

Subject: DISCRETIONARY HOUSING PAYMENTS

Meeting: Adults Select Committee

Date: 13th June 2019

Divisions/Wards Affected: Chief Executives

1. PURPOSE:

- 1.1 The UK Government is continuing to implement its programme of welfare reform. The programme has a number of policy objectives to encourage those on benefits to find work and to move away from dependency on benefits payments, whilst at the same time, contributing a significant proportion of savings towards Governmental public spending.
- 1.2 The report summarises the main impacts of the welfare reform programme, particularly with reference to Universal Credit, reductions in Housing Benefit and the ability of some of Monmouthshire's most vulnerable households to afford their rental payments.
- 1.3 The main practical mitigation offered by the Council is via the administration of Discretionary Housing Payments to assist customers to meet the rent shortfall incurred due to the welfare reforms. The Council has previously confirmed that, in addition to the administration grant provided by Department for Works and Pensions, it will make £60,000 per annum available to meet the demand placed upon the Discretionary Housing Payment fund.

2. RECOMMENDATIONS:

- 2.1 To re-affirm the Council's approach to the award of Discretionary Housing Payments including the additional financial support previously agreed.

3. KEY ISSUES:

- 3.1 The major reforms currently affecting Monmouthshire local authority customers are as follows
 - **Universal Credit** – the new benefits system replacing six legacy benefits (jobseekers allowance, **income support, employment and support allowance**, tax credits and housing benefit) fully introduced in Monmouthshire in **June** 2018. This replaces all new claims for the legacy benefits. Customers have a five week waiting period for their initial payment

but can access advance payments and in some cases receive a two week transition payment of housing benefit to assist them with their rent.

- **Under occupation charge / 'bedroom tax'** restricting rents for working age people on Universal Credit and Housing Benefit in social housing owned by landlords such as Monmouthshire Housing Association, Melin and Charter (affecting 450 households by an average of £13 per week)
 - **Private sector rent limits** – particularly those restricting rents for the under 35's – their rents are limited to the shared room rate of £50 per week.
 - **Household Benefit Cap** – a maximum limit on benefits for households. £13,400 for single people and £20,000 for lone parents and couples (affecting 54 households by an average of £45 per week)
- 3.3 The administration of Housing Benefit, delivered by the Shared Benefit Service led by Torfaen, is the responsibility of the Department for Work and Pensions (DWP) and is not currently a devolved matter. In addition, the Shared Benefits Service administers Council Tax Reduction, Free School Meals and Clothing Grants, and Guardianship/Adoption Order assessments
- 3.4 This means that the Council's Benefits service is well placed to understand the local circumstances and implications, and are a key part of the system that can potentially provide help and support. In particular the transition to Universal Credit can be a difficult one for residents and therefore a dedicated resource has been made available from within the service to assist customers to claim Universal Credit, to ensure they claim other benefits and to assist them to manage their financial affairs.
- 3.5 In order to mitigate the impact of the changes the Government has provided additional funding to local authorities in the form of Discretionary Housing Payments. Discretionary Housing Payments are intended to assist those who are in most need due to their inability to pay their rent.
- 3.6 The Council has also recognised the importance of Discretionary Housing Payments as a means of targeting assistance and preventing greater costs to vulnerable residents and the Council in the future. It has made an additional £60,000 per annum available to this end.
- 3.7 In 2018/19 the Council spent £198,196 in Discretionary Housing Payments (with funding of £139,910 from DWP) placing it in the top two authorities in Wales. In total 1,114 awards were made to households.
- 3.8 Of the 1,129 Discretionary Housing Payment (DHP) awards, 605 were made due to spare room subsidy / bedroom tax, 208 due to private rent restrictions and 49 due to the household Benefit Cap. In addition, 250 awards were made to customers facing general hardship particularly those on Universal Credit and not able to afford their rent.
- 3.9 In terms of the purpose of the award, 959 awards were made to customers with ongoing rental costs, 102 awards were made to customers to assist them in the short term while they were seeking employment, 15 awards were made to those who were moving or waiting to move to alternative accommodation, 5 awards to assist customers who live in specially

adapted accommodation, 28 awards to customers mainly in private rented accommodation to secure and move to new homes and 5 awards to household's with foster children.

