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<b>Key Decision:</b>	<b>No</b>
<b>Report Track:</b>	<b>Cabinet: 20/03/14</b>

**CABINET  
20 MARCH 2014  
DISCRETIONARY HOUSING PAYMENTS**

**1 Purpose of Report**

- 1.1 To update members on the effect of the changes to the Discretionary Housing Payment (DHP) Policy approved on 21 November 2013, regarding the impact of the social sector size criteria on local residents and the Council's housing service.
- 1.2 To seek retrospective approval to the decision of the Head of Finance, in conjunction with the Leader of the Council to approve the changes to the application of the DHP in 2013-14.
- 1.3 To seek retrospective approval to the decision of the Head of Finance, in conjunction with the Leader of the Council to adopt the Discretionary Housing Payment Policy from 1 April 2014.

**2 Recommendations**

- 2.1 That the content of this report be noted.
- 2.2 That Cabinet confirms the decision of Head of Finance, in conjunction with the Leader of Council, that tenants affected by the impact of Social Sector Size, who are actively seeking a transfer to a compliant property, be given DHP payment equivalent to the restriction in their Housing Benefit, from 1 April 2013.
- 2.3 That Cabinet confirms the decision of Head of Finance, in conjunction with the Leader of Council to adopt the Discretionary Housing Payment Policy, given at Appendix A with effect from 1 April 2014.
- 2.4 That subject to there being no additional policy changes or cost implications arising from Government funding of Discretionary Housing Payments, the Head of Finance in Consultation with the Leader of the Council, will amend this policy as necessary, from time to time, to ensure that Discretionary Housing Payments are made in appropriate circumstances, as soon as practically.

**3 Key Issues and Reasons for Recommendation**

- 3.1 The social sector size criteria was implemented on 1 April 2013 and is adversely impacting on current rent arrears, transfer and mutual exchange requests and the number of void properties.
- 3.2 At its inception date of 1 April, some 723 claimants were affected by the Housing Benefit restrictions, this figure has reduced to 532, over the course of the financial year and continues to reduce, as officers of the Housing Department and Benefit Section work with local residents.
- 3.3 On 19 September 2013 Cabinet agreed amendments to the Housing Allocation Policy to permit social housing tenants, with arrears to move to smaller accommodation through a transfer or mutual exchange with arrears, so as to avoid the “catch 22” situation whereby they could not afford their rent payments but were prohibited from moving.
- 3.4 At the same time, the Council’s DHP Policy was amended to facilitate a “passporting” of DHP payments, equivalent to the amount of the rent restriction from 7 October 2013 to 31 March 2014, to tenants affected by the restrictions and actively seeking a transfer or mutual exchange.
- 3.5 Based on the best information available at that time, it was expected that the proposed extension to the DHP Policy could not have been accommodated within the Government Allocation of £114,555 and so Council was asked to approve a supplementary estimate in order to increase the 2013-14 amount available for DHPs to the Government set ceiling of £286,388
- 3.6 Extensive work has been carried out by the Housing Department and the Benefit Section to engage with all affected tenants with a view to inviting applications for transfer or mutual exchange. As a consequence of this work 94 tenants have now secured moves to smaller accommodation and 89 await appropriate offers.
- 3.7 Following individual discussions with affected tenants, fewer than expected have elected to request moves. DHP, resulting from size criteria restrictions, has been paid to 68 Council Tenants, of which 30 were a direct result of the passporting. 3 housing association tenants have also benefited.

**4 Relationship to Corporate Priorities**

- 4.1 The proposals set out in this report will contribute to the following service aims which form part of the Housing Portfolio section of the agreed 2013-14 Place Priority Delivery Plan:-
- (i) manage the Council’s housing stock;
  - (ii) support vulnerable households to live independently in their own homes.

**5 Report Detail**

- 5.1 The Welfare Reform Act 2012 introduced radical changes to the benefits system. These include the introduction of social sector size criteria, an overall Benefit Cap and Universal Credit.
- 5.2 The potential impact of these changes was considered by the Housing Policy Development Committee on 10 January 2012 and 19 March 2013, who were also advised of the actions that were being taken to advise tenants of the (then) forthcoming changes.

