

EAST RENFREWSHIRE COUNCILCABINET30 November 2017Report by Deputy Chief ExecutiveDISCRETIONARY HOUSING PAYMENTS (DHP) &
ONGOING IMPACT OF CHANGES TO THE BENEFIT CAP**PURPOSE OF REPORT**

1. This report provides an update on Housing Benefit changes through the benefit cap, which reduced in November 2016 and which continues to impact on low income families with housing costs in receipt of benefits. The report seeks a view from the Cabinet on the need, if any, for continued mitigation of the impact of the benefit cap and considers possible options for doing so.
2. Any mitigation would require an extension of Discretionary Housing Payments (DHP) and a resulting drawdown of funds from the Welfare Reform contingency provision to cover any shortfall in national funding.

RECOMMENDATIONS

3. It is recommended that the Cabinet:
 - (a) considers the impact of the benefit cap changes on local residents and agrees a policy approach for 2018/19 – either fully implementing this national reduction or mitigating some of the effects (in which case, options and costs are included at paragraph 20);
 - (b) select option (e) at paragraph 20, which is to continue to award 100% relief for a period of 13 weeks for each case and to consider a second application for relief for a maximum period of 13 weeks, if Cabinet is minded to mitigate some of the effects of the benefit cap;
 - (c) approve the drawdown of related funds from welfare reform contingency resources to cover the costs associated with the selected option; and
 - (d) to agree, in principle to carry this policy choice forward for the period of the 3-year budget to 2020/21, subject to sufficient funds being available from the welfare reform contingency resources. A further report will be brought back to Cabinet in the event of any significant changes to national funding, national policy or caseload levels.

BACKGROUND**Discretionary Housing Payments**

4. Until now the majority of awards made for Discretionary Housing Payments (DHP) by East Renfrewshire Council have been to fully mitigate the effects of the spare room subsidy. To date, all DHP awarded by the Council for the spare room subsidy have been covered by

funding from the Scottish Government and previously Department for Work and Pensions (DWP). DHP has also been used to mitigate the effects of changes to Housing Benefit for a period of up to 13 weeks to support vulnerable tenancies and from November 2016 East Renfrewshire Council have also supported households affected by the Benefit Cap by awarding DHP for a period of up to 13 weeks.

Benefit Cap

5. From April 2013, the UK Government introduced a cap on the total amount of certain benefits that working-age people can receive. This was to ensure that households on out-of-work benefits would no longer receive more in welfare payments than the average weekly wage for working households. The DWP have stated that the best way to avoid the benefit cap is through employment and improving employability and hence residents are encouraged to engage with the Work East Ren employability service.

6. The benefit cap was introduced in 2013 at a level of £500 per week for couples and lone parents and £350 per week for single people. The cap amounts were based on the average wage at the time. From 7 November 2016 the benefit cap levels were reduced to:

- £384.62 a week for a couple - with or without dependent children
- £384.62 a week for a lone parent with dependent children
- £257.69 a week for a single person without children.

7. The benefit cap will apply to the combined income from benefits including:

- the main out-of-work benefits (Jobseeker's Allowance, Income Support, and Employment and Support Allowance except when the Support Component is in payment)
- Housing Benefit
- Child Benefit
- Child Tax Credit
- other benefits such as widow's pension, maternity allowance etc.

8. Councils across Scotland are taking various approaches to the issue of the reduced benefit cap, with some putting no or partial mitigation in place and others seeking to fully mitigate the impact on residents, with a range of approaches in between.

9. In June 2017, the High Court of England and Wales (Administration) ruled that the benefit cap as it applied to lone parents with children under 2 was unlawful. The DWP appealed this ruling to the Supreme Court in October 2017, but have said that in the meantime, it and local authorities should continue to apply the benefit cap and the legislation governing the benefit cap remains unchanged.

10. In January 2017, the Cabinet agreed to take action to partially mitigate the impact of the benefit cap. The Cabinet chose to award 100% relief for a period of 13 weeks for each case. This policy applied to the latter part of 2016/17 and has been applied in 2017/18.

11. It should be noted that, although we projected an upper limit of 50 cases, actual uptake has been much lower than predicted. Currently only 19 families have applied for this support. This has contributed to an underspend in the welfare reform contingency funding.

12. It is however clear that some vulnerable and low income families require more support than the 13 week DHP period. This is reflected in the options below.

13. This report now seeks a view from the Cabinet on the best approach for East Renfrewshire for 2018/19. If the Cabinet chooses to provide an additional level of mitigation there will be an impact to the Council's welfare reform contingency funding.