REASONS

- 4.1 Our policy approach to date can be summarised as follows
- To assist customers to meet the impact of the changes, to maintain financial stability and to safeguard their tenancies
 - To assist the customer to access services to assist them to find more suitable housing, receive budgetary advice and/or to find work.
 - To work closely with landlords and housing partners to sustain tenancies and prevent homelessness
- 4.2 Some customers impacted by under occupation / bedroom tax are not able to change their situation e.g. those who are disabled and live in specially adapted accommodation requiring long term support from the DHP fund
- 4.3 A DHP can only be paid if there is a shortfall in rent. DHP awards are normally based on an assessment of the customer's income and expenditure. The key principle is a financial one, whether or not the customer is able to afford their rent shortfall based upon the information provided. In addition, customers are asked to provide any other supporting information that is relevant to their ability to pay their rent.
- 4.4 Customers seeking a Discretionary Housing Payment are required to complete an application form setting out their income and expenditure. The added detail could also include reference to debts or rent arrears.
- 4.5 Customers are also required to detail any steps they are taking to improve their financial circumstances and to mitigate the impact of the benefit change affecting them. For example, if they are affected by the bedroom tax they are asked whether they have approached their landlord to downsize to a smaller property.
- 4.6 Each application is considered on its own merits by a decision maker in the Council's Benefits service. In many cases awards are for part of the rent shortfall due to the welfare reforms as the demand upon the fund is so significant and are normally awarded for a six month period in order for the customer to take time to address their circumstances.
- 4.7 In the decision letter detailing the award customers are warned that help is short term and they should take action to address their circumstances including the mitigations suggested by the Department for Work and Pensions (see 4.13 below).
- 4.8 Many customers re-apply for help at the end of **the award** period and are considered again as their circumstances do not change but they still face difficulty in affording their rent.

- 4.9 Three per cent of applications for a DHP were refused by the Council in 2018/19 mainly because the customer had excess income that enabled them to afford their rent or because they were already receiving the maximum amount of Housing Benefit or Universal Credit
- 4.10 The Council's policy is robust but fair – three customers have appealed against our DHP decisions in the period since April 2013.
- 4.11 Suggested mitigations from the Department for Work for Pensions (DWP) for claimants affected by the welfare reforms include downsizing to smaller properties, getting a lodger in or increasing income / finding work.
- 4.12 The Government has provided increased funding to local authorities as part of the discretionary housing payment scheme. The Council has a good record of using the DHP fund to safeguard tenancies and to prevent homelessness. The Council has allocated additional funding in addition to funding from the Department for Work and Pensions to ensure we direct help to where it is needed.
- 4.13 The Government has criticised local authorities for not spending the funding allocated. In Wales some authorities have handed under spent funding back to the DWP.
- 4.14 The new demand from Universal Credit has increased pressure on the DHP budget. The change means that the funding allocated will be under severe pressure and we may need to reduce awards to some recipients.

5. PRACTICAL IMPACT OF OUR APPROACH – CASE STUDIES

- 1 Job Centre Plus referral to the Shared Benefits Service. Customer on Universal Credit, a single adult under occupying in a 3 bedroom property with significant rent arrears. Non-engaging as there were mental health issues. An income and expenditure form was completed by our officer. The officer negotiated with the customer's social landlord providing a lump sum and ongoing DHP to reduce arrears and sustain tenancy and put in place an ongoing rent payment arrangement. Referral for ongoing support to other agencies including police / MIND.
- 2 Single parent with children relocated from outside area with limited input and assistance. Assisted customer with updating of UC housing costs, applying for Discretionary Assistance Fund loan for emergency white goods/furniture/clothes/fuel/cash for new private rent. Completed all Benefit forms, applied for Welsh Water assistance, supplied food bank voucher and local information on support and charities. Paid a short term DHP to assist transition to Universal Credit.

