

Rent Levels and Housing Benefit Subsidy at a supported housing scheme in the City

SUMMARY

- 1.1 This report concerns a supported housing scheme run by a housing provider in Derby. The scheme provides accommodation and intensive management support for vulnerable people. The rent and service charge at these addresses are high.
- 1.2 The Housing Benefit legislation includes rules which require authorities to restrict the rent or service charge where it is high and certain conditions are met. These rules vary depending on the nature of the tenancy.
- 1.3 All of the residents at this scheme claim Housing Benefit. Currently the full rent and service charge are met through Housing Benefit.
- 1.4 The government reimburses local authorities for the Housing and Council Tax Benefit they pay out through a series of subsidy payments. In most cases this subsidy compensates local authorities in full for the Housing and Council Tax Benefit payments they make. However, in some cases, for example where the rent is high, the subsidy paid is less than the amount of benefit paid out and in these cases the local authority has to bear the cost of the difference
- 1.5 The high rents being charged by this housing provider for the supported housing scheme in Derby is resulting in subsidy loss for the Council.

RECOMMENDATION

- 2.1 To restrict the service charge element of the Housing Benefit paid for any new claims made in respect of this scheme by £58.07 per week from its current level of £131.46 to £73.39.
- 2.2 To continue to support the housing provider in its attempts to become a Registered Social Landlord, which would prevent the loss of Housing Benefit subsidy.

REASONS FOR RECOMMENDATION

- 3.1 The Housing Benefit legislation places a duty on local authorities to restrict the service charge in cases where it is considered to be unreasonably high in comparison with similar accommodation.

- 3.2 There is evidence to show that the service charge is unreasonably high in this case and that we should be restricting the Housing Benefit paid in respect of the service charge to a lower amount. In arriving at this recommendation we have carried out comparisons with similar types of accommodation in the City. The report gives details of the reasons for the recommendation and some supporting information.
- 3.3 In addition, the subsidy being lost as a result of meeting the full charge has increased significantly over the past 2 years. In 2007/08 the subsidy lost for this type of claim was £197,135. This grew to £482,935 in 2008/09 and to £906,367 in 2009/10, of which £712,248 related to this scheme
- 3.4 This housing provider also has a secondary scheme where the levels of support are lower. This scheme is used to move clients on when they are getting closer to independent living. The numbers in this scheme are rising from 47 in March 2010 to 113 by September 2010 and as a result we estimate that the level of subsidy lost in this scheme will grow to approximately £250,000 per year.

SUPPORTING INFORMATION

- 4.1 Since 2005 a housing provider in the city has been running a supported housing scheme for vulnerable single people, some of whom have been identified through the night shelter at Milestone House. The scheme provides accommodation and intensive management support for people who have been homeless and are moving towards independent living. The scheme is funded in part through the Supporting People programme. The clients living at this scheme are all reliant on Housing Benefit to pay towards their rent.
- 4.2 The Government reimburses local authorities for Housing and Council Tax Benefit paid through a series of subsidy payments. In most cases this subsidy compensates local authorities in full for the Housing and Council Tax Benefit payments they make. However, in some cases the subsidy paid is less than the amount of benefit paid out, for example, where the rent is high, and in these cases the Council has to bear the cost of the difference.

We lose subsidy for Housing Benefit claims for this housing scheme because of the high rents being charged. This loss had been increasing over the past 18 months as the rent increased in 2009 from £120 to £200 per week. The exact rent levels vary slightly from case to case.

In addition the numbers of tenancies in the scheme had increased from 49 up to 130 as at February 2010. The way Housing Benefit subsidy is calculated in these types of cases is explained in appendix 2

- 4.3 Following recommendations from the Scrutiny Commission, Council Cabinet, at its meeting of 16 February 2010, recommended that we should work with the housing provider to reduce the number of units down to 100. This would have the effect in reducing the loss of Housing Benefit subsidy.

