



# Taunton Deane Borough Council

Executive 11 March 2015

## Discretionary Reduction in Council Tax Liability Policy and Discretionary Housing Payment Policy

Report of the Principal Benefits Officer

(This matter is the responsibility of the Executive Councillor Vivienne Stock-Williams)

### Executive Summary

The purpose of this report is to outline the Council's approach to awarding Discretionary Housing Payments (DHPs) and Discretionary Reductions in Council Tax liability and to seek Member support on revising our policies from 1 April 2015.

### 1. Background

- 1.1. Powers granted under Section 13A of the Local Government Finance Act 1992 (as inserted by Section 76 of the Local Government Act 2003), allow the billing authority to reduce the Council Tax payable either for specific classes of cases, as determined by the billing authority, or for individual cases. The billing authority has the power to either reduce or cancel the Council Tax payable. The intent behind this legislation was to allow billing authorities to create local discounts or exemptions to cater for local circumstances, for example flooding.
- 1.2. We have had a policy for Discretionary Reductions in Council Tax liability for some time. However, a decision by the Valuation Tribunal for England arising from an appeal against East Riding of Yorkshire Council's decision to refuse a discretionary reduction<sup>1</sup> means it is prudent to review and revise our policy accordingly.
- 1.3. Discretionary Housing Payments offer claimants of Housing Benefit (HB) and Universal Credit (UC), further financial assistance where the Local Authority considers that help with housing costs is needed.
- 1.4. The Department for Work and Pensions (DWP) provides us with a specified Discretionary Housing Payments (DHP) allocation that varies each year as it is partly based on our previous DHP spending. We must return any unspent funding to the DWP. During the financial year, we can only award Discretionary Housing Payments up to a cash limit of two and a half times this annual grant. Any spending we make above the allocation and up to the legal limit has to be funded by us from our budget (and so in turn from our council tax payers). DHPs are not payments of benefit, and we have discretion in how we manage this funding.

- 1.5. This report was considered by the Community Scrutiny Committee on 3 February 2015. The Community Scrutiny Committee recommended that the Executive approve the revised Discretionary Reduction in Council Tax Liability Policy ([Appendix 1](#)) and the revised Discretionary Housing Payment Policy ([Appendix 2](#)). Information on discretionary awards in 2014/15 is included in [Appendix 3](#) as well as a summary on policy revisions at [Appendix 4](#).

## **2. Discretionary Reduction in Council Tax Liability**

- 2.1. Members of the Executive considered and recommended acceptance of our procedures to award discretionary discounts for Council Tax to Full Council in November 2005.
- 2.2. The Local Government Act 2012 inserted a new section 13A in the Local Government Finance Act 1992, creating two discounts:
  - Local Council Tax Support schemes under 13A(1) (a) and (b); and
  - 13A (1) (c) which is effectively the original 13A discounts that we can use to increase reductions already given under our Local Council Tax Support schemes.
- 2.3. The implications under 13A(1) (a) and (b) were considered and agreed by Full Council on deciding the Local Council Tax Support scheme to replace Council Tax Benefit from 1 April 2013.
- 2.4. In March 2013 as a consequence of the Collection Fund (Council Tax Reductions) (England) Directions 2013 The Executive Portfolio Holder agreed to amendments to our procedures for discretionary discounts for Council Tax liability.
- 2.5. As a consequence of a decision made on 27 May 2014 by the Valuation Tribunal for England (VTE) against East Riding of Yorkshire Council, it has also been necessary to further amend our policy to ensure it complies with the main points detailed in the VTE judgment.
- 2.6. The updated policy at [Appendix 1](#) has been reviewed by Legal Services who have confirmed it is sufficient to address the legal requirements outlined in the VTE's judgment.

## **3. Discretionary Housing Payments**

- 3.1. The regulations covering Discretionary Housing Payments (DHPs) are the Discretionary Financial Assistance Regulations 2001. This legislation gives the Council a very broad discretion. However, we must make decisions in accordance with ordinary principles about good decision making and in particular Local Authorities have a duty to act fairly, reasonable and consistently.
- 3.2. Since April 2013, changes were applied to Housing Benefit meaning that social sector accommodation has a size criteria applied, with any working age household deemed to be under occupying their home, receiving a reduced level of Housing Benefit. As a result of this and other changes, e.g. the Benefit

Cap, the Government increased its DHP funding to Local Authorities in anticipation of greater demand on their budgets.

3.3. The government guidance on DHPs advises that the additional funding is intended to provide:

- Short term, temporary relief to families affected by the benefit cap who may face a variety of challenges which prevent them from being able to move immediately or to help move into more suitable accommodation for their needs.
- For those affected by social sector size criteria that are unlikely to be able to meet the shortfall and for whom moving to a smaller property may be inappropriate.
- Help for customers living in rural areas.
- The funding will also prioritise customers in the following two groups:
  - Disabled people living in significantly adapted accommodation including any adaptations made for disabled children and
  - Foster carers whose housing benefit is reduced because of a bedroom being used by, or kept free for, foster children.
- Additional support to claimants impacted by the changes to Local Housing Allowance

3.4. An award may also be given for a rent deposit or rent in advance, on the basis that a deposit or rent in advance of an existing tenancy is not available.

3.5. In addition, we can award a DHP to assist with lump sum costs associated with a housing need e.g. removal costs.

3.6. There have been several legal challenges on reducing (HB) for working age social sector tenants who are deemed to be under-occupying their property as a consequence of the size criteria (removal of the spare room subsidy). In some of those cases, reference has been made on the availability of DHPs. It is appropriate we review and revise our DHP Policy to reflect the judgements handed down in these cases.

