

CANNOCK CHASE COUNCIL

CABINET

21 JULY 2011

REPORT OF THE CORPORATE DIRECTOR

RESPONSIBLE PORTFOLIO LEADER: HOUSING

LOANS TO PREVENT REPOSSESSIONS AND EVICTIONS

KEY DECISION – NO

1. Purpose of Report

- 1.1 To consider proposed eligibility criteria and scheme details for the operation of the Council's "Preventing Repossessions Fund".

2. Recommendations

- 2.1 That the proposed eligibility criteria for the provision of loans from the Council's Preventing Repossession Fund to households who are at risk of homelessness as a result of repossession action, as attached as Annex 1, is agreed.

3. Summary (inc. brief overview of relevant background history)

- 3.1 As part of the previous Government's homeless prevention initiatives the Council received a "one off" allocation of £54,000 to establish a "Preventing Repossession Fund".
- 3.2 The aim of the fund is to provide small loans to households who are at risk of homelessness due to repossession action. The accompanying guidance states that these loans should normally be between £1,000 to £3,000 and are capped at £5,000. The loans can be provided for both mortgage and rent arrears on an interest free basis to home owners and tenants in the social or private rented sectors.
- 3.3 Whilst two households have been assisted from the Council's "Preventing Repossession Fund", there is a need to establish criteria for the future use of the £47,217 which remains in the fund.
- 3.4 The funding received in respect of a "Preventing Repossession Fund" is separate from £7,500 of funding which was previously received for "Preventing Homelessness due to Mortgage and Landlord Repossession" which can be used to provide small grants rather than loans. At 1 April 2011, only £1,586 was available in this fund and as a result, £5,000 of Homelessness Prevention Grant was used to "top up" this fund. A further £5,000 "top up" is proposed subject to Cabinet approval, of the use of the additional Homelessness Prevention Grant funding which has been received for 2011-12, as presented in a separate report elsewhere on your agenda.

4. Key Issues and Implications

4.1 Proposed eligibility criteria and operational procedures for the future use of the Council's "Preventing Repossession Fund" is attached as Annex 1.

4.2 This has been formulated in accordance with the guidance issued by the Department for Communities and Local Government regarding the use of the fund, which suggests the following principles:

- It is important to avoid the 'moral hazard' of extending loans to households who could pay their rent or mortgage but choose not to. Local authorities should therefore take care to ensure that decisions on payments are robust and seek to support households who genuinely cannot pay their rent or mortgage. Any loan should only be agreed following confirmation that the recipient is prepared to act on money or debt advice to resolve the problem that has led to accumulation of arrears.
- A loan may be considered in order to reduce mortgage arrears where lenders cannot apply forbearance measures due to the level of arrears.
- The Fund is not intended to fully clear rent or mortgage arrears. A loan should be made to 'recover' the position where all other options have failed.
- Loans should not be made where there is another way to resolve the problem. For example, a loan should not be used to reduce or clear arrears caused by housing benefit delays.
- The funding is intended to enhance and increase the capacity of a local authority existing Prevention Fund and is not intended to be used as a substitute for that Fund.
- Local authorities should seek to provide help by way of a loan to ensure that money can be recycled and used to help other households in the future.

4.3 The guidance also provides a number of examples to further demonstrate how the fund should be used, as set out below:

- Small loans to 'top up' lender write down on Mortgage Rescue Cases where the household is in negative equity (where their mortgage and secured loans are greater than the value of their home)
- Small loans to reduce mortgage arrears where lenders cannot apply forbearance measures due to the level of arrears.
- Small loans for tenants in the private rented or social sectors to reduce the level of debt for those who are in rent arrears due to income shocks as a result of loss of earnings, or reduced hours, and where there is no previous history of significant rent arrears.
- 'Last chance' or emergency payment to lenders, social landlords or private sector landlords. This can be made at the point where a possession order is about to be enforced but where it is possible to hold the position to allow a further intervention from debt and money advice where it has been assessed that there is a good prospect of resolving the overall problem.

5. Conclusion(s) and Reason(s) for the Recommendation(s)

- 5.1 This report presents proposed eligibility criteria for the provision of loans from the Council's "Preventing Repossession Fund" to households who are at risk of homelessness as a result of repossession action. The proposed criteria are attached as Annex 1 and it is recommended that these are adopted for the future use of the fund.

6. Other Options Considered

- 6.1 All appropriate options are considered in the report.

7. Report Author Details

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SCHEDULE OF ADDITIONAL INFORMATION

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Section 1**Contribution to Council Priorities**

The Loans to prevent Repossessions and Evictions will help to prevent homelessness and therefore contributes to the delivery of the priority outcomes outlined in the Corporate Plan 2011-2014 and the accompanying Priority Delivery Plans.