In addition the housing provider should seek to partner a Registered Social Landlord. If this were successful any Housing Benefit claims would be dealt with differently in that there would be no loss of subsidy as long as the rent charge was not unreasonably high

Finally we should gain a better understanding of the value of the scheme by recording the tenants who moved to the scheme through the Council's Single Point of Entry system. We would also ask the housing provider to keep records of the success they had in moving the tenants on to independent living.

A copy of the report from The Scrutiny Commission is in Appendix 3

- 4.4 We have continued to work with this housing provider in line with the recommendations from Cabinet and the number of Housing Benefit claims in this scheme has reduced down to its current level of 94. This reduction will reduce the Housing Benefit subsidy lost from this scheme by £200,000
- 4.5 As the scheme contributes the biggest subsidy loss of its type in Derby it is important we continue to review of the level of rent and service charge paid at this scheme.
- 4.6 The Housing Benefit regulations state that where a service charge is excessive we must restrict it to a lower amount. The rents at this scheme include a service charge of £131.46.

The rent and service charge breakdown in Appendix 4 shows in detail the individual elements which make up the service charge. Whilst some of these elements are reasonable, others are high based on comparisons with similar accommodation.

The areas of particular concern are:

- **Communal cleaning** – weekly charge £10.00. Cleaning of personal areas is not eligible for Housing Benefit. Cleaning can be eligible for Housing Benefit when it is for communal areas. Communal areas are described as areas that are shared, such as landings and hallways. Cleaning of common or shared rooms is not eligible in this type of accommodation. The properties used for this scheme are generally terraced houses where the residents have a room for their own use and shared facilities. There are three or four residents in each house. The only area classed as 'communal' are the hallways and landings. The average charge for communal cleaning in comparable accommodation is £2.77.
- **Communal heating and lighting** – weekly charge £14.42. Like cleaning, heating and lighting for personal use is not eligible for Housing Benefit. Heating and lighting can only be eligible for Housing Benefit where it is for communal areas, as described above. The average charge for communal heating and lighting in comparable accommodation is £4.96

- **Garden maintenance** – weekly charge £5.48. The average charge for garden maintenance in comparable accommodation is £1.68.
- **Management and Administration costs** – weekly charge for all management and staffing costs are £28.44. Management charges can only be eligible for Housing Benefit where they relate to the provision of adequate accommodation. Charges for things like general counselling and support are not eligible for Housing Benefit. The average charge for management and administration costs in comparable accommodation is £6.37.
- **Voids / Bad debt** – weekly charge £25.48. We have taken the view that the voids/ bad debts provision of 15% is high and a more reasonable level would be 5%. The Housing and Advice Services Division gave some guidance on this. We estimate a reasonable charge for voids and bad debts would be £8.49, which represents 5% of the overall charge.

To address these areas of concern restricting the service charge by a total of £58.07 per week is reasonable. This has been calculated based on the average of charges at similar accommodation in the area. The figure of £58.07 represents the amount by which the service charges at this scheme exceed this average.

Details of the comparisons made and a summary of how this proposed restriction has been calculated is in Appendix 5.

If this restriction were to be applied it would result in a reduction of £58.07 for any new benefit claim from tenants at this scheme.

- 4.7 The Housing Benefit regulations only allow us to apply this restriction to new Housing Benefit claims. The claims for the existing Housing Benefit clients at this scheme would remain as they are. The reduction in subsidy loss would occur over a period of time as tenants move on and new tenants make a Housing Benefit claim. This also means that the housing organisation will not suffer a sudden reduction in income and it will give them time to adjust to the reduced income from Housing Benefit over a period of time.
- 4.8 If we applied this restriction to all new claims, initial estimates show that the subsidy loss would in time be £300,000 per year less than it would be if we continued with no restriction. However, this would still leave an annual subsidy loss of around £400,000.
- 4.9 As with any Housing Benefit decision, a restriction could be challenged through the appeals process. The landlords do not have the right to appeal, but their tenants can appeal and landlords could support them in that process if they wished.

