

**Report of Housing Partnerships**

**Report to Executive Board**

**Date: 20 June 2012**

**Subject: Introduction of the Housing Benefit size criteria in the social rented sector and review of the council's under occupation incentive scheme.**

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 main issues**

1. From April 2013, Department of Work and Pensions (DWP) will introduce the Social Sector Size Criteria (SSSC) which will reduce the amount of Housing Benefit paid to under occupying council tenants of working age.
2. This report outlines the impact of the Housing Benefit changes, updates Executive Board on the support being offered to affected council tenants, and recommends actions the council and its partners could take to mitigate the adverse impacts.

**Recommendations**

This report recommends that the council's under occupation incentive scheme is temporarily suspended with immediate effect pending a full review, and the 2012/13 budget identified from the Housing Revenue Account for the under occupation incentive scheme is used to meet the council's commitment to tenants who have already been accepted onto the under occupation incentive scheme.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to outline the changes to Housing Benefit and recommend actions the council and its partners could take to mitigate the adverse impacts of the SSSC.
- 1.2 The report proposes the council's under occupation incentive scheme is temporarily suspended in its current form, and alternative measures are introduced to assist under occupying tenants affected by the SSSC. This would mean no further applications to the scheme would be accepted, but the council would honour its commitment to pay tenants who have already been accepted onto the scheme.

## **2 Background information**

### **2.3 Why are the changes being introduced**

- 2.4 In their impact assessment, published in February 2011, DWP state they are introducing the SSSC to:

- contain growing Housing Benefit expenditure
- encourage mobility within the social rented sector
- strengthen work-incentives and
- make better use of available social housing

- 2.5 DWP anticipates the policy will deliver significant savings for central government, although the exact amount depend on how many tenants move to smaller properties. In its Briefing Paper on the impact of changes to Housing Benefit published in July 2010, the Chartered Institute of Housing estimated the potential savings could amount to £490m by 2014/15.

### **2.6 What do the benefit changes mean**

- 2.7 The social sector size criteria (SSSC) will be implemented from April 2013. It will apply to all current and new Housing Benefit claims made by council and Registered Provider (housing association) tenants of working age. DWP have published draft regulations and guidance notes on how they intend to implement the SSSC.
- 2.8 'Working age' is defined as the qualifying age for State Pension Credit which will be 61 years from April 2013. The SSSC will not apply to tenants aged 61 years and over.
- 2.9 Where a couple claim and one of them is a pensioner, the SSSC will not apply, but from October 2013 when Universal Credit is introduced, the SSSC will apply until the youngest partner reaches State Pension age. The State Pension age will increase to 67 years old in 2028.

- 2.10 At present, the size of the property a social housing tenant lives in does not determine the amount of Housing Benefit they receive, regardless of whether they are under occupying the property.
- 2.11 Under the SSSC, Housing Benefit will be calculated according to the size of property the household is assessed as requiring. DWP will use the same assessment criteria as is used for tenants in the private rented sector who receive Local Housing Allowance (LHA).
- 2.12 Under the LHA assessment, all members of the household (other than foster children) will be taken into account in determining the number of bedrooms required.
- 2.13 A bedroom is allowed for:
- each adult couple
  - any other adult (aged 16 or over)
  - any two children under 10
  - any two children of the same sex under 16
  - or for any other child.
- 2.14 This is broadly in line with the council's bedroom calculation in the lettings policy.
- 2.15 The table below shows typical examples of how the LHA rate is assessed:

<b>Household composition</b>	<b>Bedrooms</b>
Couple with one child	2
Single parent with a girl aged 6 and a boy aged 8	2
Couple with a girl aged 6 and a boy aged 12	3
Single parent with a boy age 17 and boy age 12	3
Couple with girls age 17 and 14 and boy age 9	4

- 2.16 A key difference between the SSSC and LHA is that the shared accommodation rate for under 35 year olds will not apply in the social sector.
- 2.17 Under the SSSC, there will be no exemption for the following groups, where an additional bedroom is currently allowed under the council's lettings policy:
- an unborn child will be included in the bedroom calculation on receipt of proof of pregnancy
  - where a customer has access to children
  - where a customer requires equipment or adaptations which require more space
  - to allow an adaptable property to be adapted, for example, to enable a through floor lift to be fitted

- on request from Children and Young People's Social Care, to facilitate fostering arrangements.