Welfare Reform Contingency Funding

14. A report to the meeting of the Council on 15 June 2016 gave background on welfare reform contingency funding provision in East Renfrewshire.

15. Universal Credit is due to roll out fully in East Renfrewshire in the summer of 2018. Elected members were given an update on this area at a presentation earlier in November.

16. Due to the continued uncertainty and delays in national implementation of welfare reforms (in particular Universal Credit) actual spend from the welfare reform contingency fund has always been lower than budget. The current proposal, as part of the 3-year budget, is to mainstream welfare reform contingency funding as much as possible. The Head of Accountancy is therefore recommending that the 2018/19 welfare reform contingency fund should reduce to £200,000.

	Contingency provision	Actual spend
2013/14	£800,000	£245,000
2014/15	£900,000	£295,000
2015/16	£900,000	£297,900
2016/17	£703,000	£303,913
2017/18	£400,000	£89,400 (at 31 October 2017)
2018/19	£200,000 (TBC)	-

REPORT

17. For 2017/18, the Scottish Government have again committed to fully fund 100% mitigation against the removal of the spare room subsidy with DHP funding levels of around £289,009. The final funding figure will not be known until March 2018, but in addition to funding DHP for spare room subsidy the Scottish Government will also provide additional funding to cover "other DHP's" which include:-

- Changes to Local Housing Allowance (LHA)
- Some mitigation of the benefit cap
- Core DHP's

18. The following section gives details of options available to the Cabinet on the issue of further mitigating the effect of the benefit cap should it choose to do so. The average benefit cap caseload on a month to month basis so far in 2017/18 has been 29 cases, although so far only 19 tenants have applied to receive this support. We do however expect an increase in caseload with the roll-out of Universal Credit full service in East Renfrewshire in the summer of 2018.

Options for Consideration

19. The following options are based on an average annual caseload of 40 cases. Approaches being taken by other councils are discussed in the 'Consultation & Partnership Working' section below.

20. Our options are:

- (a) Do nothing – implement benefit cap national policy in full with no mitigation.
- (b) Award 100% full relief to all affected households (this would require funding of £84,946 in 2018/19).
- (c) Continue to award 100% relief for a shorter period of time - 13 weeks (i.e. in line with usual DHP period) (this would require funding of £21,236 in 2018/19). This is the current policy being implemented in East Renfrewshire for 2017/18.
- (d) Award a lower percentage of relief (e.g. 50%) (this would require funding of £42,473 in 2018/19).
- (e) Award 100% relief to all affected households for a shorter period of time – 13 weeks and consider a second application for relief for a maximum period of 13 weeks. (This would require funding of £42,473 in 2018/19). Officers would recommend this option if the Cabinet is minded to continue mitigation.

21. It is not yet known how much funding the Scottish Government will provide in 2018/19 for discretionary housing payments and there is the potential that for some low income families, the 13 week mitigation period will not be long enough to protect them from the impact of the reduction in Housing Benefit as a result of the cap. If the Cabinet is minded to provide additional DHP support for a further period of 13 weeks (in cases of hardship), it is recommended that Option (e) is selected. All DHP award applications have finance and income and expenditure assessments as part of the application process

22. The 2018/19 cost projections in paragraph 20 have been capped at an average annual caseload of 40 cases and also account for planned rent uplifts that year. It is also clear that not all households affected by the benefit cap will apply for DHP and that the numbers reapplying after the initial 13 week period will be even lower. A further report will be brought back to the Cabinet if the resources outstrip these estimates.

FINANCE AND EFFICIENCY

23. The Council approved a contingency sum from 2013/14 to 'top up' government funding for welfare reform and administration of the Scottish Welfare Fund. In 2015, the Cabinet agreed to fully mitigate the impact of Housing Benefit changes through DHP and to continue that arrangement for 2016/17 & 2017/18 with drawdowns from the welfare reform contingency to cover a shortfall in payments. In January 2017, the Cabinet agreed to award 100% DHP relief to all households affected by the Benefit Cap for a shorter period i.e. 13 weeks (in line with usual DHP period). This is the policy being worked to in 2017/18. However, despite an average monthly caseload of 29, only 19 households have applied so actual costs were lower than predicted. It is clear that not everyone affected by the Benefit Cap applies for DHP, this is despite being advised of its availability by relevant services such as the Money Advice & Rights Team (MART) and Citizens Advice Bureau (CAB).