3.7. The Department for Work and Pensions have published a Discretionary Housing Payments Guidance Manual, including a Local Authority Good Practice Guide and we have followed this in formulating our revised DHP policy which is attached at [Appendix 2](#).

3.8. Summary information on Discretionary Discounts for Council Tax and Discretionary Housing Payments is contained in [Appendix 3](#).

#### **4. Finance Comments**

4.1. Under the JMASS review for Tier 6, we established a post for a Welfare Reform and DHP Officer. This post is responsible for determining applications for DHPs

and Discretionary Rebates in Council Tax liability, ensuring a consistency of approach. The post will also directly engage with customers and partner organisations to promote take-up.

- 4.2. Any unspent Discretionary Housing Payment Government contribution must be returned.
- 4.3. An amount of £35,000 has been allocated to assist people who have qualified for support under the Council Tax Support Scheme who continue to experience exceptional financial hardship. This cost is borne by the collection fund that is shared among the preceptors. If we spend more than £35,000 on awards of a discount under Section 13A (1) (c), it will be funded entirely at the Council's cost for which there is no budgetary provision. However, the budgetary position in itself, cannot be a factor we can consider when deciding an award under Section 13A (1) (c).
- 4.4. The overall spending on DHPs is cash-limited by the Secretary of State under a Permitted Totals Order. The maximum amount Taunton Deane Borough Council can award in DHPs in 2015/16 is £294,680. The Department for Work & Pensions (DWP) will contribute funding of £117,872 meaning that Taunton Deane Borough Council can supplement DHP funding by up to £176,808 in 2015/16. Any award made over the funding provided by the DWP must be met by Taunton Deane Borough Council's own General Fund Budget.

## **5. Legal Comments**

- 5.1. The implications of not adopting the revised policies could expose the Council to legal challenges in the future.
- 5.2. The legislation requires Taunton Deane Borough Council, as a billing authority, to consider and decide applications for Section 13A (1) (c) reductions.
- 5.3. The legislation governing DHP's is in the Discretionary Financial Assistance Regulations 2001 (S1 001/1167).

## **6. Links to Corporate Aims**

- 6.1. Discretionary Housing Payments and Discretionary Reduction in Council Tax liability are most closely linked with the "Transformed Council" section that details three further objectives that underpin the Council's ability to achieve the Corporate Aims. The three objectives are:
  - Achieving financial sustainability;
  - Transforming services; and
  - Transforming the way we work

## **7. Environmental and Community Safety Implications**

- 7.1. There are no environmental and community safety implications associated with this report.

## **8. Equalities**

8.1. Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.

The three aims the authority **must** have due regard for are:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

8.2. The DHP policy and the Discretionary Reduction in Council Tax Liability policy aim to target help at those in most need and should therefore have a positive effect on groups who may be disadvantaged through income/social economic status, age or disability. The policies will also assist in mitigating the effect for those people identified in the Equality Impact Assessment for our Council Tax Support scheme.

## **9. Risk Management**

9.1. A Risk Matrix has been prepared and is attached at [Appendix 5](#).

## **10. Partnership Implications**

10.1. None associated with this report.

## **11. Recommendation**

11.1. The Executive recommends to Full Council that the revised policies for Discretionary Reduction in Council Tax Liability ([Appendix 1](#)) and Discretionary Housing Payments ([Appendix 2](#)) should apply from 1 April 2015.

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## **Background papers**

<sup>1</sup> [Valuation Tribunal Judgement 2014 - East Riding of Yorkshire Council](#)

## Appendix 1



## COUNCIL TAX

# Council Tax Discretionary Reduction in Liability Policy

# Discretionary Reduction in Liability Policy

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## Revision history

Version number	Date	Summary of changes	Author
V1.0	16/11/2005	Initial creation of document for S13A Reductions	Heather Tiso
V1.1	03/02/2009	Refresh & updating policy	Heather Tiso
V1.2	16/06/2011	Updating policy	Heather Tiso
V1.3	11/09/2012	Inclusion of Council Tax Support provisions	Heather Tiso
V1.4	12/09/2012	Further refinement and updating of policy	Paul Harding
V1.5	22/03/2013	Inclusion of provisions for S.13A(1)(c) as a consequence of the Local Government Act 2012	Heather Tiso
V1.6	20/1/2015	Refresh & updating policy	Mark Antonelli

## Approvals

This document has been approved by the following people.

Name	Role
Councillor Vivienne Stock-Williams	Executive Portfolio Holder – Corporate Resources
Councillor Richard Lees	Shadow Portfolio Holder – Corporate Resources

# Policy

## Background

Under Section 13A of the Local Government Finance Act 1992 (as inserted by Section 76 of the Local Government Act 2003), the Council has the discretionary power to reduce the Council Tax liability where statutory discounts, exemptions and reductions do not apply.

These discretionary awards can be given to:

- Individual Council Taxpayers;
- Groups of Council Taxpayers defined by a common set of circumstances;
- Council Taxpayers within a defined area; or
- To all Council Taxpayers within the Council's area.

The legislation states the following:

*.....in any case, may be reduced to such extent or, if the amount has been reduced under S13a 1a (Council Tax Reduction Scheme) such further extent as the billing authority for the area in which the dwelling is situated thinks fit....."*

The provision allows the Council the discretion to provide assistance to taxpayers where either the existing legislation does not provide a discount, exemption or reduction or in such circumstances where the Council feels that the level of discount, exemption or reduction is insufficient given the circumstances.

