

Wiltshire Council

Cabinet

19 March 2013

Subject: Discretionary Housing Payments

**Cabinet member: Councillor John Thomson
Deputy Leader and Cabinet Member for Adult Care,
Communities and Housing**

Key Decision: Yes

Executive Summary

To raise awareness that the Government have increased the level of funding for discretionary housing payments in Wiltshire to cope with the impact of welfare reform. DHPs are a key element of the Government's strategy for managing reductions to Housing Benefit arising from welfare reform.

To include within the policy a hierarchy of award that supports the Council's goal of building strong resilient communities and protecting the most vulnerable in society to ease the administrative burden on the service and to minimise the risk and impact of rent arrears and homelessness.

To determine a separate discretionary fund that could be awarded to those in receipt of council tax reduction who can no longer have access to discretionary housing payment where in exceptional cases a council tax payer should be awarded additional reduction outside the scope of the normal scheme.

Proposals

1. That cabinet ratify proposals within the report to amend the discretionary housing payments policy (DHP) to deal with the impact of welfare reform, in particular the setting of the criteria and delivery model for DHP and prioritisation of award for the following groups, having first established income and need:
 - those living in significantly adapted dwellings
 - Foster carers
 - Those subject to the benefit cap

2. Given the significant uncertainties about the scale of impact of welfare reform and the differences within the scheme it is recommended that members agree the £200,000 contingency fund to cope with the impact of welfare reform; and create a separate £100,000 discretionary fund that could be awarded to those in receipt of council tax reduction who face exceptional vulnerable circumstances that could lead to greater local authority costs as they are no longer entitled to discretionary housing payment, and where in exceptional cases a council tax payer should be awarded additional reduction outside the scope of the normal scheme.

Reasons for Proposal

The Welfare Reform Act (2012) has introduced a number of changes to the way in which housing benefit is calculated and awarded from April 2013. Discretionary housing payments (DHP) are only awarded to those entitled to housing benefit, and until April 2013, those entitled to council tax benefit. DHP is awarded usually where there is a shortfall between the actual rent or council tax and their benefit entitlement. DHP funding is determined annually by Government who calculate the level of funding for each local authority.

There are three key changes that will affect the way councils deliver housing benefit and council tax reduction, from April 2013, which will have an impact on the DHP fund.

The introduction of the under occupancy charge, a reduction in housing benefit for those who have one or more bedrooms than they need, is the first, which will affect 3,342 households in Wiltshire.

The second change is the limiting of the total amount of benefit awarded to a household. The Benefit Cap will affect around 120 households in Wiltshire.

The third change is the introduction of a local council tax reduction scheme (CTR). New regulations prevent DHP being used to pay for council tax. The full extent of the move to CTR is estimated to affect around 14,000 households in Wiltshire.

Whilst the council's Housing Benefit Service has always administered the discretionary housing payment scheme, to roughly 300 recipients each year, it is only recently that its importance and funding has grown. With growth in funding has come direction from government as to its use.

This report is the third of three reports that will introduce local schemes to administer welfare support, the first being council tax support, the second being Local Welfare Provision and the third being discretionary housing payments. Changes to housing benefit and the introduction of CTR will place a financial burden on both existing recipients and a greater administrative burden on staff.

This report seeks agreement on how the funding is prioritised in Wiltshire to ensure we continue to deliver on our goal of building strong and resilient

communities, and protecting the most vulnerable in society, in order that we can also then minimise the administrative impact, raise awareness of the schemes and agreement on the level of discretionary funding for the council tax reduction scheme.

Michael Hudson - Service Director, Finance

Niki Lewis – Service Director, Communities

Wiltshire Council

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Key Decision: Yes

1. Purpose of Report

1.1 The overriding principle of the Council is to build strong and resilient communities, as part of that, a key element is to protect the most vulnerable in society. The welfare reform changes are aimed at incentivising people into to work. This Council supports that. However, where the changes will give rise to exceptional circumstances that risk vulnerable families and individuals potentially requiring greater costs for services from the Authority, Wiltshire Council aims to have a scheme that supports these cases to avoid that additional cost and build resilient communities. Therefore the purpose of this report is three fold:-

1. To raise awareness that the Government have increased the level of funding for discretionary housing payments in Wiltshire to cope with the impact of welfare reform. DHPs are a key element of the Government's strategy for managing reductions to Housing Benefit arising from welfare reform.
2. To include within the policy a hierarchy of award that supports the Council's goal of building strong resilient communities and protecting the most vulnerable in society to ease the administrative burden on the service and to minimise the risk and impact of rent arrears and homelessness.
3. To determine a separate discretionary fund that could be awarded to those in receipt of council tax reduction who can no longer have access to discretionary housing payment where in exceptional cases a council tax payer should be awarded additional reduction outside the scope of the normal scheme.

