Policy Name: DISCRETIONARY HOUSING PAYMENTS POLICY FROM 1 APRIL 2016

Release: 1.6
Date: 5 February 2016

<table>
<thead>
<tr>
<th>Version</th>
<th>Date</th>
<th>Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.1</td>
<td>1 March 2011</td>
<td>Draft document created</td>
</tr>
<tr>
<td>1.0</td>
<td>7 April 2011</td>
<td>Second draft for comment</td>
</tr>
<tr>
<td>1.1</td>
<td>20 October 2011</td>
<td>Final draft for comment</td>
</tr>
<tr>
<td>1.1</td>
<td>22 November 2011</td>
<td>Adopted by Cabinet</td>
</tr>
<tr>
<td>1.2</td>
<td>5 December 2012</td>
<td>Draft amendments for April 2013 for comment</td>
</tr>
<tr>
<td>1.2</td>
<td>29 January 2013</td>
<td>Further amendments for April 2013 for comment</td>
</tr>
<tr>
<td>1.3</td>
<td>26 February 2013</td>
<td>Final amendments following circulation to officers</td>
</tr>
<tr>
<td>1.4</td>
<td>16 July 2014</td>
<td>Section 12 amended to remove deleted post</td>
</tr>
<tr>
<td>1.5</td>
<td>10 February 2015</td>
<td>Amendments following circulation to officers</td>
</tr>
<tr>
<td>1.6</td>
<td>5 February 2016</td>
<td>Amendments to include Universal Credit, DWP guidance &amp; recent case law R v. Sandwell MBC, ex parte Hardy</td>
</tr>
</tbody>
</table>
1.0 Background

1.1 The Discretionary Financial Assistance Regulations 2001 provide the legal framework that allows local authorities (LAs) to pay Discretionary Housing Payments (DHPs). Amendments were made to the regulations to include Universal Credit. These are contained within The Welfare Reform Act 2012 (Consequential Amendments) Regulations 2013.

1.2 Discretionary Housing Payments (DHP’s) provide customers with further financial assistance to help with housing costs; it is not a payment of Housing Benefit or Universal Credit. However in order to receive DHP there must be an entitlement in the benefit week that DHP is awarded to either:

- Housing Benefit or
- Universal Credit, that includes a housing element towards rental liability

1.3 In the case of DHP being awarded for rent deposits and/or rent in advance (and associated removal costs) there must be an entitlement to Housing Benefit or Universal Credit at the time of application.

1.4 The main features of this scheme are that:

- the scheme is purely discretionary; a customer does not have a statutory right to a payment,
- the amount that can be paid out in any financial year is cash-limited by the Secretary of State,
- the administration of the scheme is for the local authority to determine (with a few specific exceptions).

1.5 Housing costs are not defined in the Discretionary Financial Assistance Regulations 2001, but in general means rental liability.

2.0 Purpose of this policy

2.1 The purpose of this policy is to specify how Broadland District Council will administer Discretionary Housing Payments (DHPs). It details the application process and indicates some of the factors that will be considered when deciding if a DHP can be awarded.

3.0 Statement of Objectives

3.1 Broadland District Council will consider awarding a Discretionary Housing Payment to applicants who meet the qualifying criteria as specified in this policy. All applications will be considered on their individual merits and treated fairly and equally in accessibility to the fund and decisions made. The Council will seek through the operation of this policy to:
• alleviate poverty;
• encourage and sustain Broadland residents in employment;
• help those who are trying to help themselves;
• keep families together;
• support the vulnerable in the local community;
• help applicants through personal crisis and difficult events;
• prevent child poverty;
• support foster carers who have a spare room for a potential foster child;
• to consider disabled people living in accommodation that has been substantially adapted for their needs.