Section 2**Contribution to Promoting Community Engagement**

The Loans to prevent Repossessions and Evictions will help to prevent homelessness and therefore contributes to promoting community engagement.

Section 3**Financial Implications**

A "one off" allocation of £54,000 was received from the Government to establish a "Preventing Repossession Fund" and is held in a specific reserve. Two households have been assisted from the fund as follows:-

Type	Amount	Details
Mortgage Arrears	£4,686.56	Not being repaid
Rent Arrears	£2,595.90	Being Repaid at £15 per week
	£7,282.46	

There is therefore an uncommitted balance of £47,217.54 remaining. This balance will increase by the aforementioned repayment of £15 per week but it will take 173 weeks to fully repay the loan.

The "eligibility criteria and scheme details" will maximise the potential usage of the remaining monies and ensure that the Council is able to give assistance to as many eligible Households for as long as possible given the restricted level of funding. Successful applicants will have financial difficulties and the period of the loan repayment is likely to be lengthy and the remaining balance on the fund will therefore be closely monitored and managed.

Any costs of administering the Scheme, including staff time, will be contained within existing Homelessness budgets.

Section 4**Legal Implications**

Guidance issued by the government provides that whilst the funding is not ring fenced the government wishes to ensure that it is used to support the maximum number of households in need of financial assistance enabling them to stay in their homes. The guidance also provides that clear criteria must be established by Councils to ensure that loans are made to support households who genuinely cannot pay their mortgage or rent as distinct from those who choose not to. In adopting the eligibility criteria in Annex 1 the Council would be complying with the guidance.

Human Resource Implications

Section 5

There are no human resource implications associated with this report.

Section 17 (Crime Prevention)

Section 6

There are no Section 17 (Crime Prevention) issues arising from this report.

Human Rights Act Implications

Section 7

There are no Human Rights Act implications arising from this report.

Data Protection Act Implications

Section 8

There are no Data Protection Act implications arising from this report.

Risk Management Implications

Section 9

If the eligibility criteria and scheme details are not approved, the Council won't have clear grant principles to enable the loans to be administered.

Equality and Diversity Implications

Section 10

Granting loans to those who are at risk of homelessness due to repossession or eviction contributes to meeting the needs of specific groups who are vulnerable and therefore contributes positively to equality and diversity.

List of Background Papers

Section 11

Government Guidance – Local Authority Repossessions Prevention Fund

Report History

Section 12

None

Annex 1

Cannock Chase Council Repossessions Prevention Fund

Cannock Chase Council Repossessions Prevention Fund **(Loans to Prevent Repossessions and Evictions)**

1. Scope of Procedure

Cannock Chase Council has a number of homeless prevention tools available to them for use in assisting people who are homeless or who are threatened with homelessness.

This procedure explains how the repossession prevention fund works and how it can be accessed by the Housing Options Team. When dealing with homelessness prevention, the 'Homelessness Code of Guidance for Local Authorities' and the 'Homelessness Prevention - a guide to good practice' should be consulted at all times.

2. Aims and Objectives of the Repossession Prevention Fund

The aim of the fund is to assist households who are at risk of homeless/or threatened with homelessness due to their property being at risk of repossession action. The scheme enables small one-off loans (up to £5000) to be given to households that will allow them to maintain in their current accommodation; (and therefore reduce the need to place people in temporary accommodation in priority need cases), and to reduce other social costs that arise through homelessness whether an applicant has a priority need or not.

The fund can be used to assist both home owners and tenants in the social or private rented sectors.

The Repossession Prevention Fund is not intended to provide payments to applicants where they have not taken sufficient responsibility to maintain their accommodation e.g. wilful non payment of rent.

The fund will therefore be used to provide loans up to a maximum of £5,000 per household although it is anticipated that most will be between £500 and £3000. The primary aim will be preventing repossessions or evictions where households are struggling to pay their mortgage or rent due to the current climate and through no fault of their own.

3. Eligibility

The Repossessions Prevention Fund can only be accessed by households who meet the following criteria.

The fund can assist households who are homeless or threatened with homelessness and face repossession proceedings as a result of them being genuinely unable to pay their rent or mortgage (and not for those who choose not to). For example, assistance could be provided to a tenant who had accumulated rent arrears as a result of loss of earnings or reduced hours and who has no previous history of arrears. Supporting information will be required as evidence that household is experiencing genuine difficulties in paying their rent or mortgage (this could include pay slips, proof of benefit, rent account information, bank /building society statements etc).