24. There is general agreement amongst Scotland's revenues services that, given the recent impact of the benefit cap and the current levels of DHP funding, awarding 100% DHP (option b in para 20) to cover benefit cap shortfalls for the full year 2018/19 is unsustainable, especially given that there may be further welfare reforms, which could affect more East Renfrewshire Council residents in the future.

25. Based on the projections above of cost and caseload, there should be sufficient resources in the welfare reform contingency fund to cover the proposals. Cabinet will be informed if this proves insufficient in-year.

CONSULTATION AND PARTNERSHIP WORKING

26. Through the Welfare Reform Strategic Planning Group, there is close contact between Council services, the local Citizens Advice Bureau (CAB, local Housing Associations, Work EastRen and the DWP. Colleagues in CAB and the Money Advice & Rights Team (MART) have given input and provided case studies during the development of this report.

27. MART and Revenues will work closely to ensure that those impacted are referred for benefits advice to see whether there is any potential exemption, e.g. Personal Independence Payments (PIP)/Disability Living Allowance (DLA). As we await the Supreme Court appeal decision, MART's are working closely with Housing Rents colleagues to secure continuations at court until the outcome of the appeal is known.

28. We have consulted a number of councils on their approach to mitigating the impact of the benefit cap. A number of different scenarios emerged and these include:

- Clackmannanshire Council are awarding 6 months DHP at 50% of the shortfall.
- South Lanarkshire Council are awarding 13 weeks DHP but will consider a second application from the same claimant after the initial 13 weeks period. If an award is made, it will be for a further 13 weeks (i.e. Option e).
- North Ayrshire Council is awarding 100% DHP relief for 26 weeks to tenants affected by the benefit cap. They are clear that not all those affected by a shortfall in benefit will apply and they will take a view on this when 2018/19 funding proposals are clearer.
- Renfrewshire Council currently award 26 weeks DHP at 100%, although this approach is undergoing review in line with budget provision and a decision will be taken on whether there is scope to award post 26 weeks.

IMPLICATIONS OF THE PROPOSAL

29. Council departments and partner agencies continue to make good progress in mitigating the effects of welfare reforms which are currently being experienced.

30. The full extent of the impact of welfare reform and further tranches of Universal Credit will not be known for some time. Indeed, Universal Credit is not expected to be fully operational until 2021. The Council's Money Advice and Rights Team can evidence large increases in caseload as a result of the challenges faced by local residents, and the increased take-up of the Scottish Welfare Fund in East Renfrewshire also suggests serious hardship is being faced by vulnerable individuals. The options set out in this paper are aimed at strengthening the Council's approach to supporting those most affected by the welfare reform changes and mitigating the impacts wherever possible.

31. There are no implications in relation to IT, legal, property or sustainability.

32. It will be important for Council services to work together to consider the impact on households after March 2018, particularly the Work East Ren, MART, Housing and Revenues teams.

CONCLUSIONS

33. The Council has been using Discretionary Housing Payments (DHP) mainly to mitigate the effects of the spare room subsidy. To date we have been able to cover these costs using national funding.

34. Benefit cap changes that took effect in November 2016 are currently affecting 29 families in East Renfrewshire. The Council has the option to put additional mitigation in place to ease the effects of the Benefit Cap particularly for single parent families with children under 2 years old; this will however require a drawdown of funding from welfare contingency resources. A Cabinet direction is sought on a policy approach towards mitigating the effects of the benefit cap. It is important to note that full mitigation is unlikely to be sustainable going forward into 2018/19.

RECOMMENDATIONS

35. It is recommended that the Cabinet:

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Caroline Innes, Deputy Chief Executive

14 November 2017

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KEY WORDS

Welfare reform, Discretionary Housing Payments, DHP, under occupancy charge, spare room subsidy, benefit cap, DWP.

BACKGROUND PAPERS

- Welfare Reform, elected members presentation, 16 November 2017
- Discretionary Housing Payments (DHP) & Impact of Changes to the Benefit Cap, Cabinet 26 January 2017
- Welfare Reform Contingency Fund & Update on Welfare Reform, Council 15 June 2016
- Welfare Reform Members' Briefing, 23 March 2016
- Welfare Reform Contingency Fund & Update, 17 September 2015
- Discretionary Housing Payments, Cabinet 25 June 2015
- Welfare Reform Act 2012 – Impact on Local Benefit Recipients & Local Service Agencies, published by Economic Development February 2014 and updated February 2015.
- Revenue Estimates 2013/14 and 2014/15, Council 13 February 2013

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