6. RESOURCE IMPLICATIONS:

- 6.1 The administration of DHP's is an increasing responsibility as the welfare reform agenda widens and is seen as a key mitigation. Therefore, the impact upon resources available is being closely monitored.

7. EQUALITY AND FUTURE GENERATIONS EVALUATION (INCLUDES SOCIAL JUSTICE, SAFEGUARDING AND CORPORATE PARENTING):

7.1 An effective policy approach means that the Council is able to ensure that claimants remain in their homes and the wider impact of homelessness and children taken in to care is minimised.

7.2 The policy ensures that there is effective liaison between frontline staff in the Benefits service and other support services in the Council including Social Care and Housing and with social landlords to ensure vulnerable households are identified, protected and supported.

8. CONSULTEES:

Not applicable.

9. BACKGROUND PAPERS:

Discretionary Housing Payment Policy

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MONMOUTHSHIRE COUNTY COUNCIL

Discretionary Housing Payment Policy

1. Background - What is a Discretionary Housing Payment?

1.1 Under powers contained within the Discretionary Financial Assistance Regulations 2001 (as amended) Monmouthshire County Council has the ability to authorise Discretionary Housing payments (DHP) to those who may “require some further financial assistance...in order to meet housing costs”. This payment is in addition to any Housing Benefit or Universal Credit housing cost award.

1.2 Housing costs are not defined in the Regulations but, in general, housing costs mean rental liability. However, for the purposes of the DHP scheme they can be interpreted more widely to include

- rent in advance
- rent deposits
- any other lump sum costs associated with a housing need (e.g. removal costs).

1.3 Although the scheme is discretionary there are conditions that must be met before a DHP can be considered. The customer must be entitled to Housing Benefit (HB) or Universal Credit (UC) that includes an element towards rental liability and require further financial assistance with housing costs.

1.4 A DHP may be granted to meet the shortfall between rent and HB and may include the following

- Reductions in HB (or UC) where the household benefit cap has been applied;
- Reductions in HB (or UC) due to the maximum rent (social sector) size criteria the so-called 'bedroom tax';
- Reductions in HB (or UC) as a result of local housing allowance / private sector rent restrictions;
- A reduction in HB (or UC) as a result of other welfare reforms e.g. the removal of the family premium for new claims;
- Rent shortfall to prevent a household becoming homeless whilst Housing Options Team explores housing alternatives;
- Non dependant deductions in HB or housing costs contribution in UC ;
- The effect of income tapers, where the customer receives less than full benefit owing to the means test;
- Rent in advance;
- Rent deposits;
- Any other lump sum costs associated with a housing need (e.g. removal costs).

Please note this list is not exhaustive

1.5 Following the abolition of Council Tax Benefit in April 2013 DHPs can no longer be made to help meet any shortfall in council tax liability.

1.6 A DHP also **cannot** be used to

- pay ineligible service charges (such as water rates and meals)

- minimise the effects of other benefit sanctions e.g. Job Seekers Allowance or UC sanctions or any HB overpayments;
- make a payment when HB is suspended;
- cover increases in rent (e.g. court costs) due to outstanding rent arrears.

2. Funding

2.1 DHP payments are cash limited. Each year the Department for Work and Pensions (DWP) sets out in the annual finance orders the cash limit for each authority and the government contribution.

2.2 The maximum level for each local authority is 2.5 times the government contribution. It is unlawful to exceed the cash limit. Any unspent amount from the government contribution (40 per cent of the cash limit) must be returned to the DWP.