**Social Sector Size Criteria**

- 5.3 The social sector size criteria came into force on 1 April 2013 and sets an “appropriate” size of accommodation for a household of “working age” who is in receipt of benefit. This is determined in accordance with the number, age and sex of the occupants, with a separate bedroom (following Government amendments) now being required for:-
- A couple, married or not.
  - Every other person 16 or over.
  - Two children of same sex aged 10-15.
  - Two children aged under 10.
  - Any other child (unless their main residence is elsewhere).
  - A foster child (to a maximum of one additional room).
  - A disabled child who cannot share a bedroom as a result of their disability.
  - A carer or team of carers who do not live with the tenant but who provide overnight care for the tenant or partner.
  - A non-dependant living away from the property whilst on active duty with the Armed Forces.
- 5.4 Households who are deemed to be under-occupying their present home have a fixed percentage deduction from their housing benefit equivalent to:-
- 14% of their eligible rent if they are deemed to be under-occupying by one bedroom (for Cannock Chase tenants an average of £13.96 per week).
  - 25% of their eligible rent if they are deemed to be under-occupying by two or more bedrooms (for Cannock Chase tenants an average of £21.72 per week).

5.5 Whilst tenants who have reached the qualifying age to claim state pension credit or live in supported housing are unaffected, there are no other exemptions. As a result it affects:-

- Separated families where the parent without care requires a spare room for the children to visit or stay at weekends.
- Tenants who are waiting to move to a smaller property.
- Tenants with a disability – including where the property has been adapted or purpose built.

### **Discretionary Housing Payments 2013-14**

The Council, under a Discretionary Housing Payments Scheme is able to make additional benefit payments to a household already in receipt of Housing Benefit, where there is a danger of them losing their home as a result of the shortfall between benefit entitlement and the full rent.

5.6 Such schemes are part funded through an annual Government grant, whilst local authorities are able to supplement this funding from their own resources, up to a maximum Government imposed ceiling.

5.7 DHPs are currently in payment to the following categories of claimants;

- Tenants with a disability whose homes have been adapted.
- Tenants of foster children.
- Tenants who receive a severe or enhanced disability premium.
- Tenants who are unable to move to smaller accommodation as a result of illness or disability.
- Single claimants aged under 35 who live in private rented accommodation who are affected by the “shared room” benefit entitlement rules.
- Some tenants who previously had clear rent accounts prior to the introduction of the social sector size criteria but subsequently fell into arrears.
- Tenants unable to meet their ongoing essential expenditure from their income
- Tenants affected by the size criteria rules and seeking to downsize to compliant properties.

5.8 The Government allocation to DHP in 2013/14 is £114,555. As at 20<sup>th</sup> February 2014, the Council had committed expenditure of £61,603, of which around £40,000 is attributable to size criteria issues.

- 5.9 It is therefore proposed to review the claimants affected by size criteria rules, who have sought or achieved a move to a compliant property with a view to awarding DHP for the period from 1 April 2013 to 6 October 2013. The up to date information held, confirms that such payments can be achieved within the Government allocation.

#### **Discretionary Housing Payments from 1 April 2014.**

- 5.10 The Government allocation for 2014/15 is £101,520, which in turn means that the Council would be permitted to add a further £152,280.
- 5.11 An amount of £50,000 has been reserved in the Housing Revenue Account to support DHPs for Council Tenants.
- 5.12 The policy from 1 April 2014 will therefore be maintained, including the provision of Passported payments to claimants actively seeking to move to compliant property.
- 5.13 It is again expected that the payments will be met by the Government allocation in 2014/15
- 5.14 Subject to there being no additional policy changes or cost implications arising from Government funding of Discretionary Housing Payments, the Head of Finance in Consultation with the Leader of the Council, will amend this policy as necessary to ensure that Discretionary Housing Payments are made in appropriate circumstances, as soon as practically possible.

<b>6 Implications</b>
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#### **6.1 Financial**

The financial implications are set out below:-

A Government allocation of £114,555 is available in 2013-14 to support the Discretionary Housing Payment Scheme budget. It is proposed that the current policy for Discretionary Housing Payments is extended in order that payments are made to social housing tenants who are affected by the social sector size criteria, from 1 April 2013, subject to them fulfilling certain conditions. This proposed extension is expected to be funded from the Government allocation.

Any amount of the Government allocation (£114,555 for 2013-14 and £101,520 for 2014-15) which is not utilised within the financial year, would be returned to the Government at the end of the financial year.

#### **6.2 Legal**

The legislation governing Discretionary Housing Payments is;

- Child Support, Pensions and Social Security Act 2000
- Discretionary Financial Assistance Regulations, 2001 (SI 2001/1167)
- Discretionary Housing Payments (Grants) Order 2001 (SI 2001/2340)

**6.3 Human Resources**

.None

**6.4 Section 17 (Crime Prevention)**

None

**6.5 Human Rights Act**

None

**6.6 Data Protection**

None

**6.7 Risk Management**

The implications of the Government's Welfare Reform Agenda has been identified within the Council's strategic risk register.

