

AGENDA ITEM

REPORT TO CABINET

18 APRIL 2013

**REPORT OF
CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

**Leader of the Council- Councillor Cook
Housing and Community Safety – Lead Cabinet Member – Councillor Nelson**

DISCRETIONARY HOUSING PAYMENT SCHEME

1. Summary

Welfare reform changes from April 2013 in particular the introduction of size criteria rules for tenants of registered social landlords will significantly increase demand for discretionary housing payments from tenants who cannot afford to make up the shortfall between the housing benefit payment and the rent charged. Government funding has increased but it is sufficient to cover only 7% of the additional shortfalls. This report seeks approval of new discretionary housing payment guidelines which will set out the Council's priorities for such awards.

2. Recommendations

1. That Cabinet approve the revised discretionary housing payment policy attached as Appendix 1
2. That the approach to the operation of the scheme in year 1 by the utilisation of the fast track process for certain short term cases affected by the underoccupancy rules in the social rented sector be approved
3. That responsibility for approval of amendments to the policy be delegated to the Head of Housing in consultation with the lead cabinet member.

3. Reasons for the Recommendations/Decision(s)

Given the number of people who are or will be affected by current and forthcoming benefit changes, awarding Discretionary Housing Payments to meet all rent shortfalls is not a viable option. Careful consideration will be required to determine how best to target the funding within priority groups, whilst ensuring that each case is considered on its own individual merits. This policy has been developed to give guidance to staff responsible for making payment decisions.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in paragraphs 9 and 11 of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code).

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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Recommendations

1. That Cabinet approve the revised discretionary housing payment policy attached as Appendix 1
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BACKGROUND

1. Discretionary Housing Payments (DHP's) were introduced by the Discretionary Financial Assistance Regulations 2001 and exist to provide housing benefit and council tax benefit recipients with further financial assistance where the council considers that further help with housing costs is required. The legislation gives very broad discretion but decisions must be fair, reasonable and consistent.
2. The government provides a limited cash sum to local authorities to fund the scheme. This can be topped up by the LA to an overall cash limit which is 2.5 times the government contribution. Payments must not exceed the cash limit. Each case must be decided on its own merits, and the amount of government funding remaining cannot be a factor in decision making.
3. From 1 April 2013 Council Tax Benefit will be abolished and replaced by Local Council Tax Support. Consequently Discretionary Housing Payments

can no longer cover shortfalls between Council Tax Support and Council Tax liability

Current Arrangements

4. Payments in Stockton are made in cases of hardship, usually on a temporary basis until underlying problems (such as debt or unaffordable rents) can be tackled. Recently the priority has been the prevention of homelessness and the housing options team are able to authorise Discretionary Housing Payments to customers to prevent homelessness in the short term and allow a planned solution to problems. In some cases a lump sum discretionary payment has been made to cover bonds, rent in advance or removal costs in order to facilitate a move to more affordable accommodation.

Welfare Reform and Increased Demand

5. From April 2013 it is anticipated that there will be a significant increase in demand, as the full range of welfare reform changes take effect:-

Change	Reduction in benefit in SBC
LHA changes in the private sector	£1.5 million
Underoccupation in social sector	£1.9 million
Benefit Cap	£0.3 million

6. Stockton's funding allocation for 2013/14 has been announced as £395,220, an increase of £250,000 over the previous year. The amount of the increase is sufficient to cover only 7% of the overall benefit reductions.
7. The introduction of the underoccupation reforms will have a twofold effect, both increasing the numbers of tenants unable to afford rent shortfalls whilst also reducing the amount of suitable accommodation available for let, as registered providers seek to rehouse their own tenants.

LHA Changes in the Private Sector

8. Changes to Local Housing Allowance have been introduced in phases since April 2011. In most cases the changes have affected new claimants immediately, but existing claimants received 9 months transitional protection, enabling them, in many cases, to plan for the reduction. 2013/14 will be the first financial year when the full extent of the changes has effect.
9. The changes have included:-
 - Maximum benefit to be restricted to a 4 bedroom rate, regardless of the size of the family
 - LHA levels to be based on lowest 30% of rents in the area
 - Restriction of benefit to a shared accommodation rate for single claimants aged under 35 or single claimants living in non self contained accommodation.
10. The benefits and housing options teams have worked to mitigate the effects of the changes and in many cases claimants have been helped to move into Social Sector accommodation. However a number of these tenants may now be affected by the underoccupation changes.

Underoccupation Changes in the Social Rented Sector

11. In Stockton an estimated 2561 families will have benefit reduced by an average of £14 per week because of the underoccupation changes. There is

no transitional protection for these cases, such as has been the case with the LHA reforms- the benefit cut will take effect from 1 April for all tenants affected.