- 2.18 The proposed changes will have significant impacts on key Council priorities and policies. The most immediate impacts are likely to be felt in the provision of childrens services, through impacts on Fostering Policy and in the Council's Lettings Policy.
- 2.19 The Council's Fostering Service helps to make a real difference to the lives of children and young people in the city. The Council's Lettings Policy permits a degree of under occupation in these circumstances to meet welfare needs. These Welfare Reform proposals will directly impact on this and may have a detrimental impact on people offering to foster children and young people.
- 2.20 The council's lettings policy permits a degree of under occupation in certain property types such as 2 bedroom multi story flats which may be offered to single people or couples who only require 1 bedroom. Many multi story flats have local lettings policies in place which mean lettings are not made to customers with dependent children or those below certain ages.
- 2.21 In addition to this, the Council has developed its Lettings Policy over a number of years to better meet the needs of its customers. To this end the Council has moved towards a policy of, wherever possible, not allocating families with young children flats in multi storey blocks but giving them preference for houses with gardens. The changes proposed by the government may have a significant impact on this policy as the Council could be left with significant numbers of empty properties in multi storey flats unless they are occupied by families with children, if current occupiers are unable to afford them.
- 2.22 Under the SSSC there will be an exemption for some supported and temporary accommodation provided in the social sector. Tenants who require a room for a non-resident carer will not be affected. The draft regulations state protections will apply for up to 52 weeks in the event of a death of a household member where this affects the occupancy calculation.
- 2.23 Otherwise, under the SSSC, tenants who are deemed to be under occupying will face a deduction in the amount of housing benefit they receive of:
- 14% where under occupying by one bedroom; or
  - 25% where under occupying by two or more bedrooms.

2.24 Some examples are shown below:

Household composition	Current property size	LHA assessment	Difference	Rent pw	HB shortfall pw
Single person OR single person with access to child	2 bedroom	1 bedroom	1	£75.50	£10.57
Couple with 2 children under 10	3 bedroom	2 bedroom	1	£80	£11.20
Single person	3 bedroom	1 bedroom	2	£80	£20

### 3 Main issues

#### 3.1 Impacts on tenants

3.2 The number of council tenants likely to be affected by the SSSC has been obtained by cross referencing details about the size of their current property from the housing management system with information on the household composition from housing benefit claims. This is based on either the claimant or partner being aged over 60, and is a snapshot from January 2012. The final number is subject to change, however, it provides a realistic picture of the likely numbers affected.

3.3 The table below shows the number of working age council tenants in receipt of full and partial housing benefit and the number of bedrooms they are under occupying by:

Rooms required under SSSC	Actual number of rooms in property					Total
	2	3	4	5	6	
1	3488	1270	85	21	1	4865
2		2012	130	30		2172
3			193	46		239
4				54	2	56
5					2	2
<b>Total</b>	<b>3488</b>	<b>3282</b>	<b>408</b>	<b>151</b>	<b>5</b>	<b>7334</b>

3.4 The table shows that of the 7334 affected council tenants, 78% (5720) would be deemed to be under occupying by 1 bedroom, and would have a shortfall of 14% of their eligible rent to make up. 22% (1613) would be deemed to be under occupying by 2 bedrooms, and would have a shortfall of 25% of their eligible rent to make up. The table does not include affected Registered Providers tenants. Work is currently underway to determine the numbers likely to be affected.

3.5 Approximately 25% (1860) of those affected have a dependent child in the household. Just under 1000 tenants are living in a property with some degree of adaptations, although the full extent is still to be determined.

3.6 The areas with the highest number of affected tenants are: Burmantofts and Richmond Hill, Killingbeck and Seacroft, Middleton Park / Belle Isle, Gipton and Harehills, and Armley. This reflects the high number of two bedroom multi-storey flats in these areas which tend to be under occupied by 1 bedroom.