## Purpose

This policy has been designed to ensure all Council Taxpayers making an application for relief are treated in a consistent and equitable manner

This policy has been written to:

- Set guidelines for the factors to be considered in determining an application
- Set out the delegated authority to award relief in appropriate circumstances
- Establish an appeals procedure for applicants dissatisfied with a decision
- Safeguard the interests of the local taxpayers to ensure awards of relief are used effectively and economically



## Eligibility Guidelines

We will treat each case strictly on its merits and all eligible customers will receive equal and fair treatment. Principles of reasonableness will apply in all cases with the authority deciding each case on relevant merits.

The Revenues and Benefits Service is committed to working with the local voluntary sector, social landlords and other interested parties in the Borough to maximise claims for all available state benefits and will reflect this in operating running discretionary reductions in Council Tax liability.

When deciding on whether to grant a discretionary award, the Council will consider each application on its merits.

Any decision made will be without reference to any budgetary considerations notwithstanding the fact that any awards must be balanced against the needs of local taxpayers who will ultimately pay for a reduction in Council Tax income.

Likewise the period of any reduced liability will be considered in conjunction with the circumstances of the Council Taxpayer.

For the purposes of administration, the decision to grant any reduction in Council Tax liability shall be considered within the following categories:

### **Crisis – Flood, Fire etc.**

The Council will consider requests for assistance from Council Taxpayers who, through no fault of their own, have experienced a crisis or event that has made their property uninhabitable, e.g. due to fire or flooding, where they remain liable to pay Council Tax and for which they have no recourse for compensation nor have any recourse to any statutory exemptions or discounts.

All such requests must be made in writing detailing the exact circumstances of why reduction in the liability is required and specifying when the situation is expected to be resolved.

The Council will consider applications on a case-by-case basis in consultation with other organisations as appropriate. Any reduction will be applied where they remain liable to pay Council Tax and for which they have no recourse for compensation nor

to any statutory exemptions or discounts or where the crisis or event is not covered by any insurance policy.

The Council will not consider requests from taxpayers where Government guidance or policy provides for a reduction in liability in specific circumstances, for example, flood relief schemes.

## **Exceptional Financial Hardship**

In accordance with Section 13A 1a of the Local Government Finance Act 1992, the Council has a Council Tax Support (CTS) Scheme, that provides support, through a discount, to those deemed to be in financial need. The CTS Scheme has been designed to take into account the financial and specific circumstances of individuals through the use of applicable amounts, premiums and income disregards.

Applications will be accepted under this part of the policy for people who have qualified for support under the CTS Scheme, but who are still experiencing severe financial hardship. Other taxpayers may also apply, however the Council would normally expect the taxpayer to apply for Council Tax Reduction in any case.

As part of the process for applying for additional support, all applicants must be willing to undertake all of the following:

- (a) Make a separate application for assistance;
- (b) The taxpayer must satisfy the Council they are not able to meet their full Council Tax liability or part of their liability;
- (c) Provide full details of their income and expenditure;
- (d) The taxpayer is able to demonstrate that all reasonable steps have been taken to meet their full Council Tax liability including applications for employment or additional employment, alternative lines of credit, and benefits, Council Tax Support, discounts and exemptions;
- (e) Accept assistance from either the Council or third parties such as the Citizens Advice Bureau (CAB) or similar organisation to enable them to manage their finances more effectively including the termination of non-essential expenditure; renegotiate priority and non-priority debts, provide an income and expenditure statement or Financial Statement and if needed allow the Authority to seek for the claimant by completing a Common Referral Statement
- (f) Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted;
- (g) The taxpayer has no access to assets that could be realised and used to pay the Council Tax;
- (h) Maximise their income through applying for other welfare benefits, cancellation of non-essential contract and outgoings and identifying the most economical tariffs for the supply of utilities and services generally.
- (i) Work with the Council in identifying potential changes in payment methods and arrangements to assist in alleviating their current circumstances.

The Council will be responsible for assessing applications against this policy and an officer will consider the following factors in applying this policy:

- (a) Current household composition and specific circumstances including disability or caring responsibilities;
- (b) Current financial circumstances
- (c) Determine what action(s) the applicant has taken to alleviate the situation;
- (d) Consider alternative means of support may be available to the applicant by:
  - Re-profiling Council Tax debts or other debts;
  - Applying for a Discretionary Housing Payment for Housing Benefit (where applicable);
  - Maximising other benefits
  - Determining whether in the opinion of the decision maker, the spending priorities of the applicant should be re-arranged

### **Other Circumstances**

The Council will consider requests from Council Taxpayers for a reduction in their liability based on other circumstances, not specifically mentioned within this document. However, the Council must be of the opinion that the circumstances relating to the applications warrant further reduction in their liability for Council Tax having regard to the effect on other Council Taxpayers.

No reduction in liability will be granted where any statutory exemption or discount could be granted.

No reduction in liability will be granted where it would conflict with any resolution, core priority or objective of the Council.

## Administration

### **Duties of the Applicant and the Applicant's Household**

A claim for Discretionary Reduction in Council Tax Liability must be in writing and signed by the customer. A letter or signed statement received by the Council's Revenues and Benefits Service will be sufficient if the following conditions are met:

- On request the customer supplies any relevant supporting evidence.
- The Revenues and Benefits Service may ask for any (reasonable) evidence in support of an application. The Revenues and Benefits Service will make such requests in writing. The customer will provide the evidence within one month of our letter, although this can be extended in appropriate circumstances.
- If the customer is unable to or does not provide the evidence, the Council will still consider the application and take into account any other available evidence including that already held.
- The Council's Revenues and Benefits Service reserves the right to verify any information or evidence provided by the customer in appropriate circumstances.

