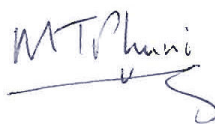




Report for:	Leader of the Council on 12 April 2013	Item Number:	N/A
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Title:	Haringey's Discretionary Housing Payments Policy 2013/14
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Report Authorised by:	Mun Thong Phung, Director of Adult & Housing Services  Signed: Date: 4th April 2013
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Ward(s) affected: All	Report for: Key Decision
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1. Describe the issue under consideration

- 1.1 Each year, the Department for Work and Pensions (DWP) makes grants available to local authorities for Discretionary Housing Payment purposes.
- 1.2 Discretionary Housing Payments (DHPs) are administered by local authorities and provide financial assistance (outside of the Housing Benefit and Universal Credit regulations) to help tenants meet their housing costs. They can play an important role in sustaining tenancies, preventing homelessness and, where needed, enabling tenants to move to more affordable accommodation.
- 1.3 In 2013/14, the total DHP grant budget (shared between all local authorities in England, Scotland and Wales) is £155 million. Haringey's share is £2,422,506.
- 1.4 The purpose of this report is to recommend the approval of a new Discretionary Housing Payments Policy (see **Appendix A**) that will ensure that, during 2013/14, these limited DHP resources are used in a way that is not only fair but also supports those households that are in most need of assistance.



2. Recommendations

2.1 It is **recommended** that the Leader of the Council:

- (a) Approves a £442,000 increase in Haringey's DHP budget for 2013/14 (which will be reported to Cabinet in June 2013), using part of the extra funding that the Council has received from the DWP to prepare for, and implement, the application of the Benefit Cap;
- (b) Approves Haringey's Discretionary Housing Payments Policy 2013/14 (see **Appendix A**) as the means by which the Council will determine how the DHP funds will be allocated during the 2013/14 financial year; and
- (c) Agrees that, until the DHP budget is reviewed later in the year, Council Officers will implement the DHP Policy on the basis that the £2,864,506 represents the full DHP budget for 2013/14.

3. Alternative options considered

- 3.1 Consideration has been given to the option of continuing with Haringey's existing Discretionary Housing Payments Policy. However, this option was rejected on the grounds that a new policy is needed to deal fairly and effectively with the substantial increase in demand for DHPs, the severe impact that the Benefit Cap and the Social Rented Sector Size Criteria is likely to have on some households, and the need for the Council to make best uses of the limited resources available.
- 3.2 In the course of developing Haringey's DHP Policy 2013/14, Officers have considered a wide range of options – including which claimants should be awarded priority and under what circumstances, whether or not claimants should receive DHPs for a period exceeding 12 months, and whether or not conditions should be attached to the award of a DHP – but have always been mindful of the fact that the Council must not fetter its discretion and needs to consider all applications (including those that are not listed as a priority) on their individual merits.
- 3.3 Consideration has been given to the option of the Council 'topping up' the DHP budget using its own financial resources. However, taking into account the considerable demands on the Council's finances – and the fact that the full effects of the welfare reforms are not yet known – it was concluded that the Council should increase the DHP budget by £442,000 in 2013/14 (using some of the extra funding it has received from the DWP to prepare for, and implement, the Benefit Cap) and then review the situation later in the financial year.

4. Background

Discretionary Housing Payments

- 4.1 DHPs were introduced in 2001 and are used by local authorities to provide financial assistance to claimants in receipt of Housing Benefit when the local authority considers that additional help with housing costs is required.



- 4.2 Housing costs are generally defined as rental liability, but can also include other costs such as a rent deposit. DHPs may be awarded as a one-off payment or periodically for a period the local authority considers appropriate.
- 4.3 From April 2013, DHPs have been extended to include people who are receiving Universal Credit, providing that they have a rental liability and are eligible for support towards housing costs.
- 4.4 The Discretionary Financial Assistance Regulations 2001 (as amended) provide the legal framework for DHPs. Although the DWP provides guidance to local authorities on how DHPs can be used, local authorities have a large degree of discretion over the scheme and there are few regulatory restrictions.
- 4.5 During the passage of the Welfare Reform Act 2012, the Government announced that it would increase its contribution towards DHPs to help local authorities provide financial assistance and support for households affected by the Benefit Cap, the Social Rented Sector Size Criteria and the Local Housing Allowance reforms.
- 4.6 In 2013/14, the national DHP grant budget is £155 million, comprising a core amount of £20 million, a Benefit Cap allocation of £65 million, a Social Rented Sector Size criteria allocation of £30 million and a Local Housing Allowance (LHA) Reforms allocation of £40 million. In 2014/15, the DHP budget will be £125 million.