3.7 Tenants in receipt of partial housing benefit will face a reduction in benefit equivalent to 14% or 25% of their rent, meaning some will lose all their housing benefit entitlement. Approximately 22% (1585) tenants affected are in receipt of partial housing benefit, either because they are in low paid work or because the income of another household member affects the amount of benefit they receive.

### 3.8 Impact on the HRA Business Plan

3.9 The reduction in Housing Benefit paid means the council, as a landlord, will potentially have to collect an additional £4 million pa from tenants as shown in the table below:

Degree of under occupation	No. tenants	Average rent £pw	Weekly shortfall per tenant £	Annual shortfall per tenant £ (48 week rent)	Estimated total shortfall £pa
1 bed	5749	£70	£9.80	£686	£2,704,329
2+ bed	1585	£74	£18.50	£888	£1,407,480
Total	7334				£4,111,809

3.10 This figure would rise in line with annual rent increases. The table below sets out the additional rent that would need to be collected over a five year period if no one moved or found work based on 4.5% rent increase each year:

Year	Annual rent shortfall
Year 1	£4,111,809
Year 2	£4,296,840
Year 3	£4,490,198
Year 4	£4,692,257
Year 5	£4,903,408
<b>5 year total</b>	<b>£22,494,513</b>

3.11 When combined with the impact of Universal Credit this could have implications for the Housing Revenue Account Business Plan. The ability to meet both the essential and sustainable investment in housing over the 30 year period of the Plan is predicated on the council keeping rent loss and void levels down. The impact of increased rent loss and higher void levels would result in elements of investment in the Business Plan not being met.

### 3.12 The council's response

3.12.1 Officers from Leeds City Council have made representations to the Department of Communities and Local Government and the Department of Work and Pensions

to request exemptions to the SSSC, but none have been forthcoming. Following the Welfare Reform Act receiving Royal Assent in March 2012, the draft regulations on the SSSC contain very limited exemptions (namely to overnight carers). DWP's expectation is that local authorities will use the increased funding for Discretionary Housing Payment to support affected tenants, such as foster carers and tenants with adaptations.

- 3.13 Officers from the council and Advice Leeds have delivered briefings on the impact of Welfare Reform to staff from the Leeds ALMOs and BITMO, Adult Social Care, Childrens Services, and housing associations.
- 3.14 A Welfare Reform Communications Strategy has been developed to prepare tenants and stakeholders for the changes.
- 3.15 The council will be writing to affected council tenants to advise them they are likely to be affected by the SSSC. This will be followed up by the ALMOs and BITMO contacting affected tenants to offer individual advice and to discuss their potential options.
- 3.16 The council and ALMOs are developing A Frequently Asked Questions toolkit for staff to use and a customer information leaflet for tenants. The council's offer letter will be amended to include a warning to prospective tenants about the changes, and information will be available on the Leeds Homes choice based lettings scheme flyer and website.
- 3.17 The council and ALMOs have developed an action plan to support these tenants with a range of interventions, as summarised in the next section.

### **3.18 Tenants' Options**

- 3.19 To assist tenants to 'stay and pay' the council will:
- promote debt and budgeting advice, including use of Credit Union
  - signpost tenants to support into work or to increase their current working hours
  - give advice about taking in a lodger or family member, while being mindful of the potential risks involved in taking someone into their home, and that the lodger's income could affect the tenant's benefit claim
  - review its policy on Discretionary Housing Payment to cover rent shortfall due to the SSSC. Leeds will receive additional funding for DHP, potentially £400K pa, but this will not be sufficient to cover the estimated shortfall. As part of the DHP policy review, cases will need to be prioritised to support those in greatest need, including foster carers and disabled people requiring adaptations in their property
- 3.20 Where appropriate, the council will support tenants to move to a smaller property within the social sector.
- Tenants can register on the Leeds Homes Register, although demand for smaller properties will outstrip supply. The table below shows the number of new housing applications and number of council properties let per year, as an average for the period 2008 – 2011.