3. Purpose of this Policy

3.1 The purpose of this policy is to specify how the Benefits Service will operate the DHP scheme and to indicate some of the factors that will be considered when deciding if a DHP can be awarded. Each case will be treated strictly on its merits and all customers will receive equal and fair treatment. The Council is committed to working with the local voluntary sector, social landlords and other interested parties in the Borough to maximise entitlement to all available state benefits and this will be reflected in the administration of the DHP scheme.

3.2 This policy should be read in conjunction with the DWP's DHP guidance manual (last updated in February 2016) and the Council's DHP procedure.

4. Statement of objectives

4.1 The Benefits Service will consider making a payment of a DHP to all customers who meet the qualifying criteria. The Benefits Service will treat all applications on their individual merits, and will seek through the operation of this policy to:

- Alleviate poverty;
- Mitigate the effects of welfare reform ;
- Support vulnerable young people in the transition to adult life;
- Encourage Monmouthshire residents to obtain and sustain employment;
- Assist people to maintain their tenancy and prevent them from becoming homeless;
- Safeguard Monmouthshire residents in their homes;
- Help those who are trying to help themselves;
- Keep families together;
- Support the vulnerable in the local community;
- Support disabled people to remain in their own homes/ adapted properties ;
- Support the work of foster carers;
- Support domestic violence victims who are trying to move to a place of safety;
- Help customers through personal and difficult events.

4.2 The Council considers that the DHP scheme should be primarily seen as a short term emergency fund. It is not and should not be considered as a way around any current or future entitlement restrictions set out within HB and UC legislation.

5. Awareness, publicity and take up

5.1 We will make every effort to publicise the DHP scheme particularly as they are a key element of the Government's strategy for mitigating the impact of welfare reform changes.

5.2 We will also proactively promote the DHP scheme by working in partnership with community, voluntary and statutory organisations to advertise the availability and take up of

DHPs. In doing so, the Council will make claim forms and literature on DHPs available to the wider community via its website.

5.3 Information about the DHP scheme is given on all HB decision letters.

6. The application and decision making process

6.1 A claim for a DHP can only be considered if it includes sufficient information to make a decision on entitlement. Claims can only be made in writing on a form specifically to claim a DHP. A claim can be made by the claimant or by their representative.

6.2 The Benefits Section may request any reasonable evidence in support of an application for a DHP. The customer must also demonstrate that he/she is suffering from financial hardship as a direct result of his / her housing costs.

6.3 All income will be taken into account when deciding whether a DHP is appropriate unless it is a disability-related benefit.

6.4 In cases where a disability –related benefit is in payment the Council take into account the decision of the High Court in R v Sandwell MBC, ex parte Hardy. Each case will be considered on a case by case basis, the Council must have regard to the purpose of those benefits and whether the money from those benefits has been committed to other liabilities associated with disability.

6.5 The Council will also consider whether the claimant has any savings which can be used to help them meet the shortfall.

6.6 All genuine and reasonable expenses such as food, clothing utility bills travel costs and debts etc. will be considered. However in certain circumstances it may be reasonable to expect the claimant to reduce their household expenditure before they claim /reapply for a DHP.

6.7 The Council will also take all relevant circumstances into account when making the award including

- Is there any genuine risk of eviction if help with housing costs is not provided?
- The medical needs of the claimant, their partner and any other person in the household.
- What other outgoings does the customer have which make it harder for them to meet their housing costs?
- Is it possible for the customer to negotiate a rent reduction with the landlord?
- Could the customer relocate to alternative accommodation that would incur lower housing costs?
- Has the customer applied for all available sources of income to them?
- The level of indebtedness of the customer and their family. Has the customer tried to renegotiate loans to reduce their expenditure or are they paying off debts, which are making their expenditure temporarily higher.
- Has the customer sought advice from a debt advisor to try to alleviate their situation?
- Is the hardship having particular effects on individuals within the family, for instance young children?
- Are non-dependants living in the household contributing financially?
- Is there a risk of the customer being declared statutorily homeless if a payment is not made?