The proposals set out in this report will mitigate some of the impacts on the Council's housing service, particularly in relation to the increase in current rent arrears.

**6.8 Equality & Diversity**

The proposed changes to the Council's Discretionary Housing Policy have been subject to an Equality Impact Assessment. No negative implications have been identified and the proposal to increase the support to claimants affected by the size criteria rules impacts positively on some of the protected groups..

**6.9 Best Value**

None

**7 Appendices to the Report**

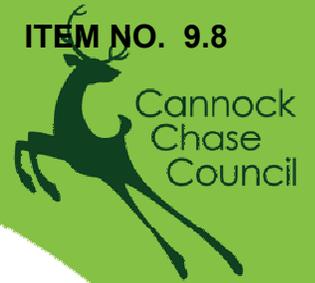
Appendix A Cannock Chase Council: Revised Discretionary Housing Payments Policy

**Previous Consideration**

Cabinet	21 November 2013	Discretionary Housing Payments Policy
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**Background Papers**

None



# **CANNOCK CHASE COUNCIL**

## **HOUSING BENEFIT**

### **DISCRETIONARY HOUSING PAYMENTS POLICY**

**From 1<sup>st</sup> April 2014**

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## Legislative Provision

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- Child Support, Pensions and Social Security Act 2000
- Discretionary Financial Assistance Regulations, 2001 (SI 2001/1167)
- Discretionary Housing Payments (Grants) Order 2001 (SI 2001/2340)

## Background

On the 2<sup>nd</sup> July 2001 the Government introduced the Discretionary Housing Payments scheme.

The scheme gave Local Authorities the power to make additional payments to customers who were already in receipt of Housing and / or Council Tax Benefit but who were, in the Local Authority's view, in danger of losing their home because they were unable to meet the shortfall between their benefit entitlement and full rent and / or council tax.

On the 1<sup>st</sup> April 2013, as part of the Government Benefit Welfare Changes, the national Council Tax Benefit scheme was abolished and District Councils Cannock Chase Council were required to create a Local Council Tax Support scheme.

This meant that from 1<sup>st</sup> April Discretionary Housing Payments could only relate to Housing Benefit and that any additional support in relation to Council Tax must be provided separately by the Authority.

This document therefore relates solely to Discretionary Housing Payments in relation to Housing Benefit.

The main features of the scheme are as follows:

- Discretionary Housing Payments are not payments of benefit.
- Discretionary Housing Payments are made purely at the discretion of the Council. Customers do not have a statutory right to a payment.
- The amount that can be paid by an Authority in a financial year is cash-limited by the Government.
- The maximum Discretionary Housing Payment that can be awarded to a claimant in any week is the amount by which the applicant's rental liability exceeds their benefit award.

- The minimum amount of Housing Benefit must be in payment in any benefit week that a Discretionary Housing Payment is awarded for.
- The administration of the scheme, in Cannock Chase, is undertaken within the Local Taxation and Benefits Service.

## **Purpose and Objectives**

The purpose of this policy is to outline the scheme and how it will be operated in Cannock Chase.

Each case will be treated strictly on its merits and all customers will be treated equally, fairly and in accordance with the authority's equality and diversity policies.

The Council is committed to working with the local voluntary sector, social landlords, housing and health advice centre, and other interested parties to maximise entitlement to all available state benefits and make proper use of the Discretionary Payment scheme to:

- Alleviate poverty
- Prevent homelessness
- Keep families together
- Support the vulnerable in the local community
- Encouraging and sustaining people in employment
- Safeguarding residents in their own homes
- Helping those who are trying to help themselves
- Helping customers through personal and difficult events
- Supporting young people in the transition to adult life
- Promoting good educational outcomes for children and young people

The Council considers that the Discretionary Payment Scheme should primarily be seen as a short term or emergency fund only. The only exceptions to this, where longer term support can be provided, are where the maximum amount of benefit payable is restricted by legislation and:

- The property has been specially adapted
- The tenant has asked to be downsized to accommodation where the Under occupancy charge will not apply and the tenant is waiting to be offered accommodation
- There would be a serious detrimental effect on the health of someone living in the property if it became necessary to move address (and this is supported by a Doctor or Health Care professional)
- A spare room is needed to store vital medical equipment (must be supported by a Doctor or Health Care professional)
- An adult couple are unable to share a bedroom due to medical reasons (must be supported by a Doctor or Health Care professional)
- A tenant under the age of 35 within Local Housing Allowance.