- 4.10 This housing provider also has a secondary scheme where the levels of support are lower. This scheme is used to move clients on when they are getting closer to independent living. The rents at this scheme are approximately £150.00, which is relatively high compared with mainstream, general needs accommodation of a similar size. We have carried out some comparisons which have shown that the rent and service charges are comparable with charges for similar types of accommodation for vulnerable adults in Derby. This means that despite the high rents, it is not appropriate to restrict the level of Housing Benefit paid to meet the rent or service charge.

Consequently we also lose subsidy on this scheme because of the relatively high rent being charged. It is of some concern that the numbers in this scheme are rising from 47 in March 2010 to 113 by September 2010. Because of this increase we estimate that the level of subsidy lost in this scheme will grow to approximately £250,000 per year. This will negate the subsidy saving made by the reduction in units in their other scheme and the proposed restriction to the service charge.

- 4.11 There are 10 other schemes in Derby which fall under the same subsidy regime as this one. Because the rents at schemes such as these are often high, they are also causing a loss of Housing Benefit subsidy

We are continuing to monitor closely the number of Housing Benefit claims and the level of subsidy loss at all of these types of scheme.

- 4.12 The Government is aware of the difficulties councils have in monitoring the high rents for schemes where the landlords are a registered charity and provide some support to their tenants. Councils across the country are facing similar problems. The Government is currently carrying out a review of how the Housing Benefit rules work for these types of scheme, which may lead to some changes. We are making representations to influence this review where we can.

- 4.13 There have also been a number of Housing Benefit appeal cases around the country regarding these types of claim and some best practice and key legal definitions are being developed as a result. What is becoming apparent is that in order for the Housing Benefit claim to be dealt with under this set of rules the support must be actually being provided and needed by the tenant on a case by case basis. In addition the support must be of a level that is more than minimal.

Where support is assessed as not being required the tenancy is treated the same as any normal tenancy for Housing Benefit purpose and is dealt with under the normal Local Housing Allowance rules. This would mean that the rent used for paying Housing Benefit would be set at the Rent Service's Local Housing Allowance levels. These are very much lower than the rents that are actually charged on these schemes. It would also mean that the Council would get full subsidy for all Housing Benefit paid.

- 4.14 In order to comply with these new definitions we are introducing a new verification process for claims where support is being provided which will require the housing provider to demonstrate what support is being provided and that it is actually required by the tenant.

OTHER OPTIONS CONSIDERED

- 5.1 We could carry on as now with no change to the rent level. If that were the case we can anticipate a subsidy loss in the region of £712,000.

This report has been approved by the following officers:

Legal officer	Olu Idowu
Financial officer	Peter Morris
Human Resources officer	
Service Director(s)	Kath Gruber / Mark Menzies
Other(s)	Lisa Callow

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Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 – How the Housing Benefit Subsidy rules work for these types of claim. Appendix 3 - Report from the Scrutiny Commission Appendix 4 - Typical rent and service charge breakdown at this scheme Appendix 5 - Service charge comparisons and a summary of how we have calculated this proposed restriction

IMPLICATIONS

Financial

- 1.1 If the recommendation to restrict the service charge is adopted then the related subsidy loss is projected to be reduced to around £400,000. At present this would be contained within the current housing benefits budget of £500,000 assuming no adverse variances in other areas of this budget occur.
- 1.2 The net cost of benefits payments is increasing – up from £573,000 in 2008/09 to £804,000 in 2009/10 due mainly to increased payments attracting nil or reduced rate subsidy, a higher provision for bad debts and increased audit fees. The latest forecast for 2010/11 is £700,000 but may be higher if a further repayment is required by Department of Work and Pensions following the audit of and further work on the claim for 2008/09.