A person claiming any discretionary reduction in liability must:

- Provide the Council with such information as it may require to make a decision;
- Tell the Council of any changes in circumstances that may be relevant to their on-going claim; and
- Provide the Council with such information as it may require in connection with their claim.

### **Decision making**

#### **Procedure for determining specific classes of reduction in Council Tax Liability**

The power to consider and decline applications for the creation of specific classes of reduction is delegated to the Section 151 Officer and the Executive Portfolio holder for Resources.

Where both the Section 151 Officer and the Executive Portfolio holder for Resources decide that consideration should be given to creating a specific class of reduction a recommendation should be made to the Executive. The Executive should have the delegated power to create, amend or cancel any specific class of reduction.

Once a specific class of reduction has been agreed by the Executive, individual applications in respect of that class are to be considered by the Principal or Senior Revenues Officer.

### **Procedure for determining individual one-off applications for reductions**

The power to determine individual one-off applications (i.e. all applications other than those to create a specific class of reduction or for a reduction under a specific class) should be delegated to the Principal or Senior Revenues Officer.

### **Applications for Discretionary Reduction in Council Tax Liability**

For those people who have qualified for support under the CTS Scheme, but who are still experiencing severe financial hardship, initial applications will be considered by the Welfare Reform/DHP Officer adopting the principle outlined in the Discretionary Housing Payment Policy.

A claim for Discretionary Reduction in Council Tax Liability must be in writing and signed by the customer. Where a customer has difficulties in providing a written application we will signpost them where appropriate or arrange an alternative method of claiming.

For those people not qualifying for support under the CTS Scheme, initial applications will be considered by a Senior Revenues Officer.

Officers will consider the following factors in deciding a discretionary reduction in Council Tax liability:

- (a) Current household composition and specific circumstances including disability or caring responsibilities;
- (b) The income and expenses of the customer, their partner and any dependants or other occupants of the customer's home; any savings or capital that might be held by the customer or their family;
- (c) If the customer or anyone in the household has any unusual or unusually large expenses, that make it harder than normal for them to meet their Council Tax liability;
- (d) The indebtedness of the customer and their family;
- (e) The exceptional nature of the customer and their family's circumstances;
- (f) Any action(s) taken by the applicant to alleviate the situation;
- (g) If this is a repeat request for a discretionary reduction in Council Tax liability, what action has the customer taken to alleviate the problem since the last application?
- (h) Alternative means of support may be available to the applicant by:
  - Re-profiling debts;
  - Applying for a Discretionary Housing Payment (where applicable);
  - Maximising other benefits
  - Determining whether in the opinion of the decision maker, the spending priorities of the applicant should be re-arranged

The Senior Revenues Officer or the Welfare Reform/DHP Officer will consider the application within 14 days of receipt of a signed application and all supporting information.

The Senior Revenues Officer or the Welfare Reform/DHP Officer will record their findings, financial implications and initial recommendations and forward these to the Principal Revenues Officer or the Principal Benefits Officer who will make a final recommendation for the Revenues and Benefits Manager.

The Revenues and Benefits Manager will then approve/refuse the application within a further 7 days.

On awarding a Discretionary Reduction in Council Tax Liability we will determine if any ongoing costs are appropriate, review any special arrangements and consider spreading any remaining charge over the remainder of the financial year. We will also acknowledge the customer as a vulnerable person in line with our Vulnerability Policy.

## **Changes in Circumstances**

The Council may revise any discretionary reduction in liability where the applicant's circumstances or situation has changed.

The applicant agrees that he/she must inform the Council immediately either by phone or in writing about any change in their circumstances that might affect their claim under this policy. Failure to do so may result in the withdrawal of the reduction granted for the year and the requirement to repay any outstanding amount to the Council.

All changes in circumstances should be notified within 21 days in accordance with the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 as amended.

## **The Award and Duration of a Reduction in Liability**

Both the amount and duration of the award are determined at the discretion of the Council and will be done so on the basis of the evidence supplied and the circumstances of the claim.

The start date of such a payment and the duration of the payment will be determined by the Council. In any event, the maximum length of the award will not exceed the financial year in which the award is given.

## **Payment**

In line with legislation, an award shall be granted as a reduction in liability of the Council Tax Payer therefore reducing the amount of Council Tax payable.

## **Reductions in Council Tax Liability Granted in Error or Incorrectly**

Where a reduction in liability has been granted incorrectly or in error either due to a failure to provide the correct or accurate information to the Council or some other circumstance, the Council will adjust the Council Taxpayer's account to ensure the correct Council Tax liability is payable.

## **Notification of a Reduction in Liability**

The Council will aim to write to the customer to tell them the outcome of their application within 14 days of receipt. Where an application is unsuccessful, the notification will include the reason for the decision and advise the applicant of their appeal rights.

## **Fraud**

The Council is committed to protecting public funds and ensuring public funds are awarded to people who are rightfully eligible to them.

Any applicant who tries to fraudulently claim a reduction in liability by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under the Fraud Act 2006.

Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

## **Publicity**

The Council will publicise this policy and will work with all interested parties to achieve this. A copy of this policy will be made available for inspection and will be posted on the Council's web site.

## **Policy Review**

The provision of Discretionary Reduction in Council Tax Liability will be reviewed regularly and updated as appropriate to ensure it remains fit for purpose. A review may take place sooner should there be any significant change in legislation.

## **Appeals**

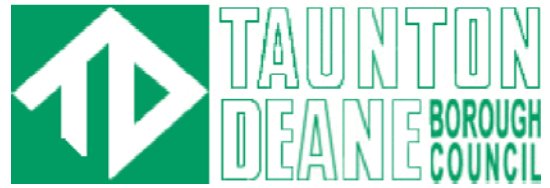
Appeals against the Council's decision may be made in accordance with Section 16 of the Local Government Finance Act 1992.