The maximum period for which a DHP will be awarded is 1 year. At the end of this period, a new claim will be required or the case will need to be reviewed.

## **Administration of the Discretionary Housing Payment Scheme in Cannock Chase.**

The scheme will be administered within Cannock Chase Council's Benefit Service

Applications for Discretionary Payments can be made in writing on a designated claim form or by completing an on line form. For some specific groups who may receive long term support (see purpose and objectives) it will not be necessary for a Discretionary Housing Application to be completed. The acceptance of a "claim" will for those groups be based upon meeting set criteria, for example evidence that the property has been adapted or compliance with the allocations policy.

Specific client groups will also be targeted to ensure that the take up of the fund is as wide as possible. Groups may include claimants who are disabled or who have disabled children in the property, large families and other vulnerable groups.

A person claiming a discretionary housing payment shall provide the Council with sufficient information as deemed reasonable by the Authority.

The effective date of any award will be the Monday of the week the application is received (this does not apply to properties that have been adapted as the effective date will be the later of the start date of the claim or the 1<sup>st</sup> April of that year in which the claim is received.

Requests to backdate an award will be considered in accordance with the Housing Benefit Backdated procedures.

Decisions on applications can be made by the Benefit Services Manager, the Principal Benefit Officer in the areas of (Assessments) (Overpayments and Appeals) (Customer Services) and (Fraud and Interventions)

The written notification will include the amount of Discretionary Payment to be made and the period for which the payment will be made.

Discretionary Payments will usually be made to the claimant but may be made to other parties (such as a landlord or representative) where it is considered reasonable to do so.

Customers who wish to dispute the decision are entitled to request a review of the determination. Written notice of the outcome of the review will be issued as soon as is reasonably practicable and generally within 10 working days.

Customers, who continue to be dissatisfied with a Discretionary Housing Payment determination, following a review, have recourse to the Council's Official Complaints procedure. There is no right of appeal to the Tribunal Service.

Should a claimant or his/her representative provide false or misleading information in respect of a claim for Discretionary Payments, or fail to notify the Benefit Service of a relevant change of circumstances in a timely manner, the Council may take such action as it deems appropriate, in accordance with its counter fraud policies.

Cannock Chase Council will not exceed the permitted total set by the Department for Works and Pensions, or the budget made available by the council, in any given year. It is therefore feasible that claims may be rejected on the grounds that the Council has fully utilised its budgetary provision.

The Benefit Services Manager will be responsible for the day to day management of the Discretionary Payment budget with overall responsibility being the responsibility of the Local Taxation and Benefits Manager.

## Qualifying Criteria

Whilst every claim for Discretionary Payment will be considered on its individual merits, by the officers responsible for administering the scheme will typically use the scheme to address shortfalls caused by:<sup>1</sup>

- A legislative restriction on the maximum amount of benefit payable
- Restriction in benefit payable due to the 65% and 20% tapers.<sup>2</sup>
- The effect of a Non Dependant Deduction
- Increases in essential work related expenditure such as increased fares to work if a customer had had to move because they could not afford to live in proximity to their work following a reduction in their LHA rates
- Social Sector size criteria.

Discretionary Payments will **not** be used to:<sup>3</sup>

- Pay a service charge which is not eligible to be paid by Housing Benefit.
- Pay or reduce rent arrears that are not eligible for Housing Benefit.
- Pay or reduce an overpayment of Housing or Council Tax Benefit.
- Offset a reduction in benefit payable due to other benefit sanctions.
- Offset Housing and / or Council Tax Benefit that has been suspended.

Where a Discretionary Payment is overpaid as a result of a change in the claimant's circumstances, meaning that they no longer meet the criteria upon which the payment was assessed, the Benefit Service will seek to recover the overpayment, in line with its policies and relevant legislation.

## Prioritising Claims

The Benefit Section has consulted with key stakeholders, namely the Citizens Advice Bureau, the Council's Housing Options and the Housing Department on the most appropriate use of this limited fund whilst at the same time ensuring that the use of the fund is targeted to help meet the aims of the Authority's Corporate Plan for 2013-14.