Steps are being taken to mitigate these losses which includes negotiations with housing providers, considering the possible restriction of rents and improving the quality of our work

Legal

- 2.1 Paragraph 5 of Schedule 3 of The Housing Benefit and Council Tax Benefit (Consequential Provisions) regulations provide the legal framework within the Housing Benefit scheme for restricting the rent where it is unreasonably high.
- 2.2 Paragraph 4 of schedule 1 of the Housing Benefit regulations 2006 provide the legal framework within the Housing Benefit scheme for dealing with excessively high service charges.
- 2.3 The Social Security Administration Act 1992 (sections 140A to 140G) provide the outline legal framework relating to the payment of subsidy. The detailed legal rules are set out in the Income Related Benefits (subsidy to Authorities) Order which is updated annually. For 2009/10 this is covered by Statutory Instrument (2009) 30, The Income-Related Benefits (Subsidy to Authorities) amendment.

Personnel

- 3.1 None.

Equalities Impact

- 4.1 The award of the new Supporting People 'Move On' contract ensures that equalities issues are met.

Health and Safety

5.1 None.

Carbon commitment

6.1 None.

Value for money

7.1 None.

Corporate objectives and priorities for change

8.1 There are links to the Council's Priorities, in particular:

- giving you excellent services and value for money.

How the Housing Benefit Subsidy rules work for these types of claim.

In schemes such as this where the landlords are a registered charity and some support is provided we only receive partial subsidy if the rent is high.

The way the subsidy regime works for these types of cases depends on valuations supplied by the Rent Service. This is because of the landlords being a registered charity and providing some support to tenants. Each Housing Benefit claim must be referred to the Rent Service who advise on the rent level that would be reasonable for the property. This dictates the level of subsidy we will get for each claim. Normally we get no subsidy for any Housing Benefit paid above the figure provided by the Rent Service. However, for certain protected groups, for example elderly people, families or disabled people, we receive 60% of any amount paid above the Rent Service's figure.

The valuations given by the Rent Service are, broadly speaking, property based valuations. For schemes like this one the valuations do not meet the cost of the rent and service charge because they take no account of the additional management charges and maintenance costs of running the scheme. The Rent Service valuations vary, but on average are around £65.00.

The rents in this scheme are much higher than the valuations given by the Rent Service which is resulting in the subsidy loss.

The examples below show of how the subsidy rules work for claims at this scheme

Example 1 - Claims where the Housing Benefit claimant falls into a protected group (elderly, families with children or disabled)

This example illustrates where the claimant falls into a protected group, the Rent Service's subsidy level figures are lower than the rent being charged, but we have assessed the claim based on the full rent charged.

In these cases we get full subsidy up to the level set by the Rent Service and 60% for any amount paid above that.

Weekly rent Charged	Weekly rent used to calculate Housing Benefit	Subsidy levels set by The Rent Service	Housing Benefit paid in excess of the Rent Service subsidy level	Calculation of subsidy due per week		Subsidy lost per week
£199.46	£199.46	£65.00	£134.46	Up to Rent Service figure of 65.00	£65.00	£53.78
				Above the Rent Service figure	£135.00 X 60% = £80.68	
				Total subsidy paid	£65.00 + £80.68 = £145.68	

Example 2 - Claims where the Housing Benefit claimant does not fall into a protected group

This example illustrates where the claimant does not fall into a protected group, the Rent Service's subsidy level figures are lower than the rent being charged but we have assessed the claim based on the full rent charged.

In these cases we get full subsidy up to the level set by the Rent Service and no subsidy for any amount paid above that.

Weekly rent Charged	Weekly rent used to calculate Housing Benefit	Subsidy levels set by The Rent Service	Housing Benefit paid in excess of the Rent Service subsidy level	Calculation of subsidy due per week		Subsidy lost per week
£199.46	£199.46	£65.00	£134.46	Up to Rent Service figure of 65.00	£65.00	£134.46
				Above the Rent Service figure	Nil	
				Total subsidy paid	£65.00	

This is just one component in the overall Housing Benefit and Council Tax Benefit subsidy position for Derby. The full Housing Benefit subsidy situation is more complex, with a number of areas where councils can lose subsidy. In addition, we receive 40% subsidy on all overpayments other than those caused by official error. In cases where these overpayment are subsequently recovered we still retain the 40% subsidy claimed, which can have a positive influence on the overall subsidy loss position.