This is not an exhaustive list and is covered in more detail in the Council's DHP Procedure.

7. The award

7.1 In all cases the Council will make its decision on the known facts and the evidence supplied. The period and level of the award will be on the basis of need, with a minimum period of award of one week and a maximum period of fifty two weeks. An award will usually be made for between three to six months.

7.2 The DHP award may be a full award covering the whole shortfall or a partial award which does not cover the full shortfall. This depends on the circumstances of the claimant and their household.

7.3 The Council will decide the most appropriate person to pay based upon the circumstances of the case. This could include paying the claimant, an appointee or the landlord (or agent of the landlord).

7.4 Payments will usually be made into a bank account every 4 weeks in line with the HB payment run.

7.5 Any reasonable request for backdating an award of a DHP will be considered in line with good cause criteria as laid out in the 2006 Housing Benefit Regulations as to why there was a delay in making a claim. A DHP cannot be awarded for any period outside an existing HB benefit period granted under the HB statutory scheme. UC DHPs will be considered using the same criteria

7.6 In all cases, we will inform the customer that the scheme is cash limited and that future payments cannot be relied upon. Awards will be reviewed if the customer's circumstances change e.g. starting employment.

7.7 The onus is on the claimant to reapply for a DHP if help is still required to meet the shortfall in rent. There is no guarantee however that a further award will be made even if their circumstances remain the same. We do expect the claimant to show that they have made every effort to improve their financial position this includes working with the Council and its partners to improve their financial position.

8. Housing Options / Debt Advice

8.1 In all cases customers will be provided with details of contact arrangements for the Housing Options service.

8.2 Customers requiring specialist debt advice and support may be referred to the Citizen's Advice Bureau or to their registered social landlord.

8.3 If the customer gives us written permission they will be referred to the Housing Options Team, the Council's Financial Inclusion Officers or their registered social landlord as appropriate.

They may be able to provide assistance on a range of issues including

- Debt /budgeting advice;
- Housing related matters e.g. if a claimant is faced with eviction.

9. Notification

9.1 The Council will aim to inform the customer in writing of the outcome of their application within one week of receipt. Where the application is unsuccessful, the Benefits Service will set out the reasons why this decision was made and explain the right of review. Where the application is successful, the Benefits Service will advise:

- The weekly amount of DHP awarded;

- The period of the award;
- How, when and to whom the award will be paid;
- The requirement to report a change in circumstances.

9.2 The notification will also advise the claimant of appropriate steps that should be taken to improve their financial situation. If they subsequently reapply for a DHP they will need to demonstrate the action taken and the outcome of such actions.

10. Review procedure

10.1 DHPs are not payments of HB and are therefore not subject to the statutory appeals procedure. The Council is committed to providing an appropriate review procedure. A customer (or their appointee or agent) who disagrees with a DHP decision may dispute the decision. A request for a review should be delivered in writing to a designated office within one calendar month of the written DHP decision being issued to the customer. The Head of Revenues and Benefits will then consider the request and review the decision made and respond to the customer within fourteen days.

11. Final review

11.1 If the customer is still unhappy with the decision a further review may be undertaken by an independent panel including a Chief Officer independent of the service. This is the final stage of the review process and may only be challenged further via the judicial review process.

12. Fraud

12.1 Monmouthshire County Council is committed to the fight against fraud in all its forms. A customer who tries to fraudulently claim a DHP 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 it is alleged, or the authority suspects that such a fraud may have been committed, the matter will be investigated and if fraud is found to have occurred, action will be taken including the recovery of overpaid monies and, if appropriate, criminal proceedings.

13. Overpayments

13.1 Any DHP award found to be overpaid may be recovered where appropriate.

14. Review of policy

14.1 A review of this policy will be undertaken when major changes to Benefits legislation occur affecting the criteria for entitlement.