The Council Taxpayer must in the first instance, write to the Council outlining the reason for their appeal. Once received, the Council will reconsider its decision and notify the taxpayer accordingly.

Where the Council Taxpayer remains aggrieved, a further appeal can then be made to the Valuation Tribunal. This further appeal should be made within 2 months of the decision of the Council not to grant any reduction. Full details can be obtained from the Council's website or from the Valuation Tribunal:

<http://www.valuationtribunal.gov.uk/Home.aspx>

## Appendix 2



## HOUSING BENEFIT

# Discretionary Housing Payment Policy



# Discretionary Housing Payment Policy

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## Revision history

Version number	Date	Summary of changes	Author
V1.0	26/02/2002	Initial creation of document	Heather Tiso
V1.1	22/09/2005	Refresh of policy	Heather Tiso
V1.2	03/02/2009	Refresh & updating policy	Heather Tiso
V1.3	16/06/2011	Updating policy	Heather Tiso
V1.4	11/09/2012	Inclusion of Council Tax Support provisions	Paul Harding
V1.5	12/09/2012	Further refinement and updating of policy	Heather Tiso
V1.6	20/1/2015	Removal of Council Tax Support provisions for inclusion in a separate policy and refresh & updating DHP policy	Mark Antonelli

## Approvals

This document has been approved by the following people.

Name	Role
Councillor Vivienne Stock-Williams	Executive Portfolio Holder – Corporate Resources
Councillor Richard Lees	Shadow Portfolio Holder – Corporate Resources

## Policy

## Background

From 2 July 2001, exceptional circumstances and hardship payments were abolished and replaced by the Discretionary Housing Payment (DHP) scheme. This gave Local Authorities new powers to top up Housing Benefit.

The legislation governing DHPs can be found in the Discretionary Financial Assistance Regulations 2001 (SI 2001/1167).

The DHP scheme provides discretionary support for shortfalls between eligible rental liability and Housing Benefit/Universal Credit and help towards housing costs. Housing costs can be interpreted more widely to include rent in advance, deposits or other lump sum costs associated with a housing need such as removal costs.

The overall spending on DHPs is cash-limited by the Secretary of State under a Permitted Totals Order.

The main features of the DHP scheme are:

- The scheme is discretionary - a claimant does not have a statutory right to a payment;
- The Revenues & Benefits Service decides how the scheme is administered;
- The overall outlay on DHPs is cash-limited by the Secretary of State;
- DHPs are not a payment of Housing Benefit. However, the claimant must be entitled to at least the minimum payment of Housing Benefit/Universal Credit in the benefit week for which it awards a DHP;
- DHPs should be seen as an emergency fund. They are not and should not be considered as a way round any current or future entitlement restrictions set out under Housing Benefit/Universal Credit legislation;
- DHPs cannot be used to offset overpayment recovery or to cover ineligible service charges

The Department for Work and Pensions provides us with a specified Discretionary Housing Payments allocation that can vary each year as it is partly based upon our previous Discretionary Housing Payments spending.

We must return any unspent funding to the Department for Work and Pensions. During the year in question, we can only award Discretionary Housing Payments up to a cash limit of two and a half times this annual allocation. Any spending we make above the allocation and up to the legal limit has to be funded by us from our budget (and so in turn from our Council Tax payers).

## Purpose

This policy has been designed to ensure all people making an application for a DHP are treated in a consistent and equitable manner. This policy has been written to:

- Set guidelines for the factors to be considered in determining an application
- Set out the delegated authority to award a DHP in appropriate circumstances
- Establish an appeals procedure for applicants dissatisfied with a decision
- Safeguard the interests of the local taxpayers to ensure DHP awards are used effectively and economically
- Specify how the Revenues & Benefits Service will manage the DHP scheme and to suggest some of the factors we will consider when deciding to award additional help.

We will treat each case strictly on its merits and all eligible customers will receive equal and fair treatment. Principles of reasonableness will apply in all cases with the Council deciding each case on relevant merits.

The Revenues & Benefits Service is committed to working with the local voluntary sector, social landlords and other interested parties in the Borough to maximise claims for all available state benefits and will reflect this in running the DHP scheme.

The Revenues & Benefits Service is committed to the equitable operation of the DHP scheme. Where the evidence provided shows the customer is not claiming another state benefit they may be entitled to, we will advise them to make such a claim and provide details of other agencies in the Borough who may be able to help. Similarly, if a customer is not claiming a Council Tax Discount to which they may be entitled we will advise them to firstly make such a claim.

## Statement of Objectives

The Revenues & Benefits Service will consider awarding a DHP to all customers who meet the qualifying criteria set out in this policy. We will treat all applications on their individual merits, and will seek through this policy to:

- Alleviate poverty;
- Allow a short period of time for someone to adjust to unforeseen short-term circumstances and by providing a DHP to enable them to “bridge the gap” during this time;
- Support domestic violence victims who are trying to move to a place of safety
- Help people who live near their jobs because they work unsocial hours/split shifts or where there is inadequate public transport;
- Help people who as a consequence of a move have extra travel to work costs;
- Sustain tenancies to prevent homelessness;
- Support vulnerable young people in the transition to adult life;
- Encourage residents to get and keep employment;
- Safeguard residents in their homes;
- Help those who are trying to help themselves;
- Keep families together;
- Assist those with medical or health problems where they need access to medical services or support that would not be available elsewhere
- Act as a tool in supporting vulnerable people in the local community;
- Help customers through personal crises and difficult events.