For example, in 2008/09 the net loss on benefits paid, less subsidy received was £864,000. The cost of cost of bad debts and audit fees was £506,000, giving a total cost of £1,370,000. However, this was offset by overpayments recovered of £797,000. The final net cost to be met by the Council was £573,000. This figure is £273,000 above the budget for the year of £300,000. Around half of that increase is attributable to the growth in the Derbyshire Housing Aid claims, with the remainder being due to a repayment made to The Department of Work and Pensions in respect of a prior year claim.

In 2009-10 the original budget for the net cost was £350,000. This was subsequently revised to £500,000 to accommodate the increase in subsidy loss on the type of Housing Benefit claims referred to in this report. A later forecast was £750,000 following further work requested by The Department of Work and Pensions on the 2007-08 subsidy claim. The outturn for 2009/10 is £804,000 including provision for a repayment to The Department of Work and Pensions of up to £477,000 in respect of the 2007/08 claim.

In 2010/11 the original budget for the year is £550,000. The latest forecast is £700,000 due mainly to the anticipated further increase in claims such as those referred to in this report where we lose subsidy. This figure may increase following the completion of the audit of and recent further work carried out on the 2008-09 subsidy claim. The claim is being considered by Department of Work and Pensions at the moment and there may be another repayment required.

Report from the Scrutiny Commission



DERBY CITY COUNCIL

COUNCIL CABINET
XX XXXXX 2010

Report of the Community Commission

ITEM XX

Rent Levels and Housing Benefit Subsidy

SUMMARY

- 1.1 On 24 November 2009 Council Cabinet deferred taking a Key Decision headed 'Rent levels and Housing Benefit subsidy' to enable the Community Commission to consider the issues. The Commission met on 2 December, scrutinised the proposals and resolved to make this report to Council Cabinet.

RECOMMENDATION

- 2.1 That Council Cabinet endorse the Commission's recommendations that
- a) Derbyshire Housing Aid seek
 - i) to obtain the status of Registered Social Landlord or, if unsuccessful,
 - ii) an exemption from the Department for Communities and Local Government
 so that full subsidy can continue to be recovered on the current level of housing benefit
 - b) should neither route be successful and the proposed eligible service charge limits then be implemented on new claims, consideration be given by DHA to reducing the number of units to approximately 100, linked to the matching increase in supply of move-on units commissioned through Supporting People so that total capacity be protected
- 2.2 That Council Cabinet accept the Commission's finding that reductions in the volume and range of supported accommodation are likely to be manifested in other ways such as increased street homelessness, begging and other anti-social behaviour and cost Council Tax payers more to address than the savings generated by proceeding with the proposed Key Decision

