principle but added the caveat that it should be upheld within the context of the need to administer a fair and equitable scheme that represents the interests of all parties – including Council Tax payers who are not DHP recipients.

Members of the Task and Finish Group were reminded that currently, decisions on ‘reasonable living expenses’ are made subjectively by officers. Members have made some recommendations to support officers in this decision making – whilst acknowledging that it will be impossible to provide a hard and fast set of rules, but a general set of ‘reasonable’ costs should be achievable.

What constitutes a Reasonable Standard of living?

Detailed ‘reasonable living costs’

The most commonly available data relating to what constitutes reasonable living expenses for assessment purposes to relate to IVA (bankruptcy agreements) provided members with an initial basis for drawing up SSDC Guidelines for reasonable living expenses.

The following guidance is taken from the Government’s Money Advice Service Website and whilst again it is intended to advise those applying for bankruptcy, it provides a useful point of reference.

Essential and allowed expenditure – a rough guide

- **Rent**
- **Monthly utility bills** – *This will include essentials such as gas and electricity as well as water rates*
- **Council Tax**
- **Food and toiletries** – *The amount allowed for an individual is £200 per month. Where there is a couple, it is £300. For each child in the household, this amount would increase by £80. This includes food, toiletries and cleaning products.*
- **Fuel allowance** – *the allowance is usually up to £160, however, more may be permitted if it can be justified (for example for work purposes)*
- **Insurance** – *This can include buildings and contents insurance or car insurance.*
- **Child Maintenance** – *the amount allowed for child maintenance is variable.*
- **Rented goods** – *this could include washing machines, fridge etc*
- **Dental and optical** - *there is a limit of £10 for an individual and £15 for a couple. As children are usually treated for free, there is no additional allowance.*
- **Clothing** – *depending on the number of individuals in the household, this amount will vary. For an individual, there is a limit of £25 per month, a couple are allowed £40 per month and for each child there is an additional £10.*

Expenses that would not be considered essential or allowed:

- **Satellite or cable TV** - although in some circumstances, this may be considered acceptable if the monthly amount is reasonable
- **Private health insurance**
- **Memberships**
- **Charitable donations.**

Local Authority Examples

As with all Scrutiny activity, examples of existing best practice from other local authorities administering DHP's was sought. Members identified an example of good practice at neighbouring authorities, principally Taunton Deane and West Somerset. Members would like to thank those authorities for their help and advice with this review.

The table of reasonable expenses included in the draft policy (and set out below) is the same set of figures used by TDBC and WSC and has been drawn up in consultation with the CAB and Engage West Somerset – an umbrella body representing the charitable sector in the West of Somerset. The figures are revisited annually and a recommendation of this Task and Finish Group is that SSDC engages in this annual revision process, and in doing so ensures that as far as possible there is a consistent approach to administering DHPs across Somerset.

The Authority will allow expenditure for:

Fuel, power, insurances	To include electricity, gas, oil, building and contents cover	£12.50
Food and Household	To include food, toiletries, laundry, clothing, footwear, pet food, nappies	£30.00
Health	Dentist, glasses and prescriptions	£1.00
Transport	Car Tax, MOT, fuel, insurance, bus fares, taxis	£12.00
Communications	Mobile phone, internet, landline, TV Licence	£10.00
Miscellaneous	Repairs, hairdressing, hobbies, leisure	£8.00
	Total weekly expenditure:	£73.50

The Authority will also allow the following expenditure in full:

Maintenance paid for a child or former partner	Actual expenditure
Rent liability	Actual expenditure
Council Tax liability	Actual expenditure
Water Rates	Actual expenditure
Court Fines and negotiated financial repayments	Actual expenditure

The trigger point level will be multiplied by the household factor by The Office of National Statistics. These are:

Type of Household member	Equivalence Value
First Adult	1.0
Additional adult	0.5
Child aged: 14 and over	0.5
Child aged:0-13	0.3
Adult aged under 25 (not set by ONS)	0.8

Taking account of DWP and allowances for adults under 25 we will include a household factor multiplier of 0.80.

For example, if a household is made up of a Couple and the allowable notional expenditure for an item such as food is £30 the household factor would be 1.5 (1.0 plus 0.5) allowing £45 a week for food.

Any expenditure at or below the trigger point for allowable expenditure will be permitted. Any expenditure in excess of the trigger point will not automatically be considered. The applicant will need to prove their level of spending is essential, reasonable and unavoidable. We may also request to see medical letters and supporting bank statements.

The decision maker has the discretion to exceed the trigger point or actual expenditure where it is reasonable to do so.

South Somerset MIND

In addition to seeking external, expert advice from Shelter, CAB and other authorities, members were aware of the mental health implications of this policy area and so met with Alex Priest, CEO of South Somerset MIND. Alex considered the draft proposals of the Task and Finish Group and was satisfied that due regard had been paid to the needs of customers with mental health needs.