This list is not exhaustive and we will consider any other relevant factors or special circumstances that may apply.

A DHP can help meet shortfalls in areas such as:

- Restrictions in Housing Benefit entitlement because the rent payable is more than the rent used to work out Housing Benefit/Universal Credit;
- Non dependant deductions;
- Income tapers;
- Increases in essential work related expenditure such as increased fares to work if a customer has had to move because they could not afford to live in proximity to their work following a reduction in their Housing Benefit.

The DHP scheme allows for payments to be made for rent deposits and rent in advance if the claimant receives Housing Benefit for their present home. However, Taunton Deane Borough Council has a Deposit Guarantee Bond Scheme administered by the Housing Options Team. We would seek to utilise this facility in the first instance, with the DHP Scheme complementing this as an alternative option. Any reasons or factors applied by the Housing Options Team in deciding assistance under the Deposit Guarantee Bond Scheme will be taken into consideration in any subsequent DHP request.

A DHP cannot help with the following:

(a) Certain elements of the rent:

- Ineligible service charges as specified in Schedule 1 of the Housing Benefit Regulations 2006 and Schedule 1 of the Housing Benefit (Persons who have attained the qualifying age for pension credit) Regulations 2006
- Increases in rent due to outstanding rent arrears;

(b) Suspensions

- Where a person's Housing Benefit or any other benefit has been suspended, it is not appropriate to pay a DHP. The aim of the suspension provision is to act as a lever to ensure the customer provides necessary information or evidence – paying a DHP could reduce the effectiveness of this lever.

(c) Sanctions

- Where a reduction has been applied to Income Support or income-based Jobseeker's Allowance due to a Reduced Benefit Direction for failing to comply with the Child Support Agency, the claim for a DHP should assume such a sanction has not been applied;
- Where a reduction has been applied because of absence at a work-focussed interview, the claim for a DHP should assume such a sanction has not been applied;
- Any restriction in benefit due to a breach of a Community Service Order

## **Priority Groups**

We will prioritise DHPs for customers who are in our opinion, the most vulnerable. This will particularly include, although not be limited to:

- Claimants who have someone who is pregnant within their household
- Young adults who have recently left the care system
- Households containing adults or children with disabilities
- Households with children under 5 years of age
- Claimants who are carers
- People who are fleeing domestic violence
- The elderly who would find it particularly difficult to move house
- People accepted as homeless under homelessness legislation of the Housing Act 1996 and placed in temporary accommodation by the Council as described in regulation A13(3), because they are homeless or to prevent homelessness
- Customer classified as vulnerable in line with our Vulnerability Policy

Being in one or more of the above groups does not guarantee a DHP award.

For those applying for a DHP on the grounds of exceptional hardship we would expect the customer to demonstrate they have taken steps to try to address their financial difficulties by seeking money / debt advice from the CAB, National Money Advice Helpline or similar organisations.

## **Fraud**

The Council is committed to the fight against fraud in all its forms. A claimant who tries to fraudulently claim a DHP or DCTA 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 we suspect such a fraud may have occurred, the matter will be investigated and this may lead to the instigation of criminal proceedings.

## **Publicity**

The Revenues & Benefits Service will publicise the DHP scheme and will work with all interested parties to achieve this. A copy of this policy will be made available for inspection and will be posted on the Taunton Deane Borough Council web site. Information about the amount spent will not normally be made available except at the end of the financial year.

## **Monitoring DHP expenditure**

The Revenues & Benefits Service will extract reports from the DHP software on a monthly basis to ensure expenditure is within budget and is correctly profiled to ensure no overspend at the end of the financial year.

## Administration

### Conditions that must be met

A claim for a DHP must be in writing and signed by the customer. A letter or signed statement received by the Council's Revenues and Benefits Service will be sufficient if the following conditions are met:

- On request the customer supplies any relevant supporting evidence.
- The Revenues & Benefits Service may ask for any (reasonable) evidence in support of an application for a DHP. The Revenues & Benefits Service will make such requests in writing. The customer will provide the evidence within one month of our letter, although we will extend this in appropriate circumstances.
- If the customer is unable to or does not provide the evidence, we will still consider the application and take into account any other available evidence including that which we already hold.
- The Revenues & Benefits Service reserves the right to verify any information or evidence provided by the customer in appropriate circumstances.

In considering an award for a DHP, the following criteria must be met:

1. The claimant is entitled to Housing Benefit/Universal Credit
2. The payment is for costs that are potentially eligible for Housing Benefit/Universal Credit
3. The sum of a DHP and the benefit does not exceed the overall liability (except for lump sum awards)
4. A DHP is not used to plug an income gap caused by sanction or suspension to Social Security Benefits

## Customer Responsibilities

A person claiming a DHP must be willing to undertake **all** of the following:

- (a) Provide the Council with such information as it may require to make a decision;
- (b) Tell the Council of any changes in circumstances that may be relevant to their on-going claim; and
- (c) Satisfy the Council they are not able to meet their eligible housing costs;
- (d) Accept assistance from either the Council or third parties such as the Citizens Advice Bureau (CAB) or similar organisation to enable them to manage their finances more effectively including the termination of non-essential expenditure; renegotiate priority and non-priority debts, provide an income and expenditure statement or Financial Statement and if needed allow the Authority to seek for the claimant by completing a Common Referral Statement
- (e) Work with the Council in identifying potential changes in payment methods and arrangements to assist in alleviating their current circumstances;
- (f) Demonstrate they have taken all reasonable steps to meet their rental liability including applications for employment or additional employment, or alternative lines of credit;
- (g) Have no access to assets that could be realised and used to pay housing costs;
- (h) Maximise their income through applying for other welfare benefits, cancellation of non-essential contract and outgoings and identifying the most economical tariffs for the supply of utilities and services generally.