REASONS FOR RECOMMENDATION

- 3.1 This proposal has come forward at a time when the Commission is completing its own review of homelessness which is intended to influence the Council's developing Homelessness Strategy. That Strategy is to be considered by Council Cabinet in early 2010. The Commission is concerned that the current proposals before Council Cabinet will have a damaging effect on the key policy goal: reducing homelessness.
- 3.2 The report to Council Cabinet is very thorough but written from the Council perspective rather than considering the wider ramifications. The Commission's own scrutiny of the proposals involved hearing from the lead officer in the Resources Department, Cllr Troup as the relevant Council Cabinet Member, the Assistant Director for Housing and Advice and Head of the Housing Options Centre together with the Chief Executive and the Strategic Support Manager of Derbyshire Housing Aid.
- 3.3 Although all the contributions were very measured, it was clear to the Commission that if the proposals proceed and were to lead to a reduction in the total city-wide capacity of move on accommodation, the predictable consequence will be a rise in homelessness. The fall back position at recommendation 2.1 b) above could see a reduction in DHA provision off set by new Supporting People provision. This would maintain a steady state but has to be seen as second best, as the Commission's own review clearly identifies a need to *expand* Derby's total of supported accommodation. Therefore the point (para 4.6 in the Cabinet report) that DHA's provision has not been 'strategically commissioned' is incidental.
- 3.4 The report to Council Cabinet states that: 'there is evidence to show that the service charge is unreasonably high in this case' and that 'in arriving at this recommendation we have carried out comparisons with similar types of accommodation in the City'. Derbyshire Housing Aid, in contrast, said the service charges are actually comparable for schemes of this type in other cities and therefore should not be treated as unreasonable.
- 3.5 The real driver behind the Key Decision does not derive from the service charge level in itself but DHA's legal status as a registered charity. If DHA were a registered social landlord, RSL, the question of reduced subsidy would not arise as the Rent Service would not be involved in assessing rent levels and the estimated £830,000 would instead be eligible for reimbursement under the Subsidy rules.
- 3.6 Having regard to recommendation 2.2, increased street homelessness, begging and other anti-social behaviour could cost Council Tax payers more to address than the savings generated by proceeding with the proposed Key Decision – or if unaddressed have a damaging but unquantifiable impact on the City's image and reputation and so harm visitor numbers or inward investment.

SUPPORTING INFORMATION

- 4.1 As mentioned at paragraph 3.2 the Council Cabinet report is thorough but written from the Council perspective. To achieve balance the Derbyshire Housing Aid submission to the Community Commission is included, accessible via this hyperlink:
<http://cmis.derby.gov.uk/CMISWebPublic/Binary.ashx?Document=14643>

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Background papers:	None			
List of appendices:	None			

Typical rent and service charge breakdown at this scheme

Typical core rent charge	68
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Service & Management Charges:	
General Maintenance	6.85
Cleaning communal	10.00
Repair costs	12.02
Heat & Light Com	14.42
Renewals Crockery/bedding	1.25
Furnishings & replacements	9.62
Insurances (Liability & Contents)	2.88
Health & safety, Fire safety, Gas/Electricity testing	5.77
Garden Maintenance	5.48
Pest Control/Pesticides	0.56
Refuse Disposal	1.00
House meetings/collections (eligible)	3.00
House Management and emergency call out	10.00
Window cleaning	1.1
Laundry Facility	2.5
Management and Admin costs	15.44
Voids/bad debt	25.48
Council Tax	4.09
Total service charge	131.46

Total rent and service charge	199.46
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Service charge comparisons and a summary of how we have calculated this proposed restriction

Landlord	This scheme	Comparable accommodation				
		Rethink	Creative support	Stonham	Carr Gomm	English Churches
Type of accommodation	1 roomed accommodation	1 bedroom flat	1 bedroom flat	1 bedroom flat	Room in a shared house	Room in a shared house
Type of client	Homeless – 2 nd stage	Mental health with support	Mental health with support	Supported accommodation	Mental health with support	Homeless – 2 nd stage
Core rent	68	50.22	135.67	72.06	61.53	63.07

Service & Management Charges:							Average of comparable accommodation
Cleaning communal	10	2.85	2.70	No charge	4.39	1.14	2.77
Heat & Light Com	14.42	2.48	2.38	No charge	10.25	4.74	4.96
Voids/bad debt	25.48	No charge	No charge	No charge	No charge	No charge	8.49 (5% used)*
Garden Maintenance	5.48	5.01	1.09	No charge	No charge	2.29	2.80
Management charges	28.44	15.84	1.90	2.69	No charge	6.48	6.73
Total	83.82						25.75

Excessive cost is the difference between average for comparable accommodation and the charges for this scheme	58.07
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* The voids/bad debt provision at this scheme was 15%. Guidance indicates that 5% would be reasonable.