All applications received will firstly be prioritised by circumstances. Applications where the customer is:

- Affected by a legislative restriction (s) on the maximum amount of benefit payable (including a targeted approach to those affected)
- a person with whom dependant children reside
- a person who is pregnant
- a person who is vulnerable as a result of old age, mental illness or physical disability

Applications received from outside of this priority need group will only be considered where there is an "exceptional need for additional help to be provided"

For this policy, exceptional need has been defined as "the customer being in danger of losing their home due to being unable to afford the difference between housing benefit entitlement and rental liability.

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<sup>1</sup> The list is not intended to be exhaustive.

<sup>2</sup> The taper is the rate at which a claimant's benefit is reduced as their income increases. 65% relates to Housing Benefit, 20% relates to Council Tax Reduction.

<sup>3</sup> The list is not intended to be exhaustive.

## Assessing Entitlement

Where a Discretionary Payment application is not required and the need for a Discretionary Payment is triggered due to the customer satisfying set criteria, for example the Housing Departments Allocation policy or where the customer's property has been adapted, then the "claim" MUST be accepted.

This is because the Allocations policy encourages customers to downsize to avoid the Under Occupancy Charge by making available Discretionary Payments to meet that charge until alternative accommodation is provided and customer's who have had the property adapted do not have the same option to move to smaller accommodation as they require the adaptations to maintain their quality of life.

For all other cases, where a Discretionary Payment application is completed, each claim will be assessed based upon the customer's available disposable income, the available income of anyone who lives in the property, any medical needs of anyone in the household and their payment history (arrears).

This approach will ensure that:

- there is a targeted approach to the use of the fund
- the maximum benefit possible is derived from the fund
- the fund is available throughout the year to help the most vulnerable members of society.

For tenants affected by the Social sector size criteria, Discretionary Housing Payments will be made where:

- the property has been significantly adapted to cater for the disabled needs of someone in the household
- a spare room is required to store vital medical equipment
- It is likely to have a serious detrimental effect on the health of someone in the household should it become necessary to move to an alternative property where the Under Occupation charge would not be applied.
- The tenant has requested a move to alternative accommodation where the Under Occupancy charge will not be applied, and is waiting to be offered suitable accommodation.

## Publicity

The Council will publicise the Scheme and will work with all interested parties to ensure that resources are targeted at the areas of greatest need.

The publicity that the Council will typically undertake includes;<sup>4</sup>

- The availability of the scheme will be clearly shown on benefit notification letters.
- All appropriate Council staff will receive awareness training
- Awareness training will be delivered to appropriate partners and stakeholders.
- Discretionary Housing Payment information leaflets will be made available at Council Offices.
- The Authority will use Benefit claim information to pro-actively identify potential cases and invite applications from customers.
- The Authority will work closely with critical stakeholders to include those agencies in the distribution of the fund.

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<sup>4</sup> The list is not intended to be exhaustive.

## Financial Implications

The amount of Discretionary Housing Payment that a Council can make, is determined each year by the Department for Works and Pensions and notified to the Council shortly before the start of the financial year.

The permitted total is made up of two elements:

**The Government contribution**, is that amount which will be funded entirely by Department for Work and Pensions. This amount is allocated annually by Department for Work and Pensions and is set at the mid-point between the authority's government allocation and its total Discretionary Housing Payment spend for the most recent year for which the Department for Works and Pensions has available data.

**The authority's contribution.** This is the amount by which the Council can "top-up" the Discretionary Housing Payment budget. This will equate to 1.5 times the government contribution.

The permitted total will equate to 2.5 times the Government contribution.

In the event that the government allocation from the Department for Work and Pensions is not spent, the unspent allocation is returned to the Department for Work and Pensions.

## Management Information

Discretionary Housing Payments (Grants) Order 2001 requires the council to exercise proper financial control of the Discretionary Housing Payment budget, as well as prescribing the manner in which the council will be reimbursed for the government contribution.

The officers responsible for managing the budget will have therefore regularly review information relating to such issues as:<sup>5</sup>

- The amount of Discretionary Housing Payment made to date.
- Any Discretionary Housing Payments committed, but not yet issued.
- The amount of any overpayments of Discretionary Housing Payments recovered
- The amount of the budget remaining.
- The number of outstanding claims for Discretionary Housing Payments.
- Any available information as to the number of claims that may be expected to be made before end of the financial year.
- Any available information as to the reasons for Discretionary Housing Payments, thereby helping to identify priorities and inform future take up activity.

## Review of the Policy

This policy will be reviewed annually and any significant changes reported to Cabinet. The Benefit Services Manager will be responsible for the annual review.

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<sup>5</sup> The list is not intended to be exhaustive.