Haringey's DHP budget 2013/14

- 4.7 Haringey's share of the national DHP grant is £2,422,506 (an increase of £1,569,338 compared to its grant in 2012/13) which is broken down as follows:

Core amount	£ 292,880
Benefit Cap	£1,353,357
Social Rented Sector Size Criteria	£ 215,981
Local Housing Allowance Reforms	£ 560,288
Total	£2,422.506

- 4.8 Although the Council may 'top up' the DHP grant using its own resources, total expenditure on DHPs must not exceed £6,056,265 (2½ times the DWP grant) in 2013/14. The Council's maximum permitted contribution is £3,633,759.
- 4.9 Due to the numerous competing pressures on its finances, Haringey has historically not provided any extra funding for its DHP budget over and above DWP grant.
- 4.10 Although it would be advisable for the Council to review the DHP budget later in the financial year – when the effects of the welfare reforms are better known – the Council is in a position to increase its DHP budget by £442,000 in 2013/14, using some of the extra funding of £557,350 it has received from the DWP to prepare for, and implement, the Benefit Cap in advance of the national rollout.



4.11 This extra contribution would increase Haringey's DHP budget to £2,864,506.

Use of Haringey's DHP budget

- 4.12 Between them, the Benefit Cap and Social Rented Sector Size Criteria are expected to reduce, by more than £8 million a year, the amount of Housing Benefit paid to households that are living in Haringey or in temporary accommodation.
- 4.13 The problem is further compounded by the impact that the Local Housing Allowance reforms (including the LHA Caps, the Shared Accommodation Rate and the use of the 30th percentile to calculate LHA rates) and increases in the size of non-dependant deductions will have on the amount of Housing Benefit that claimants receive. These will place even more strain on Haringey's DHP budget of £2,864,506 which will be insufficient to replace the amount of Housing Benefit lost.
- 4.14 In fact, the DWP has made it very clear that the extra DHP funding is not intended to replace lost benefits but to provide, instead, extra resources that local authorities can use to assist those most affected to adjust to a long-term, affordable approach.
- 4.15 Although the DWP has provided Haringey with a breakdown of its grant allocation of £2,422, 506 (see Paragraph 4.7), the way in which the overall DHP grant allocation is spent is at the Council's discretion. However, each case must be considered on its individual merits and decisions must be consistent throughout the year.
- 4.16 The proposed DHP Policy (see **Appendix A**) seeks to allocate these resources in a way that is not only fair but also supports those in most need of assistance.

Overriding principles of Haringey's scheme

- 4.17 Welfare reform is aimed at encouraging people to move into work, increase their hours and/or move to more affordable accommodation.
- 4.18 It is recognised that DHPs have an important role to play in providing tenants with short-term assistance to ease transitions and allow households time to find a way to resolve their difficulties.
- 4.19 It is proposed that the overriding principles of Haringey's DHP scheme are that:
- All claimants will be treated fairly;
 - All DHP applications will be assessed on their individual merits (which includes, where relevant, considerations of equality);
 - All of the options available to the claimant (including, for example, reducing household expenditure, maximising income, securing employment and/or moving to alternative, less expensive accommodation) will be taken into account when the Council assesses the merits of each application; and
 - In order to be awarded a DHP, claimants must be able to show that their circumstances are exceptional.