12. Some of the national government funding is provided specifically to assist two groups of people affected by the underoccupation rules – disabled people in significantly adapted properties, and foster carers, although this element has not been identified or ring fenced when individual allocations have been made. Recent legislative changes relating to foster carers will reduce the need for DHP's for this group, however indications are that this element of DHP funding may also be removed.
13. Local Registered providers have identified that their priorities for allocation of discretionary housing payments to their tenants would be :-
 - Disabled people living in significantly adapted properties
 - Foster carers
 - Temporary cases- people approaching pension age, growing families and pregnancy where the claimant will shortly become exempt from the size criteria or become entitled to an additional bedroom.
 - Disabled people requiring separate bedrooms (with medical evidence)
 - Tenants who have a support worker in place, who are responding positively to the support and where the progress would be jeopardised if the tenant was forced to move.

Household Benefit Cap

14. In Stockton an estimated 95 families will be affected by the benefit cap- the restriction of benefits received to a maximum of £350 per week for a single person or £500 per week for a couple or lone parent. The average loss will be £57 per week but this varies from £2.74 per week to a maximum of £149.50 per week, with 16 families losing all but 50p per week of their benefit. The cap will be introduced in Stockton sometime between 15 July 2013 and 30 September 2013. DWP have contacted families affected by the cap a number of times and have offered support for the move into work. The benefits and housing options teams are also working to support these families- nevertheless it is anticipated that a number of families will face the loss of all or part of their housing benefit at the point that the cap is introduced.

Targeted Support

15. Since its inception, DHP funding has been used primarily to make short term awards to ease transitions and to give claimants time to seek resolution of their difficulties. From April 2013 the government is providing extra funding to ease the introduction of the household benefit cap but also to meet *continuing* and unavoidable needs resulting from the application of size criteria in the social rented sector rather than catering for exceptions within the Housing Benefit scheme itself.
16. Many people have difficulty paying their rent. Among these are
 - those whose benefit is restricted because their rent is considered too high;
 - those whose benefit is restricted because their home is considered too large under the government's size criteria
 - those whose benefit is reduced by deductions for non-dependants who may not contribute adequately to cover those deductions;
 - those whose benefit is reduced by the taper for excess income;

- those who for all sorts of reasons have other calls on their income (additional expenses or outstanding debts) which they prioritise ahead of rent;
 - those who have general difficulty managing the income they have, including those subject to the household benefit cap;
 - those who are returning to work after a long period of unemployment who have difficulty in managing finances during the transition from benefit to a stable in-work income when the continuing level of net earnings is known and any Working Tax Credit entitlement is secured
-
17. Any claimant who has a shortfall between the amount of housing benefit awarded and the rent charged is able to make a claim for DHP. ***Given the number of people who are or will be affected by current and forthcoming benefit changes, awarding Discretionary Housing Payments to meet all shortfalls is not a viable option. Careful consideration will be required to determine how best to target the funding within priority groups, whilst ensuring that each case is considered on its own individual merits.***

“Fast Track” applications

18. When considering applications for discretionary housing payments it is usual to make a detailed assessment of the personal circumstances of the claimant and family including consideration of income and expenditure, the level of indebtedness etc. Support and advice is tailored to the individual, and a discretionary housing payment is just one tool utilised in order to resolve the underlying housing problems on a long term basis. Such casework is time consuming and costly to provide. With the welfare reform changes the type of problems presenting will change and this “in depth” approach will be too intensive or inappropriate in a number of circumstances. Equally there are other cases where it will be unreasonable, or not in the public interest to expect a claimant to move. It is therefore proposed to “fast track” applications for DHP in these cases to allow more intensive support to be focused on those cases where it is most needed.

Short Term Cases

19. The absence of transitional protection for the social sector underoccupation reforms means that a number of tenants will be affected by benefit reductions for a short period of time until a predictable change in circumstances- usually a birthday, will mean that housing benefit will increase and the property is once more affordable. However, in the meantime the tenant will be faced with worry over how to pay the shortfall & may have to consider moving to smaller accommodation even though in a few months they would become entitled to the rate for an additional bedroom or become exempt from the changes altogether.
20. It is therefore proposed that a DHP will be paid for up to one year in cases where:-
- The claimant or partner will reach the qualifying age for state pension credit on or before 31 March 2014 and will therefore be exempt from the underoccupation changes
 - A child who is a member of the household reaches the age of 16 on or before 31 March 2014 and the number of bedrooms which would be allowed under the size criteria at that time would match the number of bedrooms in the property.