2. Background

- 2.1 The Child Support, Pensions and Social Security Act 2000 provides arrangements which allow authorities to make Discretionary Housing Payments to claimants in receipt of Housing and/or Council Tax Benefit.
- 2.2 Discretionary Housing Payments (DHPs) were payable in addition to Housing or Council Tax Benefit, where certain criteria were met. The regulations covering DHPs are the Discretionary Financial Assistance Regulations 2001.
- 2.3 The government allocates an overall cash limit that the authority can spend on DHPs. Any unspent funding is recovered by the government. In 2012/13 Wiltshire council was awarded £227,565 increasing to £474,331 in 2013/14.
- 2.4 The officer's decision to either award or refuse an appeal is final. It cannot be the subject of an appeal.
- 2.5 The scheme has been successfully operated for many years by the Benefits service however there is uncertainty over future funding levels. When housing costs are included within universal credit, and claims transfer to the DWP, the demand upon the local authority could fall. However the speed at which claims will be transferred is not known and many of the most complex claims will still be managed by the local authority.

3. Awarding DHPs

- 3.1 There are no prescribed tests under the current arrangements. However, before awarding a DHP, the following criteria must be satisfied:
 - the customer is entitled to Housing Benefit
 - the customer requires further help with their housing costs; and
 - there are sufficient funds within the Council's overall DHP fund.
- 3.2 DHPs cannot be made in respect of:
 - certain elements of rent:
 - ineligible service charges
 - charges for water, sewerage and environmental charges
 - increases in rent due to outstanding rent arrears
- 3.3 The level and duration of DHPs is at the discretion of the Council although the level of benefit plus the DHP must not exceed the weekly eligible rent. Wiltshire already promotes the scheme via its web-site and inviting claimants to apply, where appropriate.
- 3.4 All claims for DHP must be made in writing using the prescribed application form by the customer (or appointee) to the Council's Revenues

and Benefits Service. (The form can be down loaded from the web or is available at all council offices)

- 3.5 **Appendix C** confirms the numbers of awards during 2012/13 and the amounts. It is anticipated that the number of claims and awards will have doubled by the same time next year.
- 3.6 This increase in workload will not only be faced by the benefits service but by those managing the affairs of others, who in the past have not had to pay either rent or council tax. **Appendix E** confirms the numbers of clients affected by this change who are supported by either Adult Social Service (ASC) or Children's Service (CS). They will also need to be aware of the scheme and in some cases apply on behalf of the clients.
4. **Design and delivery approach to new scheme**
 - 4.1 The Council's approach to the delivery of the new scheme needs to be set within the broader agenda of the welfare reform programme. We know that the council will be running a number of discretionary payment schemes from April 2013 including local welfare provision (LWP). Access to LWPs will initially be through application. LWP will be managed in one place alongside the discretionary funds. The advantage of this approach will mean that the processing of an application may result in an offer or sign-posting to other discretionary awards. It is therefore sensible, where possible, for residents to be assessed for their eligibility for this type of support in a holistic manner rather than having to pass through multiple assessment procedures.
 - 4.2 The Council's Revenues and Benefits team have historically delivered this scheme. The team are already skilled in delivering regular and one off awards in a consistent, measured and secure way. They already have knowledge of the I.T. solution capable of delivering the scheme and importantly have controlled processes in place to issue secure payments. They also have access to data held by the DWP which is subject to stringent security checks and data sharing protocols, through the Customer Information System (CIS).
 - 4.3 The intention is, over time, to establish and develop a universal assessment process that provides a holistic solution in terms of accessing the scheme in addition to a range of council services. Furthermore, applications received which are covered through other provisions will be refused and applicants appropriately signposted and supported to access an alternative provision.
 - 4.4 It is envisaged that this 'Systems thinking' approach to service delivery will be the catalyst for far more joined up working across housing, revenues, benefits, adult and children's services.
 - 4.5 Because the funding provided for the scheme is considerably less than the estimated impact of the welfare reforms in Wiltshire it has been necessary to create a robust scheme that prioritises those most in need.