Objectives of Haringey's scheme

- 4.20 The expectation is that DHPs will be awarded in unusual or extreme circumstances where additional help with the current rent will have a significant effect in alleviating hardship, reducing the risk of homelessness or alleviating difficulties that may be experienced in the transition from long term benefit dependence into work.
- 4.21 The Council will consider making a DHP award to applicants who meet the qualifying criteria. Assessing all applications on their individual merits, it will consider the extent to which the financial assistance requested will meet the Council's objectives of:
- Alleviating poverty;
 - Encouraging and sustaining people in employment;
 - Sustaining tenancies and preventing homelessness;
 - Safeguarding Haringey residents in their own homes;
 - Helping people who are trying to help themselves;
 - Keeping families together;
 - Supporting victims of domestic violence to move to a place of safety
 - Supporting the vulnerable and elderly in the local community;
 - Helping customers through personal and difficult events;
 - Supporting young people in the transition to adult life; and
 - Promoting good educational outcomes for children and young people.

Support for households affected by the Benefit Cap

- 4.22 It is estimated that, in Haringey, the Benefit Cap will affect around 1,000 households and that, when it is applied, it will reduce by about £5.2 million a year the amount of Housing Benefit that tenants receive towards their rent.
- 4.23 Examples of the groups that are likely to be particularly affected by the Benefit Cap include (but are not limited to) the following:
- Homeless families living in temporary accommodation;
 - Families living in private rented accommodation
 - Individuals or families fleeing domestic violence;



- Those with kinship responsibilities;
- Individuals or families who cannot move immediately for reasons of health, education or child protection; and
- Households that are moving to more appropriate accommodation.

4.24 Even if the extra funding of £442,000 (provided by the Council) is added to the amount of money that the DWP has allocated to Haringey to mitigate the impact of the Benefit Cap, the total amount of money (£1,795,357) represents just 35% of the total Housing Benefit losses that are expected to result from the Benefit Cap.

4.25 DHP funding aims to provide short-term, temporary relief to mitigate the most severe effects of the Benefit Cap until a more sustainable solution is found.

4.26 It is proposed that, as well as prioritising homeless households living in temporary accommodation, the DHP Policy will prioritise the following:

- Households that need to move to alternative, lower cost accommodation but are unable to do so immediately (for reasons of health, education or child protection) and the provision of short-term financial assistance will contribute to the achievement of one or more of the policy objectives (see Paragraph 4.21);
- Households that need to move to alternative, lower cost accommodation but are working proactively to resolve their situation and the short-term award of a DHP will, in the opinion of Haringey's Welfare Reform Practical Support Hub, prevent the household from becoming homeless or delay homelessness for long enough to enable them to complete a planned move to more affordable accommodation;
- Households that are living in social rented housing and are, in the opinion of Haringey's Welfare Reform Practical Support Hub, working proactively with Jobcentre Plus and advice / support providers to secure paid employment, claim Working Tax Credit and become exempt from the Benefit Cap.

4.27 All DHP applications will be assessed on their individual merits.

Support for households affected by the Social Rented Sector Size Criteria

4.28 It is estimated that, in Haringey, the Social Rented Sector Size Criteria ('bedroom tax') will affect almost 3,000 households and that, when it is applied, it will reduce by about £3 million a year the amount of Housing Benefit that Haringey's council and housing association tenants receive towards their rent.

4.29 Although the Council has the freedom to spend more of its DHP budget on assisting tenants affected by the Size Criteria (and less on the tenants affected by the other welfare reforms) the amount of money that the DWP has allocated to Haringey to mitigate the impact of the Size Criteria (£215,981) represents just 7% of the total Housing Benefit losses that are expected to result from the Size Criteria.