Assistance should only be made to those households who are willing to act on money and debt advice from Chase Citizens Advice Bureau in order to resolve the problems that have lead to their financial difficulties. (N.B. The Council has a fast track money advice project in place with the local CAB which enables people to be seen by a specialist debt advisor within 7 working days).

Assistance will only be made in circumstances where households can demonstrate (with the aid of money advice) that their rent or mortgage repayments will be affordable following a loan from the scheme. The loan must result in the applicant being able to maintain current accommodation or access new accommodation for a minimum of at least 12 months.

Where possible, assistance should be made where all parties are prepared to compromise on the debt in order to avoid repossession or eviction. For example, a small loan could be provided to clear a proportion of rent arrears; however the loan might only be agreed if a landlord is prepared to “write down” or write off the remaining arrears owed.

Assistance will be restricted to a maximum of £5000, although it is anticipated that most cases will average between £500 and £3000. Each case will be judged on its individual merits.

Where assistance is agreed, households must agree that a payment is made directly to the creditor on their behalf. **(Money will not be paid in any circumstances direct to the applicant).**

Assistance will be limited to one occasion per household.

Assistance should not be made where there is another way to resolve the problem. For example, where arrears can be cleared by backdating a Housing Benefit Claim.

Households must already be living within the Cannock Chase District area or satisfy the local connection criteria under homelessness legislation, i.e.

- Lived in the district for 3 years out of the last 5 years; or
- Lived in the district for 6 months out of the last 12 months; or
- Have stable employment in the district; or
- Have close relatives who have lived in the district for the last five years; or
- Have special circumstances that would make the household an exception to these rules.

Households will not be eligible if;

- They have savings which they can utilise;
- There is evidence to suggest that even with the loan, the accommodation would be unsustainable;
- It becomes evident that false information has been supplied;
- The property is considered too expensive for the household to afford or is in a poor state of repair;
- The loan will not result in the applicant being able to remain in their current accommodation for at least 12 months or the period of the loan repayment;
- There is a likelihood that the applicant will require further assistance in the near future and will not be able to sustain their home in the long term;
- It is felt that the applicant has been responsible for worsening their housing circumstances e.g. wilful non-payment of rent/service charges, anti-social behaviour, previous non-engagement with debt counselling services where these have been offered;
- The request for assistance on behalf of an applicant is for the same reason as a previous application e.g. rent arrears which have previously been cleared or reduced and which the applicant has since failed to address.

The following circumstances will result in exclusion from the scheme:

- Being evicted for Anti-Social Behaviour in last 12 months;
- Having convictions/offences relating to arson;
- The applicant would be unable to manage a tenancy, even if support was provided e.g. has been refused access to supported accommodation owing to their needs being too high.

4. Prevention Options that may be considered

- To support possible mortgage rescue applicants – small loans (when necessary) to ‘top up’ lenders write down on Mortgage Rescue cases where the household is in negative equity (where their mortgage and

secured loans are greater than the value of their home). In these cases the emphasis is on the lender to write down any negative equity. Lenders must be willing to do this by:

- a) writing down the loan(s); or
- b) allowing any debt to remain as an unsecured debt which would be treated as a normal loan; or
- c) allowing the debt to remain and charge the customer a nominal charge (e.g. £5 or £10 a month).

In cases where lenders are unwilling to take any of these measures, or their write down is insufficient to keep the household in the scheme then a loan from the fund can be issued to 'top up' and rescue the household.

- To reduce mortgage arrears in cases where the level of arrears is too high for lenders to apply forbearance measures – this would normally require action from the lender to write down the level of debt. The principle would be that a loan would not be made unless the homeowner has acted on money advice and is able to meet any existing or newly negotiated monthly payments (i.e. the situation is affordable for the household in the longer term).
- To reduce, or settle, second charge actions where that charge had been taken out against the property for security – This would normally require action from a second charge lender to write down or write off the level of debt. The principle would be that assistance from the scheme is not made unless the homeowner has acted on money advice and is able to meet any existing or newly negotiated monthly payments (i.e. the situation is affordable for the household in the longer term).
- To reduce the level of debt for tenants in the social or private rented sector who are in rent arrears – This would only apply in cases where the rent arrears had been caused by income shocks as a result of loss of earnings, or reduced hours, and where there was no previous history of significant rent arrears. In these instances, the household could be unaware of their entitlement to housing benefit support and a back payment may not be possible. (N.B. where applicants are entitled to back payment this option should be explored in the first instance rather than assistance from the repossessions prevention fund).
- To prevent eviction for a household which is due to be immediately evicted or repossessed – A loan or guarantee to a capped level payable to the landlord or lender can be made in order that the household is given a 'last chance' by their landlord or lender. The tenant / owner must agree to keep to a repayment schedule and be able to meet any existing or newly negotiated monthly payments (i.e. the situation is affordable to the household in the long term).
- Making a joint agreement with a lender, landlord and household to resolve arrears – For example, a third of the arrears could be paid off by the household, a third through a loan from the prevention fund and a third written off by the landlord or lender.
- 'Last chance' or emergency payment to lenders or social/private sector landlords to enable further intervention that may prevent eviction – an emergency loan can be made at the point where a possession order is about to be enforced but where it is possible to hold the position to allow further intervention from debt and money advice where there is a good prospect of resolving the overall problem. A short term guarantee can also be made to cover rental or mortgage payments from that date whilst targeted intervention is taken to resolve the problem.