## Awarding a DHP

The Council will be responsible for assessing applications against this policy and an officer will consider the following factors in applying this policy:

1. Current household composition and specific circumstances including disability or caring responsibilities;
2. Current financial circumstances and customers living in remote and isolated communities
3. Determine what action(s) the applicant has taken to alleviate the situation;
4. Consider alternative means of support may be available to the applicant by:
  - Re-profiling debts;
  - Applying for Discretionary Reduction in Council Tax Liability (where applicable);
  - Maximising other benefits
  - Determining whether in the opinion of the decision maker, the spending priorities of the applicant should be re-arranged
  - Determining what steps the customer plans to take in preparation for when the discretionary award ends

In deciding whether to award a DHP, the Revenues & Benefits Service will consider:

- The shortfall between Housing Benefit/Universal Credit and the housing costs;
- If there is a real risk of eviction because of the shortfall, or will the landlord accept a reduced payment?
- The age of the customer
- The locality of the property and the demographic nature for rural communities
- Any steps taken by the customer to reduce their housing costs;
- The financial and medical circumstances of the customer, their partner and any dependants and any other occupants of the customer's home;
- The income and expenses of the customer, their partner and any dependants or other occupants of the customer's home; ; (ignoring DLA Mobility component or PIP Mobility supplement)
- Any savings or capital that might be held by the customer or their family;
- If the customer or anyone in the household has any unusual or unusually large expenses, that make it harder than normal for them to meet the shortfall?
- The indebtedness of the customer and their family;
- The exceptional nature of the customer and their family's circumstances;
- The amount available in the DHP budget at the time of the application (in accordance with the Permitted Totals Order);
- If this is a repeat request for a DHP? If so what action has the customer taken to alleviate the problem since the last application?
- The possible impact on the Council of not making such an award, for example the pressure on priority homeless accommodation;
- Any other special circumstances brought to the attention of the Revenues & Benefits Service.

The Revenues & Benefits Service will decide how much to award based on all the circumstances. This may be an amount below the difference between the housing costs and the Housing Benefit/Universal Credit award.

Granting a DHP does not guarantee or imply a further award even if the customer's circumstances do not change.

To ensure a consistent approach when determining a discretionary award the Authority will also follow guidelines as advised by "The Office of National Statistics". We have also consulted with a range of local partners to identify agreed levels of notional household spending that are as follows:

<b>The Authority will allow expenditure for</b>		<b>2014/15</b>	<b>2015/16</b>
Fuel, power, insurances	To include electricity, gas, oil, building and contents cover	£10.54	£12.50
Food and household	To include food, toiletries, laundry, clothing, footwear, pet food, nappies	£29.28	£30.00
Health	Dentist, glasses and prescriptions	£0.83	£1.00
Transport	Car tax, MOT, fuel, insurance, bus fares, taxis	£11.75	£12.00
Communication	Mobile phone, internet, landline, TV licence	£4.33	£10.00
Miscellaneous	Repairs, hairdressing, hobbies, leisure,	£12.59	£8.00
		<b>£69.32</b>	<b>£73.50</b>



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 £20 the household factor would be 1.5 (1.0 plus 0.5) allowing £30 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.

## Period of Award

The Revenues & Benefits Service will decide the length of time to award a DHP from the evidence supplied and the facts known.

The start date of an award will normally be:

- The Monday after we get the written claim for a DHP; or
- The date Housing Benefit (HB) or Universal Credit starts (providing we get the application for the DHP within one month of the decision on the claim for HB whichever is the earlier, or the most appropriate).

We cannot award a DHP for any period outside an existing Housing Benefit period granted under the Housing Benefit statutory scheme. The minimum award of a DHP is one week.

- We will not normally award a DHP for a period over 12 months.

- We will consider any reasonable request for backdating an award of a DHP but will usually limit such consideration to the current financial year

## **Changes of Circumstances**

The Revenues & Benefits Service may need to revise an award of a DHP where the customer's circumstances have materially changed. Any revision to the award will take effect from the Monday following the date of change in circumstances.

## **Method of Payment**

The Revenues & Benefits Service will decide the most suitable person to pay based on the circumstances of each case. This could include paying:

- The customer;
- Their partner;
- An appointee;
- Their landlord (or an agent of the landlord); or
- Any third party to whom it might be most suitable to pay.

The Revenues & Benefits Service will pay a DHP by the most suitable means available in each case. This could include payment by direct credit to a bank or building society account or by crediting the customer's rent account.

The payment frequency will be advised at the time of the award.

## **Notification**

The Revenues & Benefits Service will aim to write to the customer to tell them the outcome of their claim within 14 days of receipt. Where the claim is unsuccessful, we will set out the reasons and explain their appeal rights. Where the claim is successful, the Revenues & Benefits Service will advise:

- The weekly amount of DHP;
- If it is paid in advance or in arrears;
- The period of the award;
- How, when and to whom (for DHP only) it will pay the award;
- The need to report a change in circumstances;

## **Overpayments**

The Revenues and Benefits Service can recover a DHP if we decide the payment has been made as a result of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise. We may also recover DHPs if we decide the customer received the DHP as a result of an error made when the application was determined.

We will not recover DHPs from ongoing HB or UC. This is unlike HB overpayments where there is a regulatory provision to allow recovery from ongoing HB.