Average number of new applications and property lets by size (2008 – 2011)			
Property size	No. new applications	No. properties let	% applicants rehoused
1 bedroom	8778	2005	23
2 bedroom	4552	1829	40
3 bedroom	1662	864	52
4 bedroom	345	93	27
5 bedroom	53	28	53
6 bedroom	8	1	13
Total	15397	4820	31

- Given that an average of 450 of the vacancies in one bedroom properties were in sheltered accommodation and not available for working age tenants, it would take over 3 years to rehouse those affected by SSSC who require a 1 bedroom property. In terms of the priority awarded, customers would need to be assessed as being in housing need, for example, being threatened with homelessness due to affordability issues and other welfare needs. The lettings policy will be reviewed to include options for tenants affected by the SSSC.
- Tenants can register on the House Exchange Mutual exchange scheme and swap their home with another tenant. Currently only 300 affected tenants are registered on the scheme, meaning there is potential for better matching of overcrowded and under occupying tenants
- In addition to finding the right size property, tenants will only want to move to suitable areas and types of properties, for example, to remain within school catchment areas and be near formal and informal support. Leeds has not adopted a policy of rehousing households with children at height in multi story flats, meaning there are fewer smaller properties available for downsizing tenants to move to.
- The council and ALMOs will also warn new tenants of the forthcoming changes when a property is advertised through the Leeds Homes choice based lettings scheme, in the offer letter, and when a tenant succeeds to or assigns a tenancy. A risk is that this will result in increased refusals of offers, for reasons of affordability.

3.21 Given the shortage of suitably sized properties in the social sector, the council will also support tenants who want to move to a smaller property in the private rented sector.

3.22 Where a tenant is unable to pay the shortfall and falls into rent arrears, the ALMOs will offer support and try to prevent possession action resulting in eviction.



### **3.23 Under occupation incentive scheme**

- 3.24 Leeds City Council has operated an under occupation incentive scheme since 2008 which offers downsizing council tenants a cash payment of £1000 per room released.
- 3.25 When a tenant applies to the scheme the ALMO or BITMO will assess their application to establish whether the move will achieve best use of stock. Normally, only tenants living in houses are accepted onto the scheme.
- 3.26 The incentive scheme has resulted in positive outcomes of freeing up 435 houses (723 rooms) across the city by April 2012. Over half of the released properties were 3 bedroom houses.
- 3.27 The released properties have been let to other customers on the Leeds Homes Register living in overcrowded conditions, or in other housing need.
- 3.28 Approximately 41% of tenants who have moved on the under occupation incentive scheme were under 60 years old, and would be subject to the SSSC restrictions if they were in receipt of housing benefit. 120 tenants have been accepted onto the scheme but have not yet moved. Approximately half of those accepted are under 60 years old.
- 3.29 The extent of under occupation shown in the table in section 3.3 shows there are approximately 9079 'spare' bedrooms. While not all 7334 tenants affected by the HB restrictions will need to move, and would not be eligible to join the under occupation scheme, a significant number may seek to move to a smaller property. The under occupation scheme was introduced to assist tenants move to a smaller property to free up larger houses and was not designed to support tenants affected by the SSSC.
- 3.30 There are currently 120 tenants accepted onto the scheme who have not yet moved. The estimated cost of their incentive payments is £211K. The total budget earmarked for 2011/13 is £220K. If the scheme continues in its current form, the budget will not be sufficient to support all the moves.

### **3.31 Proposals**

- 3.32 Once the council writes to affected tenants there is likely to be an increase in the number of applications to the scheme which cannot be funded. The council needs to review the under occupation scheme in its current form, which may become financially unviable, and develop alternatives. It is proposed to suspend the scheme to enable a review to take place.
- 3.33 The full impact of the SSSC is only likely to become apparent 6 months to a year after it is implemented in April 2013 when tenants choose how to respond to the reduction in their benefit payment. On the basis of the behavioural changes (namely staying put with support, moving or accruing rent arrears) the council will present an alternative scheme to Executive Board in December 2013.