This list is not exhaustive. The scheme should be used in any cases where housing advisors feel that they could negotiate with the landlord or lender to keep the household in their current home and prevent repossession or eviction. Each case will be considered on its own merits and a final decision will be made by the Housing Options Team as per the procedure set out below. In exceptional cases the loan will be secured by a charge on the property, subject to sufficient equity to offset the loan.

5. Activities Involved

When a household approaches the Housing Options Team for assistance, the Housing Advisor will consider if the household is eligible, if their risk of homelessness can be prevented and then discuss the options available to them.

The Advisor will seek to establish whether the household is at risk of repossession or eviction and consider if a loan via the Repossession Prevention Fund would prevent the repossession or eviction taking place.

The Advisor should also establish whether the household can afford to stay in the existing property in the long term should the rent / mortgage arrears be reduced or repayment plans are agreed. Evidence will be requested to support any applications to the Repossession Prevention Fund, including:

- Written confirmation of the arrears owed;
- Proof of earnings (and proof to demonstrate any temporary income shocks) – for example wage slips, bank statements, benefit details, correspondence from employer etc.;
- Financial statement detailing all income and out goings (including details of all outstanding debt and repayment agreements).

The Advisor will refer the household to the Chase Citizens Advice Bureau so they can assess whether the provision of a loan would be suitable. The CAB will provide further advice and support on managing debts and budgeting, draw up a financial statement and examine the affordability of mortgage / rent repayments in the longer term. The Advisor should maintain close contact with the designated money advice officer throughout the application process in order to share information and agree the final recommendation.

The Advisor should contact the landlord or lender to confirm the level of arrears, the circumstances reported by the applicant and to establish whether they would be willing to negotiate with the Housing Options Team to prevent eviction or repossession via one of the options set out in section 4.

Where the landlord / lender is willing to negotiate, the full range of options should be discussed with both them and the applicant. When an option is agreed by all parties, the Advisor should obtain written confirmation from the landlord / lender setting out the level of arrears owed by the household and the fact that they are willing to freeze all action and pursue the chosen option.

This information will be summarised for authorisation by the applicant. Applicants will also be asked to confirm that they are willing to continue to work with money advice (if appropriate) in order to resolve the problem that has led to the current financial difficulties, and to confirm that payment can be made direct to their lender / landlord.

A loan repayment schedule will be determined in accordance with the applicant's ability to repay a loan. In exceptional cases, which shall be at the Council's discretion, the loan may be repaid over a longer period of time and will be secured by a charge on the property of the person receiving the loan. The charge will be removed as soon as the loan has been repaid.

If the Advisor believes that a payment from the fund is viable the application form (appendix 1) will be completed. As part of this documentation the Advisor should set out the reasons why the applicant will be able to meet payments and maintain their existing accommodation once the loan has been made. The Advisor will recommend the loan amount be required and the rate of repayment in line with the household's financial circumstances and ability to pay.

6. Recording and monitoring arrangements

Information on the use of the Repossessions Prevention Scheme will be recorded and kept on file in a central register maintained by the Housing Options Team and included in the homelessness prevention statistics reported on a monthly basis to Heart Beat and the quarterly homelessness return form PIE.

Details of each case including full contact details and background information on the household, the loan received, reasons for assistance, who it was paid to and any related payment plan should be kept on the case file by the Housing Options Team.

7. Relevant legislation/documents

- The 'HOUSING ACT (1996)', as amended by the 'HOMELESSNESS ACT (2002)'.
- The 'HOMELESSNESS (Suitability of Accommodation) (England) ORDER (2003)'
- Homelessness Code of Guidance for Local Authorities - Department for Communities and Local Government - July 2006.
- Homelessness Prevention - Department for Communities and Local Government - A guide to good practice - July 2006.
- A guide for Local Authorities on action that can be taken to prevent mortgage and landlord repossessions – August 2009
- Local Authority Repossessions Prevention Fund – CLG Guidance 2009