- 4.6 Key challenges in the design of the scheme have been with regard to whether or not to prioritise particular client groups.
- 4.7 Preparation for welfare reform within Wiltshire has seen unprecedented levels of data exchange, made possible by the council's new revenues and benefits system. It has enabled cross-referencing benefit databases with housing record and records held by children's and adult services and identified virtually every household potentially affected by under occupancy changes and the extent of the reduction in benefit across Wiltshire. In addition, the drawing up of this policy has engaged all areas of the Council affected and partners. We believe this is an excellent example of joined up working in order to achieve results for Wiltshire residents.
- 4.8 This research has identified a hierarchy of need. The group with the greatest need are those who, without this support, could be difficult and costly to re-house. This group includes some of the most vulnerable members of our community whose homes have been specially adapted to enable them to live with a degree of independence.
- 4.9 We have established that circa 3,300 families could potentially lose housing benefit in the social housing sector, including 470 of our own tenants, because they are under occupying their home. Arguably it makes sense to house families in the right sized dwelling and a great deal of work has been undertaken to amend housing policy. However some families will not be able to find suitable accommodation quickly. A further consequence of the change will mean that those living in adapted accommodation will also see a reduction in the benefit.
- 4.10 Our research indicates that around 146 properties, whose occupants are in receipt of housing benefit and are under occupying have also been awarded disabled facilities grants to undertake substantial, bespoke work to enable them to lead a relatively independent life. It would be perverse and uneconomic given it would generate greater cost of re-adaptations to their current and potential homes if as a result of these changes these people are not prioritised in terms of DHP. For the purposes of awarding relief priority will be given to occupants of homes that have been subject to substantial adaptations which in this instance, means work of a unique and costly nature, undertaken to meet the specific requirements of the occupants.
- 4.11 Furthermore our research has identified approximately 20 foster carers who will also be deemed to be under occupying their homes, simply on the grounds of having a spare room in case they need to look after a child. Again it would seem sensible to prioritise these families. Not to do so would go against the council's efforts to encourage families to foster children. This in itself could lead to higher costs of placing children in care homes, possibly outside of the county.

(These recommendations are made in conjunction with Government advice, in terms of best practice, contained in the DWP Circular HB/CTB A4 2012 para 52)

- 4.12 However the picture is not quite this simple. The fact that a family are over accommodated and live in a property that has been adapted may not mean that they cannot afford to meet any shortfall in rent. There has to be evidence that income is insufficient to meet the shortfall and so whilst we will encourage the above to claim, the award cannot be automatic. Every claim will have to be based on need and total income. Need and income will then determine the duration of the award which at most, can only last 12 months before review. However the extent of the review will also be based on the individual's circumstance. Once it established that a home has been significantly adapted then a subsequent review should be a relatively simple process.
- 4.13 Further research in conjunction with the Department of Work and Pensions (DWP) suggests that a further 120 families in Wiltshire will be subject to a **benefit cap**. This limits the amount of benefit a family or an individual can receive, not by awarding less benefit met by the DWP but by reducing housing benefit award to a minimum (.50p per week). It has been established that the majority of households affected by this change have four children or more and the average reduction in weekly housing benefit will be far greater than the losses met by those who are over accommodated.
- 4.14 It is recommended that whilst not all the shortfall in rent can be met from the DHP, careful consideration is given to those subject to the benefit cap to provide exceptional short term support. Failure to do so could lead to the council finding emergency and costly temporary accommodation for large families far in excess of the savings reaped by central government.
- 4.15 Having established these priorities the remainder of the DHP fund will be used as it is now, determined by need and income, and allocated across the private and social housing sector to meet short term falls between the rent and the benefit awarded, in order to prevent homelessness.
- 4.16 Those outside of the remit of the service would be directed to other forms of support by means of intelligent signposting to other organisations that can help tackle people's underlying financial needs or problems.
- 4.17 The policy document outlining the amended scheme is contained in Appendix A of this report.
- 4.18 Appendices D to J identify the number of households, the degree of over accommodation, their location, (based on local area boards), and the financial impact of the under-occupancy charge and the impact of the benefit cap.

5. Consultation and Communication

- 5.1 In preparation for the change an unprecedented level of data has been shared between services and housing providers to identify those at risk.
- 5.2 The DHP scheme is not new and the council have already awarded many discretionary payments. With notification of every successful claim, notice is given about the DHP scheme. The scheme is sufficiently well known by the customers however those with a shortfall between their benefit and their rent will be reminded of the scheme as part of the communication plan.
- 5.3. All customers deemed over occupied who have been contacted by the council.
- 5.4 Training for council staff who will deal with customers affected by welfare reform will be given throughout the spring of 2013.
- 5.5 Draft proposals have been shared with housing provides and prepared in conjunction with the council's housing policy team.
- 5.6 In terms of the discretionary council tax reduction scheme, almost 1,000 responses were returned regarding our council tax reduction scheme, 86% agreeing with the suggestion that a discretionary fund should be made available to protect the most vulnerable people from the impact of any changes

6. Environmental and climate change considerations

- 6.1 None

7. Equalities Impact of the Proposal

- 7.1 An equality analysis is attached at Appendix B

8. Risk Assessment

- 8.1. The introduction of any scheme, specifically a local scheme, carries with it the inherent risk, in terms of its design, to minimise challenge and dispute whilst offering a simple and cost effective solution.
- 8.2 The funding arrangements will mean that the Council will inherit a new financial risk due to the uncertainty over estimations of demand for these awards, particularly in context of wider reforms and specifically the impact of the benefit cap, later in the year. However early prevention, through identification and invitation to apply for DHP may prevent the council incurring substantial costs at later stages as a result of eviction and homelessness.