- A child who is a member of the household reaches the age of 10 on or before 31 March 2014 and the number of bedrooms which would be allowed under the size criteria at that time would match the number of bedrooms in the property.
21. Additionally it is proposed that a DHP be paid where a member of the household is expecting a child before 30 November 2013 and the number of bedrooms which would be allowed under the size criteria at that time would match the number of bedrooms in the property.
22. In future years, and for private sector tenants, fast track payments will be considered where a change of circumstances is expected in the short term (usually within 6 months) and where the chargeable rent would become affordable at that time.

Disabled People Living in Significantly Adapted Properties

23. A number of severely disabled people living in properties which have been significantly adapted to meet specific disablement needs will face unaffordable reductions in benefit entitlement under the underoccupation rules. It would be unreasonable to expect the claimant to move to alternative accommodation when substantial amounts of public funding have been paid to adapt a property specifically for their needs. The adaptations may need to be carried out again in the new property, and further expenditure incurred to restore the old property to its original form.
24. The policy therefore proposes that Discretionary Housing Payments are made where:-
- the property is occupied by a person in receipt of the middle or higher rate of DLA or the Daily Living Component of Personal Independence Payment, or an Armed Forces Independence Payment *and*
 - the property is significantly and structurally adapted in order to meet the disability needs of that person.
- Significant and structural adaptations would include extensions or through floor lifts but would not include level entry showers, ramps, grabrails or stairlifts. Over 300 tenants of properties with some adaptations will be subject to the underoccupation rules and it would be unaffordable to consider all cases on a "fast track" basis. However cases will still be considered for DHP help taking all individual circumstances into account.
25. Applications will also be considered from disabled people in adapted private rented accommodation, but consideration will be given to the reasonableness of the rent charged.

Foster Carers

26. Foster children are not included in the housing benefit assessment but neither is the income from fostering allowances- which are intended to help towards the costs of caring for the child. A recent legislative change means that one additional bedroom can be awarded under the size criteria for foster parents who have been approved for fostering or have had a foster child or children placed within the last 12 months. However a number of foster parents have more than one room available for foster children and may require DHP to cover the cost of the additional room. If discretionary housing payments were not made it is unlikely that social sector residents could afford to become, or remain as foster carers. Where necessary and appropriate DHP payments

will be made to both local authority and private foster carers under “fast track” rules. Applications will also be considered from foster carers in private rented accommodation, but consideration will be given to the reasonableness of the rent charged. Similar rules apply in respect of prospective adoptive parents.

Other Applications

27. Awards of DHP have always focused on enabling people to secure or retain and pay for appropriate and sustainable accommodation through temporary difficulties or in anomalous circumstances not addressed by the benefit system. This is in order to reduce the risk of homelessness and help support the stability of families and communities. It is not proposed that this key principle be subject to change. DHP’s should not seek to undermine the purpose and nature of the Housing Benefit scheme, nor support irresponsible behaviour, nor can they assist in situations so common that a consistent approach to such payments would involve expenditure above the maximum permissible.

28. It is expected that payments would be made in unusual or extreme circumstances where additional help will have a significant effect in alleviating hardship, reducing the risk of homelessness or alleviating difficulties that may be experienced in the transition from long term benefit dependence into work, for example:

- Circumstances exceptional among customers in that tenure;
- Costs that are beyond their control and do not arise through the actions or failures of others;
- Housing choices which are forced on or required by the customer because of urgency, care needs or significant health requirements;
- Extreme and temporary situations which make it difficult to move in the short term or where decisions had to be made in an emergency;
- Imminent loss of the home where meeting some or all of the current shortfall between the benefit and eligible rent will prevent the customer from becoming homeless.
- To mitigate or delay the most severe effects of the household benefit cap where families are co-operating with agencies and other solutions are not practical in the short term.

29. Many will seek to be regarded as priority cases, and it is unlikely that all will be able to be assisted. In particular it is recognised that difficulties are faced by absent parents who regularly look after children normally living with the other parent or who hope to make such arrangements. The benefit system does not provide for this situation, and in particular the size criteria requirements do not provide for these children. Unfortunately it is a common situation. DHP’s will therefore only rarely be able to assist mainly where existing arrangements are threatened by difficulties that are likely to be short-lived.

