



NORTH AYRSHIRE
COUNCIL

SUPPLEMENTARY AGENDA

for the consideration of
the Cabinet at its meeting on 17
June 2014

Business

14.1 Spare Room Subsidy and Discretionary Housing Payments (DHP)

Submit report by the Corporate Director (Finance and Corporate Support) on the financial impact of the spare room subsidy and the current position in respect of Discretionary Housing Payments (copy enclosed).

NORTH AYRSHIRE COUNCIL

Agenda Item 14.1

17 June 2014

Cabinet

Subject: **Spare Room Subsidy and Discretionary Housing Payments (DHP)**

Purpose: To update Cabinet on the financial impact of the spare room subsidy and the current position in respect of DHP

Recommendation: Cabinet notes the current position in respect of the spare room subsidy and DHP

1. Introduction

- 1.1 Reduction of housing benefit as a result of under occupation was introduced in 2013/14 as part of Welfare Reform. Households who were affected by this could apply for a Discretionary Housing Payment.
- 1.2 The Council received a total of £0.890m of funding for DHPs in 2013/14, £0.430m from the DWP and £0.460m from the Scottish Government and incurred total expenditure of £0.904m. Based on the DWP Regulations the maximum DHP expenditure which the Council could have incurred in 2013/14 was £1.074m, the Council had been working to a ceiling of £0.894m prior to notification in late March of the uplift to the ceiling.
- 1.3 In North Ayrshire, DHPs are considered via an application process, and approved where certain criteria are met following a financial assessment. The Regulations require applications to be made for DHP, with the financial assessment process ensuring the cash limited funds are paid to the most vulnerable applicants.

2. Current Position

- 2.1 Initial projections for 2014/15 indicate that the Council would require DHP funding of £1.804m to make payments to mitigate fully the impact of the spare room subsidy. In addition, £0.112m is required to fund DHPs to private sector tenants, giving a total funding requirement of £1.916m.

- 2.2 The Council has received £0.409m of funding from the DWP to fund DHPs. Based on the current DWP 250% maximum threshold for DHP, the Council can make DHPs up to a maximum of £1.022m. Scottish Government has made available £0.613m to top up DWP resources to fund the current legislative maximum.
- 2.3 In addition to the Scottish Government funds noted above, a further £15m of Scottish Government funds have yet to be distributed. Distribution is currently being discussed to ensure that the Scottish Government's commitment to mitigate fully the impact of the bedroom tax is realised. North Ayrshire would require to receive £0.894m (5.96%) of the £15m, to ensure full mitigation.
- 2.4 A key requirement for full mitigation of the spare room subsidy is the lifting or removal of the current DWP ceiling of 250%.
- 2.5 On 2 May 2014, the UK Government announced its intention to delegate the setting of the DHP cap to the Scottish Government. This requires changes to legislation which are unlikely to be in place until February 2015.
- 2.6 Pending legislative changes, discussions are taking place between the UK and Scottish Governments and CoSLA to give local authorities assurances that any spending in excess of the current cap, is not ultra vires i.e. outwith the Council's legal powers. A letter of comfort has been received from the Depute First Minister, copy attached at Appendix 1, offering an assurance that arrangements will be put in place during 2014/15 to allow local authorities to mitigate the full impact of the spare room subsidy.
- 2.7 Based on the current DHP ceilings and funding in addition to meeting private sector demand, the Council would be able to mitigate fully the spare room subsidy until the end of September. In the event that sufficient assurances have not been received and the Council continued to make DHPs it would be acting outwith the current legislative ceiling.

3. Proposals

- 3.1 Cabinet is asked to note the current legislative and Council position in respect of the spare room subsidy and payment of DHP and the letter of assurance which has been issued by the Depute First Minister. On the basis of this, it is proposed that DHP will be paid on application and without financial assessment to all tenants affected by the spare room subsidy.

4. Implications

Financial Implications

- 4.1 Based on current estimates, the cost of removing the spare room subsidy and meeting private sector demand in 2014/15 is £1.916m. £1.022m of funding is currently available from the DWP and Scottish Government. Distribution of a further £15m of Scottish Government is being considered currently. Based on previous distribution, the Council could expect to receive a minimum of £0.460m. In addition to these funds, the Council set aside £0.394m when it set its budget for 2013/14 as top up for DWP. Based on these assumptions, this would leave a shortfall in funding of £0.040m in 2014/15.

Human Resource Implications

- 4.2 None.

Legal Implications

- 4.3 The UK Government has announced its intention to transfer powers to vary the setting of the DHP cap to the Scottish Government. In turn, the Scottish Government has announced its intention on transfer of this power, to raise this cap to allow full mitigation. They have also confirmed this would be done in the present financial year and that local authorities should plan on this basis. In these circumstances, while expenditure above the cap would still be a technical breach of the existing legislative rules, the risk of challenge is minimal. Nor is it certain that the cap would necessarily be breached, as this is dependent on when the Scottish Government are able to lift the cap.
- 4.4 It is not clear what view Audit Scotland would take given the position of the UK and Scottish Governments.

Equality Implications

- 4.5 None

Environmental and Sustainability Implications

- 4.6 None.

Implications for Key Priorities

- 4.7 Mitigating the impact of welfare reform contributes to "Protecting Vulnerable People".

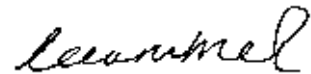
5. Consultations

- 5.1 Consultation has taken place with the Head of Democratic and Administrative Services.