3.2 A DHP can cover the following shortfalls, but are not limited to:

• reductions in Housing Benefit or Universal Credit where the benefit cap has been applied;
• reductions in Housing Benefit or Universal Credit due to the maximum rent (social sector) size criteria;
• reductions in Housing Benefit or Universal Credit as a result of local housing allowance restrictions;
• rent officer restrictions such as local reference rent or shared accommodation rate;
• non-dependant deductions in Housing Benefit, or housing cost contributions in Universal Credit;
• rent shortfalls to prevent a household becoming homeless whilst the housing authority explores alternative options;
• rent deposits, rent in advance and associated costs such as removal costs;
• income taper reduction;
• on two homes: the regulations allow a DHP to be awarded on two homes when someone is treated as temporarily absent from their main home, for example because of domestic violence;
• if the claimant is liable for payments on one dwelling but is having to pay rent on two, a DHP could be awarded up to the level of the eligible rent on the dwelling from which they are temporarily absent;
• rent shortfalls to prevent a household becoming homeless whilst the Housing Department explores alternative options;
• foster carers including those between placements;
• disabled people subject to under occupancy living in accommodation that has been substantially adapted for their needs.

3.3 A DHP cannot cover the following shortfalls:

• Ineligible charges: service charges which are ineligible for HB cannot be covered by a DHP nor can DHPs cover charges for water, sewerage and environmental services as defined and calculated under the HB provisions
• Increases in rent due to outstanding rent arrears;
Sanctions and reductions in benefit: this includes any reduction in Income Support, Job Seekers Allowance, Universal Credit and Housing Benefit;

Benefit suspension: Housing Benefit or Universal Credit can be suspended due to a general doubt about the entitlement or failure to provide information

Shortfalls caused by Housing Benefit or Universal Credit overpayment recovery: when recovery of a Housing Benefit or Universal Credit overpayment is taking place, the shortfall should not be considered for a DHP.

4.0 Treatment of applications

4.1 Each application will be considered on its merits and all applicants treated equally and fairly when the scheme is administered. Broadland District Council is committed to working inter-departmentally and collaborating with external organisations in order to maximise applicants’ entitlement to all benefits and discounts.

5.0 Applying for a Discretionary Housing Payment

5.1 A claim may be made by any customer entitled to Housing Benefit or Universal Credit, which includes a housing element towards rental liability. However, a claim can be accepted from someone acting on another’s behalf, such as an appointee, if it is considered reasonable.

5.2 An application for a Discretionary Housing Payment must be made in writing and signed by the applicant. Broadland District Council will provide an application form for this purpose which can be issued from the main office or downloaded from the website and the form must be completed in full.

5.3 Any reasonable evidence in support of an application for a DHP may be requested in writing. The applicant will be asked to provide the evidence within a calendar month of such a request although this will be extended in appropriate circumstances.

5.4 If the applicant is unable to, or does not provide the required evidence, the application will still be considered and will in any event take into account any other available evidence held by the Council.

5.5 The Council reserves the right to verify any information or evidence provided by the applicant in appropriate circumstances.

6.0 Awarding a Discretionary Housing Payment

6.1 A senior officer within the Finance and Revenues department will decide if a Discretionary Housing Payment will be awarded.

6.2 Where an applicant is not claiming a Council Tax discount or exemption which they may be entitled to or a welfare benefit or additional financial assistance, they will be advised, and where necessary assisted, in making a claim to maximise their income before their claim for a Discretionary Housing Payment will be decided.

6.3 When making their decision the officer may consider:
• the relevant regulations and official guidance notes;
• the shortfall between Housing Benefit or Universal Credit and the rental liability;
• any steps taken by the applicant to reduce their rental liability;
• the financial and medical circumstances of the applicant, their partner and any dependants and any other occupants of the applicant's home;
• the income and expenditure of the applicant, their partner and any dependants or other occupants of the applicant's home;
• any savings or capital that might be held by the applicant or their family;
• the level of indebtedness of the applicant and their family;
• the level of council tax they are liable to pay;
• the exceptional nature of the applicant and their family's circumstances;
• the amount available in the DHP budget at the time of the application;
• the possible impact on the Council of not making such an award, e.g. the pressure on priority homeless accommodation;
• whether a customer has previously refused the allocation of more suitable affordable accommodation, a DHP may not be awarded;
• when deciding how to treat income from disability-related benefits such as Disability Living Allowance or the Personal Independence Payment, consideration will be given on a case by case basis having regard to the purpose of those benefits and whether the money from those benefits has been committed to other liabilities associated with disability.