30. It is therefore proposed that the key criteria for targeting DHP support are that the claim falls within one of the priority groups detailed in the table below:-

Priority Group	Examples of Cases
Disabled People and Vulnerable Adults	<ul style="list-style-type: none"> • Couples who cannot share a bedroom because of disability • Families requiring an extra room because of disability – for medical procedures, storage of

	<p>equipment etc</p> <ul style="list-style-type: none"> • Families with disabled children who require an overnight carer • Adaptations (other than significant adaptations) have been made to the property for a disabled person • Disabled or frail elderly people who need accommodation close to carers and support networks
Safeguarding Children	<ul style="list-style-type: none"> • People going through the approval process to become foster carers/ adoptive parents who need to demonstrate that there is a bedroom available • Kinship Carers • Families with a child temporarily in care but where the child is expected to return home • Families where there are child protection concerns
Emergency Circumstances	Where a person has had to relocate urgently because of emergency circumstances such as fleeing violence, witness protection or family emergency.
Families affected by the benefit cap	For a temporary period until a managed transition can be made where the family is taking steps to deal with the issue.
Exceptional Circumstances	Other cases where not making a discretionary payment would have an exceptionally detrimental effect upon the health or wellbeing of the family or individual.

In addition the following criteria will also apply:-

The claimant cannot afford to meet the shortfall between benefit and rent.

31. An assessment of income and outgoings will be carried out for all but “fast track” DHP applications, and assistance provided only where the claimant has insufficient income to meet all or part of the shortfall. Applicants will be signposted to agencies to assist with dealing with debt, money management, work preparation, smoking cessation etc. If there is insufficient income solely because of debt, it is unlikely that additional support will be provided. Income from disability benefits and other income normally disregarded for benefit purposes will be taken into account but expenditure related to that income- such as disability related expenditure will also be taken into account.

and

The claimant is unable to take action to improve his/ her situation or is taking all reasonable steps to do so.

32. In order to qualify for a DHP payment applicants will be expected to engage with support providers, not commit themselves to further unaffordable debt etc.

and

It is unreasonable to expect the claimant/ family to move,

33. This will take into account personal circumstances and may include factors such as

- Additional bedrooms are required over and above the size criteria requirements
- Local support networks
- Critical points in children's education
- Short term support requirement, until circumstances change

or

The DHP application would assist the claimant to move to more suitable accommodation

34. These will usually be lump sum applications to assist with a bond or rent in advance etc to facilitate a move

Monitoring Arrangements

35. Expenditure on DHP's will be monitored on a monthly basis and the number and types of awards will be continually scrutinised to ensure that resources are targeted to areas of most need and that there is equitable treatment of client groups. Further DWP guidance relating to DHP's is expected and there may be further legislative changes which impact upon the policy. It is therefore recommended that delegated authority to make amendments to the policy is approved to the Head of Housing in consultation with the lead Cabinet Member

FINANCIAL IMPLICATIONS

36. DWP have allocated £395,220 funding for discretionary housing payments in Stockton for 2013/14. It is anticipated that expenditure will match that allocation. Funding for future years is not known. It is estimated that approximately 20% of expenditure would relate to fast track cases. It is not yet known whether any of the DHP funding will be clawed back by government in view of the latest announcements on changes to legislation.

LEGAL IMPLICATIONS

37. Requirements for the scheme are specified in the Discretionary Financial Assistance Regulations 2001.

RISK ASSESSMENT

38. This discretionary housing payment policy is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk."

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

Economic Regeneration and Transport

Residents applying for DHP will be signposted to assistance with budgeting, debt management, assisting with independence and work readiness.

Environment and Housing

A key principle of Discretionary Housing payments is to assist people to live independently in their own accommodation and to help sustain tenancies.

Children and Young People

DHP's will be specifically targeted to assist families with disabled children live independently, help support foster carers, families affected by the benefit cap, and to help provide some financial support and stability to families in crisis situations

Healthier Communities and Adults

DHP's will be targeted to assist disabled people, those with care needs and other vulnerable adults. In certain cases providing financial stability and helping to maintain a resident in suitable accommodation will help to maintain physical and mental health and wellbeing.

Supporting Themes

Stronger Communities

The proposals to refer residents to advice and information provision will promote financial inclusion, providing residents with access to financial advice.

Older Adults

Older adults are exempt from many of the welfare reform changes and are likely to place less demand on the scheme, but additional support will be provided to those affected who are approaching retirement age. Support for those with medical needs is also likely to be targeted to many older residents.

Community Safety

There may be community safety implications arising from increasing numbers of tenants unable to afford to pay rent as a result of the welfare reforms.

EQUALITIES IMPACT ASSESSMENT

An equalities impact assessment was carried out in 2008 and judged to have a positive effect. Further funding has been provided and it is judged that a further assessment is not required. However equality issues have been considered as an intrinsic part of the development of this revised policy, and regard has been had to national equality impact assessments of the effect of the welfare reforms.

CONSULTATION INCLUDING WARD/COUNCILLORS

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