6. Conclusion

- 6.1 This report notes:

- the current ceiling in respect of DHP;
- the current and projected resources available to mitigate the impact of the spare room subsidy in North Ayrshire;
- the changes required to the legislation to devolve the cap for DHP to the Scottish Government and the timescales for achieving this;
- the discussion that are taking place to resolve any legal challenge on Councils pending the change on legislation; and
- the time frame within which the Council will have fully spent its DHP in line with the current cap.



LAURA FRIEL

Corporate Director (Finance and Corporate Support)

Reference :

For further information please contact Laura Friel, Executive Director (Finance & Corporate Support) on 01294 324554.

Background Papers

None

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In 2014 Scotland Welcomes the World



10 June 2014

Dear Marie

Thank you for your email of 9 June regarding Discretionary Housing Payments (DHPs).

As you will be aware, the power to set the statutory cap on DHPs has not yet been transferred to Scottish Ministers. I wrote to COSLA on 28 May providing the assurance that the necessary funding will be made available to provide full mitigation of the bedroom tax in 2014/15 and that once the power has been transferred, the cap would be lifted as soon as possible to allow for full bedroom tax mitigation. I have enclosed a copy of this letter for your information.

I understand COSLA President, Cllr David O'Neill wrote to Lord Freud, the Minister for Welfare Reform on 9 June explaining that a letter of comfort from the Department for Work and Pensions is required to provide the assurance Scottish local authorities are looking for and requested this letter of comfort as soon as possible.

I can assure you that the Scottish Government has been very clear about how important this matter is to local authorities and have impressed the urgency of the matter on the Scotland Office. We are working with the UK Government on progressing the letter of comfort as swiftly as possible so that local authorities can act to provide the mitigation that is needed.

In the meantime, it is my position that local authorities can plan their expenditure and policies on this basis in expectation that the cap will be lifted this financial year, and that local authorities can act now to fully mitigate the bedroom tax.

Nicola Sturgeon

NICOLA STURGEON

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cc. Cllrs Kevin Keenan, Michael Cook

Our ref: 2014/0016112

28 May 2014

Dear David

Thank you for your letter of 2 May, as well as the letters of your colleagues, Councillor Kevin Keenan on 30 April and Councillor Michael Cook on 15 May. I apologise for the delay in responding, but I wanted to be in a position to provide as much clarity as possible.

In February of this year the Scottish Parliament agreed to the allocation of £35 million to mitigate the bedroom tax in 2014/15. This brings the total amount available to £50 million when added to the £15.2 million provided by the Department for Work and Pensions (DWP) for DHPs. The distribution of £20 million of the Scottish Government's funding has already been agreed. However, £15 million remained unallocated due to uncertainty about whether the UK Government would agree to our request to lift the cap on DHPs.

On 2 May, David Mundell, Parliamentary Under Secretary of State for Scotland, wrote to me offering to transfer the power to set the DHP cap to Scottish Ministers. I met with Mr Mundell on 8 May, and spoke to him again on 20 May.

The powers will be transferred by means of a Section 63 order under the Scotland Act 1998. Following that transfer, an order will be made by Scottish Ministers to adjust the cap on DHPs so that all local authorities will be able to fully mitigate the bedroom tax without breaching any DHP limit. I will shortly be updating the Scottish Parliament as to the timescale for this. However, I can confirm our intention is that this will be in place before the end of the current financial year.

Your letters ask for letters of comfort from both the Scottish and UK Governments. I can confirm that I have had productive discussions with David Mundell in this regard and that we aim to provide all the necessary reassurance as soon as possible. Unfortunately, due to UK Ministerial leave commitments, this may be in the first week of June.



I am happy to confirm, however, that local authorities can now plan to spend the full £50 million on DHPs and that Scottish Government analysis shows that this amount is sufficient to cover everyone who is affected by the bedroom tax. Those affected by the bedroom tax can claim a DHP to fully fund the housing benefit deduction for the full year – and the clear expectation of Scottish Ministers and the Scottish Parliament is that this funding will be used for that purpose and that everyone affected by the bedroom tax who applies for a DHP will receive assistance.

The precise distribution of the £15 million will be agreed with COSLA in line with our agreed practices and will take into account the Scottish Government's analysis of the funding required for each local authority.

I appreciate that DHPs are used for a number of purposes. I can also confirm that the allocation of the £15 million funding that the Scottish Government will make available will not require any funds allocated for other purposes to be spent on those affected by the bedroom tax.

To be clear on this point, DWP provide a DHP allocation to local authorities that is based on the following five categories: (1) core, (2) bedroom tax, (3) bedroom tax rural, (4) benefit cap and (5) Local Housing Allowance. The Scottish Government is of the view that the £15 million funding is sufficient to cover all remaining bedroom tax losses in every local authority without touching the DWP allocations for core, benefit cap and LHA.

In the unlikely event that the actual costs linked directly to mitigating the impact of the bedroom tax were to exceed the £15 million budget provision then I can confirm that as part of our continued partnership working this would be the subject of further discussion and a review of the evidence to consider what additional budget provision may be required. If a local authority chooses to make payments to mitigate the effects of other UK Government Welfare reform changes, including non-bedroom tax aspects of DHP, then that is for the local authority themselves to resource.

Just Wiles

NICOLA STURGEON