6.4 The list is not exhaustive and any other relevant factors or special circumstances will be considered.

6.5 Capital will be taken into account and discretion used to decide whether the level of capital warrants an award of DHP or not.

6.6 All decisions will be fully documented.

7.0 Amount and Period of the award

7.1 In all cases the amount and period of the award will be 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.

7.2 Each application will be considered on its own merits when deciding whether or not to backdate a DHP. However a DHP can only be considered for a period where there is an award of Housing Benefit or relevant award of Universal Credit housing costs.

8.0 Notification of award

8.1 The Council will inform the applicant of the outcome of their application as soon as practicably possible. Where the application is unsuccessful, the reasons why this decision was made will be set out and the right of review will be explained in writing.
8.2 Where a customer has been identified as struggling to manage their financial affairs, they will be signposted to our personal budgeting support service or Debt Advice Officer who offer a free, confidential advice service to Broadland residents.

8.3 Where the application is successful, this letter will advise:

- the amount of Discretionary Housing Payment awarded
- the reason for the award
- the period of the award
- how, when and to whom the award will be paid
- the requirement to report a change in circumstances
- how to re-apply at the end of the award if appropriate
- the review process
- this is a cash limited fund and
- an award of a DHP does not guarantee that a further award will be made at a later date even if the applicant's circumstances have not changed.

9.0 Payment of an Award

9.1 The decision of to whom the payment will be made will be based upon the circumstances of each case. This could include paying:

- the applicant
- their partner
- an appointee
- their landlord (or an agent of the landlord); or
- any third party to whom it might be most appropriate to make payment.

9.2 Payment of an award of DHP will be made by BACS in each case.

10.0 Duties of the applicant

10.1 A person claiming a Discretionary Housing Payment is required to:

- Provide the Council with such information and evidence as it may require to make a decision and
- Tell the Council of any changes to their financial or personal circumstances which may be relevant to their Discretionary Housing Payment claim or may affect the amount they have been awarded.

11.0 Reviews

11.1 Discretionary Housing Payments are not payments of Housing Benefit and are therefore not subject to the statutory appeals mechanism.

11.2 If the applicant is not satisfied with any decision in respect of their Discretionary Housing Payment they have the right to request a review.
11.3 Any request for a review must be made to the Council, in writing, within one calendar month of the date of the notification letter issued detailing the original decision.

11.4 A senior manager within the Finance and Revenue Department will look at the decision again. The applicant will be notified in writing, setting out the decision and associated reasons within 10 working days from receipt of the request or as soon as practicably possible.

12.0 Appeals

12.1 If the applicant is not satisfied with the outcome of the review they may appeal to the Head of the Finance and Revenue Department.

12.2 An appeal must be made by the applicant in writing within one calendar month of the date of the notification letter issued detailing the decision of the review.

12.3 A final determination in writing will be made within 10 working days or as soon as practicably possible and will detail the reasons for the decision.

12.4 This decision will be final and binding and may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman.

12.5 In exceptional circumstances only, the Head of Finance and Revenues may extend all of the above time periods for review as appropriate. In deciding whether to extend, they may take into account the financial difficulties in making an award for a previous financial year.

13.0 Overpayments of Discretionary Housing Payment

13.1 The Council will seek to recover any DHP found to be overpaid.

13.2 Overpaid Discretionary Housing Payments will mainly be recovered by issuing an invoice to the applicant or the person to whom the award was paid.

13.3 Recovery will not be sought from any amounts of Housing Benefit due to the applicant (except if the applicant requests this method of recovery specifically in writing).

13.4 The decision letter that notifies an overpayment will also set out the right of review.

13.5 An applicant who disagrees with a DHP overpayment decision may request a review of the decision. The procedure for this review will be as described in section 12 of this policy.

14.0 Fraud

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

14.2 Suspected fraudulent DHP applications will be investigated. Submitting a fraudulent claim for DHP is a criminal offence and offenders may be prosecuted.
15.0 Publicity

15.1 This scheme will be publicised and Broadland District Council will work with all interested parties.

15.2 A copy of this policy will be made available for inspection and it will be published on the Council’s website.