

Subject: DISCRETIONARY HOUSING PAYMENT POLICY

Meeting: Cabinet

Date: 2nd November 2016

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 reductions.
- 1.2 The report summarises the main impacts of the welfare reform programme particularly with reference to reductions in Housing Benefit and the ability of Monmouthshire households to afford their rental payments. It includes reference to a further significant reform, the lowering of the household Benefit Cap.
- 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. Cabinet is asked to consider the revised Discretionary Housing Payment Policy.

2. RECOMMENDATIONS:

- 2.1 To approve the Discretionary Housing Payment Policy attached below and to reaffirm the criteria for decision making.
- 2.2 To note the recommendations of the Adult Select Committee scrutiny as noted in paragraph 4.19 below.

3. KEY ISSUES:

- 3.1 The major reforms currently affecting Monmouthshire local authority customers are as follows:
 - **Under occupation charge / 'bedroom tax'** restricting rents for working age people in social housing owned by landlords such as Monmouthshire Housing Association, Melin and Charter (affecting 495 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 £48.60 (75 single people by an average of £35 per week)

- **Household Benefit Cap** – a maximum limit on benefits for household, £18,000 for single people and £26,000 for lone parents and couples (25 households by an average of £45 per week)

3.2 The Household Benefit Cap is being further restricted from November 2016 onwards. The threshold is being lowered to £13,400 for single people and £20,000 for lone parents and couples. This will affect approximately 100 households in Monmouthshire with an average impact of £60 per week. Most families affected have three or more children.

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.

3.4 All of the changes referenced in 3.1 are administered by the Council on behalf of the DWP. 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.

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 In 2016/17 Discretionary Housing Payment funding from the DWP amounts to £125,435. In total the Council is permitted to spend up to a cash limit of £313,588. In 2015/16 the Council spent £171,269 (with a DWP contribution of £116,197). In total 1,129 awards were made during the last financial year.

3.7 Of the 1,129 Discretionary Housing Payment (DHP) awards, 778 were made due to spare room subsidy / bedroom tax, 84 due to private rent restrictions and 17 due to the household Benefit Cap. In addition, 250 awards were made to customers facing general hardship and not able to afford their award.

3.8 In terms of the purpose of the award, 918 awards were made to customers with ongoing rental costs, 87 awards were made to customers to assist them in the short term while they were seeking employment, 59 awards were made to those who were moving or waiting to move to alternative accommodation, 19 awards to assist customers who live in specially adapted accommodation, 44 awards to customers mainly in private rented accommodation to secure and move to new homes and 2 awards to households with foster children.

4. 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 homes
- To signpost the customer to access support services to assist them to find more

suitable housing, to obtain budgetary advice and/or to find work.

- 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 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 2015/16 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.
- 4.10 The Council's policy is robust and very few customers have challenged our DHP decisions although we have had three appeals against the under occupation charge.
- 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 the Benefit Cap will significantly increase pressure on the DHP budget. The change will mean that the funding allocated will be under severe pressure and we may need to reduce awards to some recipients.

DISCRETIONARY HOUSING PAYMENT POLICY

- 4.15 The Policy requires the Council to review it every time there is a major change in welfare policy. The Benefit Cap constitutes such a change. The major part of the policy document is unchanged in terms of its approach and the criteria applied to our decision making. However, there are some key changes:

- New terminology is incorporated including reference to Universal Credit and housing costs, Universal Credit will eventually replace Housing Benefit over the next five years, although the Council retain responsibility for administering discretionary housing payments
- The increased role of partners is noted in terms of supporting customers affected by hardship including registered social landlords and the third sector
- It allows the Council to consider the recovery of overpaid DHP in certain circumstances, for example where a fraud has occurred

- 4.16 In the main the purpose of bringing the Policy forward is by seeking to re-affirm the principles of the Council's approach to this area of administration set out in 4.1 above.

- 4.17 Expenditure via the DHP budget means we stave off the impact on families of homelessness and displacement of children and that the impact on services and costs to the Council is also reduced.

- 4.18 This is an increasingly important area of social policy with a much wider impact than benefit administration. The Policy is designed to be fair, resilient and robust.

PRE DECISION SCRUTINY

- 4.19 On 20th September 2016 Adult Select Committee undertook pre-decision scrutiny of the Discretionary Housing Payments Policy, as part of their wider scrutiny of welfare reform. The Committee agreed to endorse the policy and to make the following recommendations to the Cabinet in their consideration of the policy in November:

- Cabinet are recommended to give serious consideration to agreeing an uplift to the monies it invests in the Discretionary Housing Payment fund, recognising the demonstrative impact the funding has had on vulnerable people and the risks and implications of not supporting people through further benefit reductions, particularly in terms of preventing homelessness and children being taken into the care of the Council.
- Given that much of this work is delivered in a household environment, Cabinet are recommended to recognise the need for an accessible corporate warning system to identify clients and households that may present a risk to lone workers. The Committee understand that Torfaen operates a similar model to protect its workforce.

- The Committee recommends that all the agencies working in the benefits arena such as the CAB, RSL's and the Council consider the potential for sharing best practice and explore opportunities to create efficiencies and economies in the provision of welfare advisory services.
- The Committee further recommends a joint meeting with the Planning Committee to consider the relationship between homelessness, housing benefits and the provision of affordable housing in Monmouthshire.

5. RESOURCE IMPLICATIONS:

- 5.1 The administration of DHP's is an increasing responsibility as the welfare reform agenda widens and is seen as a key mitigation. The impact upon resources available is being closely monitored.
- 5.2 For 2016/17 the Authority's allocation from the DWP is £125,435. This has been topped up by the Authority by a further £61,000 taking the total budget for the year to £186,514. Current forecasts indicate that this will be fully spent by year end.

6. SUSTAINABLE DEVELOPMENT AND EQUALITY IMPLICATIONS:

- 6.1 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. SAFEGUARDING AND CORPORATE PARENTING IMPLICATIONS:

- 7.1 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:

Cabinet Members
 Leadership Team
 Head of Finance
 Head of Legal Services
 Adult Select Committee

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 will 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.