

Report of Assistant Chief Executive (Citizens and Communities)

Report to Executive Board

Date: October 2014

Subject: Discretionary Housing Payments

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of the main issues

1. Discretionary Housing Payments (DHPs) have become increasingly important in helping vulnerable tenants deal with the welfare changes. Government funding for DHPs has increased substantially from £287k in 2010/11 to £2.05m in the current year. However, demand has also increased substantially and in 13/14, £2.27m was spent on DHPs
2. Current years forecasts suggested that, without intervention, spend would exceed £2.8m against an overall budget of £2.45m made up of a Government contribution of £2.05m topped up with a council contribution of £400k.
3. A programme of action has been undertaken which has seen awards for non-priority groups reviewed with effect from the end of July 2014. This has seen shorter awards put in place in some instances and some awards withdrawn in other instances. This has resulted in a revised forecast spend of around £2.4m.
4. The pressures on the scheme remain, however, and there is a need to continue to provide long-term support to severely disabled tenants and other tenants who fall into the priority groups agreed by Executive Board. It is proposed to make an application to DCLG to use HRA funding to support Housing Leeds tenants who are severely disabled in significantly adapted properties who need additional financial help to deal with the impacts of the under-occupancy changes.

Recommendations

Executive Board is asked to:

1. Note the pressures on the DHP fund and the actions taken to deal with the pressures;

2. Approve the application to DCLG to use HRA funding up to a maximum of £250k to help deal with DHP awards for Housing Leeds tenants with severe disabilities living in significantly adapted properties;
3. Receive a report in the new year from the Assistant Chief Executive (Citizens & Communities) on a proposed DHP scheme for 15/16 following DWP confirmation of DHP funding.

1 Purpose of this report

- 1.1 The report provides information on Discretionary Housing Payment (DHP) spend and the actions that are being taken to both meet the needs of vulnerable tenants and manage scheme spend within the available budget;

2 Background information

2.1 Discretionary Housing Payments have become an increasingly important aspect of the welfare system, providing additional housing costs support where vulnerable tenants are unable to meet the costs of their rent. The Government has made a number of changes to Housing Benefit since 2010 that have led to tenants getting less Housing Benefit and being faced with extra rent to pay. These changes include:

- Local Housing Allowances in the private rented sector being reduced (now set at 30% of the market instead of 50% of the market)
- Social sector size criteria rules which reduce Housing Benefit by 14% where tenants are deemed to have 1-bedroom too many and by 25% where its 2-bedrooms too many or more
- Benefit cap which reduces the amount of Housing Benefit paid where overall benefit entitlement is greater than £500 for a couple (or £350 for a single person)

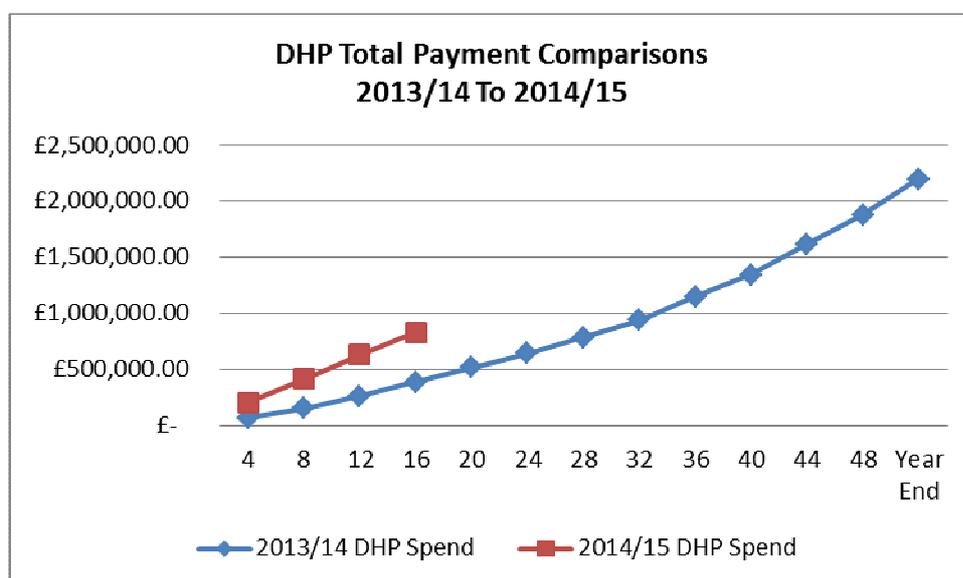
2.2 The Government recognises that more tenants need extra support to deal with the changes and has increased funding for DHPs in recent years. Government funding to Leeds for DHPs has grown from an annual payment of £287k each year from 2003/4 to 2010/11 up to £2.0m in 14/15.