8.3 The scheme is targeted at some of the most vulnerable members of our community and consideration will have to be given to the range of behaviours staff may encounter. Further work may be required to ensure the security of staff and members of the public who may encounter a dissatisfied customer in crisis, and who may not behave in a rational way.

9. Risks that may arise if the proposed decision and related work is not taken

9.1 Any failure to provide an appropriate and targeted scheme to manage the relatively small sums involved will have a negative impact on the well being of vulnerable people and the reputation of the council.

10. Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

10.1 Demand for the scheme may outweigh budget, to mitigate against this council will monitor expenditure carefully through designated I.T. system and provide a measured approach to ensure available budget is targeted to those most in need.

11. Financial Implications

11.1 The DWP settlement for the provision of the new service includes an annual budget of £474,331 in 2013/14, an increase of £246,766 from the previous year.

11.2 The Council has received no information about funding for the scheme beyond 2014 and as such this scheme will need further review following any funding change announcements when they are forthcoming.

11.3 At this stage the proposed priority areas to be applied to allocate this money we estimate will take all or most of the available funding if everyone comes forward and was successful. Given the large levels of uncertainty over how families and individuals will react personally to their changed financial circumstances, and impossibility of predicting this to any large degree of certainty it is proposed that coverage is provided within the Council's general fund reserves. The risk assessment of reserves agreed by Full Council on 26th February 2013 highlighted a £200,000 contingency and is suggest that this is applied for 'exceptional' circumstances. This would include where it is shown that applicants meet the requirements, no other funding is available and the impact of not funding would incur more costs to the council than the DHP award. This budget will therefore need continual monitoring and assessment throughout the financial year.

- 11.3 Government have made no financial provision for a discretionary fund for council tax reduction. Whilst there is the Hardship Fund approved by Cabinet in February 2013 and the DHP, there may be exceptional cases whereby families/individuals are adversely affected by the changes in welfare reform that fall outside of the aforementioned schemes. It is therefore recommended that the Revenues and Benefits service introduces a new budget of £100,000. It is proposed that this is funded from retention of funds recovered from fraudulent benefit claims. The Council is investing in expanding its corporate fraud team and as a result the level of monies recovered is anticipated to increase but has not previously been budgeted for in setting the base budget for prudence. This will be monitored and action taken if this were unlikely to provide the full funding to ensure funding is available. This of course will need to be assessed alongside the need for expenditure on this fund as this fund will only be used in extraordinary cases, determined by the same application process where council tax reduction does not fully meet the council tax due, and the impact is highly likely to lead to increased costs to the authority above the potential short term support.
- 11.4 It is recommended that this provision be reviewed in line with the level of DHP, on an annual basis.

12. Legal Implications

- 12.1 Government has set out its intentions, stating 'DHPs are a key element of the Government's strategy for managing reductions to Housing Benefit arising from welfare reform'.
- Central government has stated that it expects additional funding to enable a more flexible response to unavoidable need, with funding to be concentrated on those facing greatest difficulty in managing their income. Duties under the Equality Act 2010 have been addressed at Appendix B.
- 12.2. Section 13A of The Local Government Finance Act has always made provision for a council to remit at its own cost council tax on the grounds of exceptional circumstances. However with the introduction of the local scheme this provision has been made more widely known by Government.
- 12.3 By ring fencing a specific sum may prevent the abuse of this regulation for those who believe that their circumstances are sufficiently exceptional that they prevent the payment of council tax. In other words, any suggestion of being unable to pay will be analysed using a version of the DHP application form.

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Background Papers

DWP Circular CTB/ HB A4 2012 & HB/CTB S1 2013.

Appendices:

Appendix A Discretionary Housing Payment Policy

Appendix B Equality Analysis

Appendix C DHP spend in 2012-13 and by age of claimant

Appendix D Under occupied households with adaptations

Appendix E Under-occupying households supported by ASC and CS

Appendix F Under-occupying households: age breakdown

Appendix G Under-occupying households: Local Area Board

Appendix H Under-occupying households: bed size breakdown

Appendix I Reductions to Housing Benefit, compared with Discretionary Housing Payment Funding