- 4.30 The purpose of the DHP funding is to help those tenants who are unlikely to be able to meet the shortfall in the rent payments and for whom moving to a smaller property may be inappropriate or avoidable. For claimants living in significantly adapted accommodation, it will sometimes be more cost-effective to allow them to live in their current accommodation rather than moving them into smaller accommodation which then needs to be adapted.
- 4.31 Given the limitations of the DHP budget – and on the understanding that the Council and its housing association partners will do everything they can to support tenants and prevent them from becoming homeless – it is proposed that the Council will give priority to DHP applications received from the following households:
- Households that contain a person with a disability and are living in ‘significantly adapted’ accommodation;
 - Households that contain a disabled child who is unable to share a bedroom because of their severe disabilities;
 - Households that contain a disabled child and are living in accommodation that has been adapted to meet the child’s needs; and
 - Households containing someone who has a severe and persisting disability which means that they are dependent on the care and support of relatives and friends who are living in the local community and there is no suitable accommodation available, within the local area, to which they are able to transfer.
- 4.32 Depending on the level of demand for DHPs, the Council may also give priority (albeit slightly less priority than is given to the households affected by the Size Criteria listed above) to DHP applications from the following households:
- Households whose Housing Benefit is restricted by the Size Criteria but that restriction will soon be lifted because the claimant (and their partner, if they have one) will reach the age at which they will be able to claim Pension Credit;
 - Households whose Housing Benefit is restricted by the Size Criteria but that restriction will soon be lifted because one or more of their children will soon reach an age when they are not expected to share a bedroom;
 - Single people who are pregnant (and childless couples containing a pregnancy) who are living in a two-bedroom home but whose Housing Benefit is restricted by the Size Criteria to a one-bedroom home but that restriction will soon be lifted when the baby is born; and

Other households requesting a DHP, including those affected by LHA reforms

- 4.33 DHP funding may provide short-term, temporary relief for families and vulnerable people whose Housing Benefit or Universal Credit has been reduced, due to LHA restrictions (including the LHA Caps, the Shared Accommodation Rate and changes to how LHA is calculated), income tapers and non-dependant deductions.



- 4.34 Although DHPs cannot assist with the council tax liabilities they incur under the 2013 Council Tax Reduction scheme, residents can ask the Council to backdate a DHP claim that is based on the Council Tax Benefit awarded in 2012/13.
- 4.35 All DHP applications will be considered on their individual merits. However, the Council will give priority to applications from households for whom the Council will have a housing duty if they become homeless and households that have children and need to move to alternative, lower cost accommodation but are unable to do so immediately (for reasons of health, education or child protection).

Assessment of applications

- 4.36 When deciding whether or not to award a DHP, the Council will assess each application on its merits (including considerations of equality) and take into account its objectives and such things as:
- The size of any shortfall that exists between what the claimant is receiving in housing costs (from Housing Benefit or Universal Credit) and the eligible housing costs for which they are liable, together with the reasons for this shortfall;
 - The financial circumstances (income and expenditure, savings, capital and indebtedness) of the claimant, their partner and anyone else living in their home;
 - Any special needs or health and social problems that the claimant and/or their family have, and what impact these have on their housing and financial situation;
 - The impact that moving home and/or changing schools is likely to have on the family and the educational outcomes of any young people in the household;
 - The reasons why, compared to other people, the circumstances of the claimant and their family should be considered 'exceptional';
 - The impact that not awarding a DHP is likely to have on the Council's finances and services, especially homelessness, social care, family support and health;
 - The length of time for which a DHP is being sought;
 - Any steps the claimant has taken to reduce their rental liability;
 - The nature of any contact the claimant has had with the Council's Welfare Reform Practical Support Hub;
 - The amount of money remaining in the DHP budget; and
 - Any other factors that the Council and/or claimant consider appropriate.



4.37 When the Council has considered the claimant's needs and circumstances, it will decide how much to award. This may be any amount below the difference between the rental liability and the payment for Housing Benefit / Universal Credit. The DHP award cannot exceed the weekly eligible rent for the claimant's home.

4.38 The award of a DHP does not guarantee that a further award will be made at a later date, even if the claimant's circumstances remain unchanged.

Period of award

4.39 The Council will decide on the length of time for which a DHP is awarded.

4.40 The length of each award will be based on the individual circumstances of each claimant and take into account the date the tenancy and/or notice period expires.

4.41 As an award can only be made for the current financial year, any award that is made for the remainder of 2013/14 will have to be followed by a new application for the next financial year even if the claimant's circumstances remain unchanged.

4.42 Although all claimants are entitled to make a fresh claim (for a further DHP) when their existing award comes to an end, the Council will not automatically invite claimants to apply for another DHP.