In particular, he felt that there was adequate provision in the policy to meet transport costs – an issue of vital importance in a rural community such as South Somerset where rural isolation and loneliness are significant contributors to poor mental health. In connection with this, members discussed expenditure on Television packages. It was the view of MIND that for some individuals in rural locations, TV could provide the only human voices they hear for long periods of time and should be seen as contributing to their mental wellbeing. In recognition of this, members have recommended that an allowance is provided for television within the Reasonable living expenses guidelines, but that it should be recognised that Freeview television provides a very good service.

Providing Advice and support

All of the external sources members spoke to reinforced the importance of focusing on the right of the individual to make their own choices about how to live their lives. Particularly in respect of those with mental health needs, removing this right to choose could be very detrimental.

Making appropriate lifestyle and budgeting choices are examples of the individual's ability to choose, however this was also highlighted as a particular concern by the expert witnesses members spoke with. The most vulnerable members of our community often have a chaotic approach to financial

management and are not familiar with the practice of comparing service providers, especially in terms of utility companies.

Ideally, members would like SSDC to provide more in-depth 'money management' advice to applicants – supporting them in making lifestyle and financial decisions which will lead to long term improvements in their situations. However, members accepted that current budget pressures do not allow for this and so recommend that as part of the application and assessment process, SSDC Officers sign post applicants to the CAB, under the provision of our current agreement.

The issue of expenditure on tobacco and alcohol was debated at length. There is an argument that this is a lifestyle choice and ensuring rent can be paid could be considered as a higher priority. However, in discussions with South Somerset MIND, members were reminded of the mental health implications of substance dependency. Whilst there are obvious physical and mental health benefits from reducing alcohol and tobacco usage, it is often part of a complex situation and SSDC would be better advised to signpost applicants to support services, again initially via CAB.

Members were keen to stress that whilst the policy they are recommending has a framework within which officers can assess DHP awards, there is still provision for discretion to be exercised and for each case to be treated on its merits.

One of the principles members agreed upon at the start of this review was to support the national programme of incentivising work and to reduce reliance of benefit support. Therefore, the Task and Group are recommending that in addition to the above advice, applicants are also signposted to other sources of welfare benefit advice – where applicable.

With this in mind, members have made clear reference within the draft policy to the duration of awards. In order to maintain the original intention of DHP's being available to alleviate short term issues and should not be seen as a regular and permanent source of income. To this end, members are recommending that awards are made for a maximum of 6 months, after which period the situation will be reviewed.

Supporting SSDC Officers

In drafting the recommended policy, members were aware of the role of the Revenues and Benefit's Team in the successful implementation. As far as possible, members have met the brief of providing a sound, evidence based framework within which officers can make consistent decisions. However, there remains a necessary element of discretion, recognising the 'human' aspect of the scheme and members were aware of the need to provide additional support to those officers exercising their judgement and discretion. This will be investigated by the Revenues and Benefits Manager.

Funding DHPs

As agreed in the review objectives, members of the Task and Finish Group considered the issue of funding DHPs in the future. Whilst noting theoretically that SSDC can contribute an additional £326k per year to fund DHPs, in reality, the funding does not exist to do this and therefore, they recommend that the intention should be for spending to remain within the government allocation.

By introducing a more robust policy, with clearer guidelines, members believe that SSDC will have a demonstrably fair, equitable and consistent approach to administering DHPs which should result in the

available funding being distributed to those most in need. The introduction of a more rigorous approach to monitoring the duration of awards should also support this.

However, members also believe that if an application for a DHP meets the criteria as set out in the policy, an award should be made even if the allocated funding had been spent. Should this situation arise, there will be an inevitable impact on budgets. To address this potential risk to SSDC finances, members are recommending that the situation is closely monitored for the initial 12 months after the adoption of the policy and that a report is submitted to Scrutiny showing expenditure against allocated budgets. If the **evidence** shows that the available funding is not sufficient to meet the needs of our customers, then the issue will need to be revisited as part of the budget setting process with members discussing priority spending areas and possible application to contingency funds.

Equality Considerations

Jo Morgan, the SSDC Equalities Officer has been actively involved at all stages of the review, attending meetings and advising on the completion of the Equalities Impact Assessment

Conclusions

Based on the work carried out and detailed above, the Task and Finish Group are recommending the attached draft policy for adoption along with the following recommendations:

Draft policy for recommendation :

- That the draft policy attached at Appendix A is recommended to Council for Approval.
- That no provision should be made within the MTFP for exceeding the Government's allocation for funding the administration of DHPs, but that this situation be monitored and reviewed on an annual basis to ensure budgets accurately reflect demand. Members recommend that an annual report is submitted to Scrutiny, to fit in with the budget setting process, showing levels of expenditure against the allocated funding.
- That all literature produced in connection with the DHP Process is reviewed to ensure it meets organisational standards on terms of Plain English and accessibility;
- That measures are introduced to ensure staff administering the DHP scheme are supported;
- That SSDC actively engages with Taunton Deane Borough Council and West Somerset District Council when they have the annual review meeting with CAB to agree the reasonable living expenses levels;