- 3.34 Under occupying tenants who are over pension age will not be affected by the Housing Benefit restrictions. These tenants would still be offered support and assistance to move to smaller properties, but would not receive the payment. The council's lettings policy will still award priority to downsizing tenants of all ages where the move would make best use of stock.
- 3.35 The council would honour its commitment to the 108 tenants currently accepted onto the scheme, and support them to move within the current financial year. The budget currently identified from the Housing Revenue Account for the under occupation incentive scheme would cover this expenditure.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.2 Council and ALMO officers have attended a Welfare Reform Operational Group to discuss the impact of Welfare Reform on tenants. An ALMO Action Plan has been developed and the council has discussed the option of suspending the under occupation incentive scheme with ALMOs, in light of the issues outlined in this report.
- 4.1.3 Consultation on suspension of the under occupation scheme has not been undertaken with tenants, but surveys have previously been conducted with tenants who moved under the scheme. These indicated tenants were satisfied with the scheme and with the support they received with their move, stating the financial payment was not the primary motivating factor.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 The Welfare Reform changes will have impacts on specific groups, as recognised by DWP's own impact assessment published in October 2011. The council is seeking to mitigate the adverse impacts of the SSSC through the ALMO Action Plan, for example, by developing a revised DHP policy to protect the most vulnerable tenants. The suspension of the under occupation incentive scheme will allow resources to be redirected towards affected tenants.
- 4.2.2 Overall the proposed Housing Benefit change for under occupation will have a disproportionate impact on families and individuals of working age.
- 4.2.3 **Council policies and City Priorities**
- 4.2.1 The council's overarching Welfare Reform Strategy sets out the council and its partners' response to the impact of all welfare reform measures.

### **4.3 Resources and value for money**

- 4.3.1 The council and ALMOs recognise the impact the SSSC is likely to have on rent collection, which in turn feeds into the sustainability of the Housing Revenue Account Business Plan. The priority is to offer support to identify solutions for individual tenants affected by the implementation of the SSSC, which will mean the under occupation financial incentive scheme will cease to be financially viable in its current form.

#### **4.4 Legal Implications, Access to Information and Call In**

- 4.4.1 There is no legal obligation to operate a financial incentive scheme to assist downsizing tenants. The scheme was approved by Executive Board in 2008, so Executive Board approval is required to suspend it.

#### **4.5 Risk Management**

- 4.5.1 There is a risk that when potential tenants are warned about the impact of the forthcoming changes when they are made an offer of accommodation, they may refuse the offer, because they cannot afford to make up the shortfall. This is likely to increase offer refusal rates, which have steadily been reducing since the Audit Commission inspections in 2010.
- 4.5.2 There is a risk that affected tenants will apply to the council's under occupation incentive scheme. The scheme was introduced prior to the SSSC changes, and was intended to assist tenants in larger houses to move to more appropriate accommodation. It is for this reason that this report seeks approval to temporarily suspend the scheme in its current form with immediate effect.
- 4.6 As of the end of April 2012, 120 tenants had been accepted onto the scheme but had not yet moved. The estimated cost of their incentive payments is £211K. The council proposes to honour its commitment to these tenants from the 2012/13 budget, however, the final number of tenants accepted onto the scheme may increase. The council will monitor the number of applications and acceptances made prior to the scheme's suspension. ALMOs will contact all tenants in writing to confirm they are still eligible for payment provided they move by 31 March 2013.

### **5 Conclusions**

- 5.1 The implementation of the SSSC will have a major impact on affected tenants and the council's HRA Business Plan. This paper outlines the support being put in place to mitigate the impact of the changes.

### **6 Recommendations**

- 6.1 That Executive Board note the success of the under occupation incentive scheme in releasing over 400 houses since it was introduced in 2008.
- 6.2 That the council's under occupation incentive scheme is temporarily suspended with immediate effect pending a full review, and the 2012/13 budget identified from the Housing Revenue Account for the under occupation incentive scheme is allocated to meet the council's commitment to tenants who have already been accepted onto the under occupation incentive scheme, provided they move by 31 March 2013.
- 6.3 The council will undertake a full review of the support and incentives that can be offered to under occupying tenants, and following monitoring of the impact of the SSSC between April and October 2013, will present a revised scheme proposal to Executive Board in December 2013.

## **7 Background documents<sup>1</sup>**

7.1 Executive Board report, Under-occupation of Council Housing, 11 June 2008

7.2 Executive Board report Under Occupation Scheme, 4 March 2009

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<sup>1</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.