4.43 As DHPs will not usually be regarded as offering a long term solution to a claimant's financial situation, the maximum length of a DHP award (or a series of consecutive awards) will not normally exceed 12 months. Exceptions may be made, in particular for certain claimants affected by the Social Rented Sector Size Criteria and where the Council continues to regard it as inappropriate for the claimant to have to move.

Notification of decisions

4.44 The claimant (and the landlord if the DHP is paid direct to the landlord) will be notified, in writing, of the outcome of the DHP claim within 14 days of receipt of the claim and all supporting documentation, or as soon as possible after that.

4.45 If a claim is unsuccessful, the Council's decision letter will include an explanation of how the decision has been reached and details of the right of review.

Payment arrangements

4.46 The Council will decide whether the DHP should be paid to the tenant, the landlord or a third party. Rent-in-advance and deposits will normally be paid to the landlord.

Claimants' right to request a review

4.47 As a DHP is not a payment of Housing Benefit or Universal Credit, it is not subject to the appeals mechanism that operates under those schemes.



4.48 Claimants can request a review of a decision to refuse to award a DHP, a decision to award a reduced amount, a decision not to backdate an award for DHP or a decision to seek recovery of an overpayment of a DHP as follows:

- A claimant (or their representative) who disagrees with a DHP decision may request a review. This request must be made in writing, within one month of when the notification was issued, and set out the reasons for requesting a review. (The time limit for requesting a review may be extended if the Council considers it reasonable to do so).
- A DHP Review Panel, comprising Officers from the Council's Benefits Service and Housing Service, will review all of the evidence held and will make a decision within 14 days or as soon as possible after that.
- If the DHP Review Panel decides to change the original decision – perhaps because of new or additional information provided by the claimant – it will issue the claimant with a new decision notification.
- If the DHP Review Panel decides that the original decision was correct, the claimant will be notified of this in writing, with reasons for the Panel's decision.

4.49 The DHP Review Panel's decision will be final.

Review of the DHP Policy

4.50 The DHP Policy will be reviewed annually and in light of any legislative changes, trends or other factors that impact on its effectiveness.

4.51 The Council may also, during the course of any year, review and reconsider whether it should allocate any of its own resources towards the overall DHP budget.

5. Comments of the Chief Finance Officer and financial implications

5.1 The national implementation of the Social Rented Size Criteria and the early implementation in Haringey of the Benefit Cap present a high level of financial risk to the Council from increased rent arrears and a potential rise in homelessness. Action is being taken by Community Housing Services, Benefits and Local Taxation and Homes for Haringey to identify and work with affected households in order to mitigate against the financial risks to the Council and to the individuals themselves. It is important that the effectiveness of this is closely monitored.

5.2 The DWP has provided some additional funding (£557k) in recognition of the additional costs to Haringey of the early implementation of the Benefit Cap. £115k of this funding will be used to meet administration and project costs and £442k is given to offset rental losses in temporary accommodation. Adding this to the DHP pot is an appropriate way of using this funding. This budget change will be reported to Cabinet in the next financial monitoring report.



- 5.3 Given the scale of the Welfare Benefit changes there is likely to be a very heavy demand for DHP for which the resources available will not be sufficient and so prioritisation will be required. In the MTFS the Council has made some provision for the financial impacts of Welfare Reform – including additional funding for Community Housing Services and increased provision for bad debts in the HRA. However there is no approved funding to increase the DHP pot. Further Cabinet approval would be needed to make any changes to this budget and the source would need to be identified.
- 5.4 The revision of the Discretionary Housing Payments Policy does not require additional financial resources in itself; the policy has been revised to align more closely with the Council's current priorities and will be used to support the allocation of existing resources in accordance with those priorities.
- 5.5 The effectiveness of the DHP Policy and the systems and processes used to administer it must be kept under close review as the impact of Welfare Reform becomes clearer.