There is also no provision for recovery of overpaid DHPs from other prescribed benefits.

The only method of recovery if a DHP is overpaid is to request repayment of the debt from the customer. This may be in the form of an invoice or using debt collection agencies or via the courts.

## Reviews of DHP Decisions

### The right to seek a review

DHPs are not payments of Housing Benefit. Therefore they are not subject to the statutory appeals mechanism. The Revenues & Benefits Service will use the following policy for dealing with appeals about a:

- Refusal to award a DHP; or
- Decision to award a reduced amount of DHP; or
- Decision not to backdate a DHP; or
- Decision there has been an overpayment of a DHP.

A customer (or their appointee or agent) who disagrees with a DHP decision may dispute the decision. The Revenues & Benefits Service must receive a request for a review within one month of the issue of the written decision about the DHP to the customer. Where this has not already been done, officers from the Revenues & Benefits Service will explain the DHP decision to the customer by telephone, at interview or in writing and will seek to resolve the matter.

Where agreement cannot be reached, the Revenues & Benefits Appeals Officer will consider the case in consultation with the Revenues & Benefits Manager. A review will be conducted on all the evidence held and a decision made within 14 days of referral or as soon as practicable.

Where the Appeals Officer decides not to revise the original decision, they will tell the customer in writing, setting out the reasons for their decision.

The decision is final and binding and may only be challenged through judicial review or by complaint to the Local Government Ombudsman.

## Appendix 3

### Summary of spending and Statistical information for 2014/15

- The Permitted Total for Discretionary Housing Payment (DHP) awards in 2014/15 is £331,398.
- The DWP have contributed funding of £132,559 for DHPs in 2014/15.
- Expenditure on DHPs to 10 February 2015 was £116,144.97.
- We have awarded 177 DHPs to tenants of Registered Social Landlords and for tenants in privately rented accommodation
- We have awarded 79 DHPs for tenants in Council accommodation
- Breakdown of DHP expenditure
  - £79,142.65 for tenants of Registered Social Landlords and for tenants in privately rented accommodation
  - £37,002.32 for tenants in Council accommodation
- We have refused 58 claims for either a DHP or a Discretionary Reduction in Council Tax Liability.
- We have applied Discretionary Reductions in Council Tax Liability to 170 Council Tax accounts with a total reduction across those accounts of £24,429.21

## Appendix 4

### Summary of Policy changes

- The appointment of a specific Discretionary Payments and Welfare Reform Officer to oversee all applications
- Updating the threshold figures for spending in 2015/16 following funding arrangements from The Department for Work and Pensions
- To ensure a level of consistency we have included guidelines on spending from The Office of National Statistics. We have also used trigger points taking account of the number of residents within a property to work out appropriate notional level of weekly spending
- A revision of the notional allowable spending calculation to account to uprating for 2015/16
- Consultation on the policy with several of our key partners
- Minor amendments to provide a more robust policy ensuring consistency and to apply appropriate tests to ensure we treat each case on its own merits

**Risk Matrix**

Risk	Consequence of risk	Assessment of risk			Mitigation
		Likelihood	Impact	Score (L x I)	
Claims for discretionary awards exceed finance available.	<ul style="list-style-type: none"> <li>Inability to assist people in rented accommodation over and above HB awards leading to increased homelessness.</li> <li>For Council Tax, collection losses will be shared between all preceptors and will require future savings or cuts to mitigate.</li> </ul>	3	4	12	<ul style="list-style-type: none"> <li>Regular monitoring of use and effectiveness of DHP and continued emphasis on homeless prevention activities</li> <li>Flexible policy that can be reviewed readily</li> </ul>
Caseload increases (e.g. major employer loss) and/or total value of awards exceeds estimates	<ul style="list-style-type: none"> <li>Financial shortfall</li> <li>Additional workload</li> </ul>	3	3	9	<ul style="list-style-type: none"> <li>Regular on-going review</li> </ul>
Changes to future Government grant	<ul style="list-style-type: none"> <li>Financial shortfall</li> </ul>	3	3	9	<ul style="list-style-type: none"> <li>None</li> </ul>
Wider welfare reforms (HB reductions, Universal Credit) cause additional hardship	<ul style="list-style-type: none"> <li>Financial shortfall</li> <li>Additional workload</li> </ul>	3	3	9	<ul style="list-style-type: none"> <li>Ensure adherence to Permitted Total Order</li> <li>Maximise take-up of all available discounts/exemptions/ other Welfare Benefits</li> <li>Strict adherence to monthly monitoring of performance against targets</li> </ul>
Expenditure on DHP exceeds Government Grant	<ul style="list-style-type: none"> <li>Financial shortfall</li> </ul>	2	4	8	<ul style="list-style-type: none"> <li>Close monitoring of expenditure and review policy where appropriate</li> </ul>

RISK RATING MATRIX						
LIKELIHOOD (A)	Very likely 5	5	10	15	20	25
	Likely 4	4	8	12	16	20
	Feasible 3	3	6	9	12	15
	Slight 2	2	4	6	8	10
	Very unlikely 1	1	2	3	4	5
		Insignificant 1	Minor 2	Significant 3	Major 4	Critical 5
IMPACT (B)						

Likelihood	Severity of Impact	Risk
1. Very unlikely – hasn't occurred before	1. Insignificant (has no effect)	Likelihood x impact
2. Slight (rarely occurs)	2. Minor (little effect)	
3. Feasible (possible, but not common)	3. Significant (may pose a problem)	
4. Likely (has before, will again)	4. Major (will pose a problem)	
5. Very likely (occurs frequently)	5. Critical (Immediate action required)	