2.3 In 2013/14, when the under-occupancy changes came into effect, the council spent £2.27m on Discretionary Housing Payments. This exceeded the Government's initial contribution of £1.9m but the excess was met by a successful bid for additional funding from Department for Work and Pensions. The table below shows how the money was spent and shows that the majority of the funding was spent on supporting tenants affected by the under-occupancy changes.

Severely disabled in significantly adapted property	456	£269,952
Extra room for child access arrangements	548	£268,211
Approaching Pension Credit Age	69	£34,202
Extra room for pregnant women	54	£8,134
Exceptional Circumstances	1442	£672,106

Foster carers	35	£22,890
Other	41	£20,182
Number of Under-occupancy cases	2645	£1,295,680
LHA - welfare reform	620	£383,427
Benefit cap	180	£289,690
Other	560	£305,337
	4005	£2,274,131

2.4 The Government's funding for Leeds in 14/15 is £2.05m. While this represents a small increase against the basic funding for 13/14, it is, in fact, a reduction in funding as DWP is not providing any additional funds against which councils can bid. Additional funding has been provided by the council from the Local Welfare Support scheme and this gives a budget of £2.4m for the year. However, spend to date in 2014/15 is showing a considerable increase compared to last year (see graph below showing comparative spend at week 16) and action has had to be taken to reduce forecast spend down from £2.8m to around £2.4m. Para 3.6 sets out the actions taken to help contain spend.



3 Main Issues

3.1 In order to contain spend on DHPs it has been necessary to review a number of awards and move to more shorter-term awards in the future. Shorter-term awards will be for tenants who do not fit the priority groups agreed by Executive Board but who nevertheless need extra help to deal with the under-occupancy changes.

3.2 Tenants who fall into the priority groups agreed by Executive Board will continue to receive long-term awards of DHP. The priority groups are:

- Severely disabled tenants in significantly adapted properties
- Extra room for child access arrangements
- Approaching Pension Credit age (*award stops when tenant reaches Pension Credit age*)
- Extra room for pregnant women (*award stops when baby is born*)
- Foster carers

- 3.3 This approach in continuing to support priority groups on a longer-term basis, particularly severely disabled tenants, has been reinforced by a number of appeals against under-occupancy decisions. Nationally, a small number of appeals have been heard at Upper Tribunals. These have related to tenants with a disability and, while the appeals have by and large been unsuccessful, Tribunal judges have confirmed:
- The discrimination in the Housing Benefit legislation is justified given the need to reduce government expenditure.
 - The discrimination is ameliorated by the discretion local authorities have to award DHPs in individual cases.
 - Local authority discretion is to be operated in accordance with public law principles and Human Rights legislation.
- 3.4 In effect, Tribunals have confirmed that they would expect DHP awards in cases involving severely disabled tenants, once made, to continue until such time as there was a material change. This would appear to rule out introducing any form of conditionality about an award to a severely disabled tenant or providing a short-term award with the expectation that a severely disabled tenant attempts to find smaller accommodation.
- 3.5 The same restrictions do not apply to other cases where shorter-term awards would be reasonable taking into account the amount available for DHPs. The need to reduce spend on DHPs means that all awards for under-occupancy for non-priority groups have been reviewed.
- 3.6 To date, 1512 tenants have been asked to reapply for a Discretionary Housing Payment with effect from the end of July 2014 and 1032 have reapplied. Work is ongoing to deal with these reapplications and 872 have been decided with 608 having their award reinstated for a short period. To date, only around half the tenants have reclaimed DHP and we have looked at these claims and made fresh decisions. Information has been provided to landlords providing details of tenants where no reclaim has been made or where a decision has been made not to award a Discretionary Housing Payment. It is also intended to monitor the impact on rent arrears for tenants where DHP has been withdrawn.
- 3.7 Despite the action to help keep DHP spend within budget, it is expected that the pressure to make fresh awards will continue throughout the year. The Department for Communities and Local Government allows HRA funds to be used to provide DHPs and it is proposed to use HRA funding to help deal with the pressure on the DHP budget caused, in part, by the fact that long-term DHP awards are required for severely disabled tenants living in significantly adapted property. In order to use HRA funds in this way, an application needs to be made to DCLG. If approved, HRA funding would be used retrospectively to deal with awards made since April 2014. Using HRA funding to help severely disabled tenants in significantly adapted properties to maintain their tenancy is a more cost effective approach than moving tenants and making significant adaptations at a new home to make the property suitable. It is expected that the contribution from the HRA would not exceed £250k.