6. Comments of the Head of Legal Services and legal implications

- 6.1 The Discretionary Financial Assistance Regulations 2001 (the Regulations) provide the legal framework for Discretionary Housing Payments (DHPs). The Regulations have recently been updated to reflect the abolition of council tax benefit so that DHPs can no longer be paid towards council tax liability. The Regulations will be updated in due course to reflect the introduction of Universal Credit.
- 6.2 The Regulations give the Council a very broad discretion to determine a local scheme for DHPs. However decisions must be made in accordance with public law principles and the duty to act fairly, reasonably and consistently. Further, the Council must not act in a way which 'fetters' its duty to properly exercise its discretion, and each case must therefore be considered on its own merits.
- 6.3 In accordance with Article 7 of the Discretionary Housing Payment (Grants) Order 2001 the Council's total expenditure on DHP cannot exceed the overall cash limit of two and a half times the government contribution. To award DHP above this level would be unlawful. Any unspent DHP funding must be returned to the DWP at the end of the financial year.
- 6.4 The policy takes into account recent case law on the protection of the vulnerable and duties under the Equality Act. An equalities screening tool has been carried out.

7. Equalities and Community Cohesion Comments

- 7.1 The Policy described in this report will be administered by the Council to provide financial assistance not covered by the Housing Benefit and Universal Credit regulations in order to help tenants at risk of homelessness to meet their housing cost. It is therefore an additional tool to enable the Council to play an important role in helping to sustain tenancy, prevent homelessness and where applicable, by helping tenants to move to more affordable accommodation.



- 7.2 The policy is an integral part of how the Council will administer the Welfare Reform Act 2012 while at the same time ensuring that the most vulnerable are afforded effective protection and the impact on groups protected by the Equality Act are identified and mitigated.
- 7.3 Other Haringey policies relating to the administration of the Welfare Reform Act include the Council Tax Reduction Scheme, which was agreed by Full Council in January 2013 and Implementation of the Social Fund, which will be going to Cabinet on 16 April 2013.
- 7.4 In compliance with the Council's public sector equality duty, all of these were subjected to a full equality impact assessment to identify how they would impact on existing benefits claimants who have the characteristics protected by section 4 of the Equality Act 2010 as well as other vulnerable groups such as homeless people not specifically identified in the Act.
- 7.5 The results of those assessments show that although in each case, the reforms would impact negatively on claimants in all protected characteristics, certain groups are at a higher risk of negative impact than others. An initial equality screening of this draft Discretionary Housing Payments Policy has also identified the same groups to be likely to be disproportionately affected. This policy aims to help address the impact on groups identified for mitigation measures in those EqIA. Some of these are identified in paragraphs 4.23, 4.26, 4.31, 4.32 and 4.33 of this report as having a priority status when assessing applications for assistance, with possible mitigations available.

8. Reasons for Decision

- 8.1 Each year, the Department for Work and Pensions (DWP) makes grants available to local authorities for Discretionary Housing Payment (DHP) purposes.
- 8.2 DHPs can play an important role in sustaining tenancies, preventing homelessness and, where needed, enabling tenants to move to more affordable accommodation.
- 8.3 In 2013/14, Haringey will receive a DHP grant of £2,422,506. Although this represents an increase of £1,569,338 (compared to 2012/13), it is estimated that the introduction of the Benefit Cap and the Social Rented Sector Size Criteria in April 2013 will reduce, by more than £8 million a year, the amount of Housing Benefit paid to households living in Haringey or in temporary accommodation.
- 8.4 Although the DWP provides guidance to local authorities on how DHPs can be used, local authorities have a large degree of discretion over the scheme and there are few regulatory restrictions. They must also decide whether to increase the size of their DHP budget by 'topping up' the DWP grant with their own resources.
- 8.5 A new Discretionary Housing Payments Policy is needed to ensure that, during 2013/14, Haringey's limited DHP resources are used in a way that deals fairly and effectively with the substantial increase in demand for DHPs, the severe impact that the Benefit Cap and the Social Rented Sector Size Criteria is likely to have on some households, and helps sustain tenancies and prevent homelessness.



Haringey Council

8.6 It is also needed to enable tenants to make a successful transition into employment and/or to move to more affordable accommodation.

9. Use of Appendices

Appendix A – Haringey’s Discretionary Housing Payments Policy 2013/14

10. Local Government (Access to Information) Act 1985

Discretionary Housing Payments Guidance Manual (DWP, April 2013)