4. Corporate Considerations

4.1 Consultation and engagement

- 4.1.1 The report does not propose any changes to the policy previously approved by Executive Board other than an administrative change around appeals. There is no requirement in these circumstances to carry out a consultation exercise.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An impact analysis of the DHP policy was carried out as part of the preparations for 2013-14. No changes are proposed to the priority groups identified in the policy and there are no requirements to conduct a further equality impact assessment.

4.3 Council Policies and City Priorities

4.3.1 The Discretionary Housing Payment scheme supports the Best Council Priority of Supporting communities and tackling poverty and also supports the Better Lives objective.

4.4 Resources and Value for Money

4.4.1 The pressures on the Discretionary Housing Payment scheme are expected to remain high in this year and in future years. The current DHP budget position, alongside an earmarked HRA provision, is expected to be adequate to deal with demand in the current year. There has been no confirmation from the Government about the overall DHP funding that will be available to councils in 2015/16 and this is not expected until much later in the year.

4.4.2 The additional contribution that the council is making in 14/15 towards the DHP scheme is funded from the Local Welfare Support scheme. Given the significant uncertainty about Local Welfare Support scheme funding for future years, there is a real risk that overall funding for DHPs in 2015/16 will be less than it is at the moment. Once there is confirmation from DWP about the scheme funding for 15/16, it is intended to provide a further report to Executive Board with recommendations for a DHP scheme in 15/16

4.5 Legal Implications, Access to Information and Call In

4.5.1 DHPs can only be awarded where a tenant has an entitlement to Housing Benefit, there is a shortfall in rent to pay and it appears that the tenant needs additional help to meet the rent. Other than these basic eligibility criteria, it is within the power of councils to decide who should get a DHP, in what circumstances and for how long.

4.6 Risk Management

4.6.1 The decision, if approved, to use Housing Revenue Account funding to support disabled tenants living in significantly adapted properties does not represent a financial risk as the contribution is limited to £250k. The wider DHP budget is likely to come under pressure but the actions set out in this report have been taken in order to help manage these pressures.

5. Conclusions

5.1 The current approach to DHP is helping many tenants maintain their tenancies but is causing financial pressures on the council that, if unchecked, would make the scheme

unaffordable. Reviewing the scheme and introducing more short-term awards for tenants in non-priority groups will provide a degree of protection while tenants consider and take steps to make up the shortfall in their rent or find alternative solutions.

5.2 The short-term nature of many awards is in line with DWP guidance on Discretionary Housing Payments but it also needs to be recognised that DWP's assumptions are underpinned by an expectation that tenants will often be able to move to smaller accommodation. This is not the case on Leeds.

5.3 Depending on the level of funding available for DHPs in 2015/16, there may need to be changes to the DHP policy that could see support focused more narrowly on the priority groups agreed by Executive Board.

6. Recommendations

Executive Board is asked to:

1. Note the pressures on the DHP fund and the actions taken to deal with the pressures;
2. Approve the application to DCLG to use HRA funding up to a maximum of £250k to help deal with DHP awards for Housing Leeds tenants with severe disabilities living in significantly adapted properties;
3. Receive a report in the new year from the Assistant Chief Executive (Citizens & Communities) on a proposed DHP scheme for 15/16 following DWP confirmation of DHP funding.

Background documents¹

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7 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.