



## **Rent levels and Housing Benefit subsidy**

### **SUMMARY**

- 1.1 This report concerns a supported housing project run by a housing provider in Derby. The project 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 project 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 councils 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 council has to bear the cost of the difference. In this case we are currently losing subsidy because of the high rents being charged.
- 1.5 This report :
  - describes the loss in Housing Benefit subsidy caused by meeting the full cost of the rent and service charge
  - explains how the Housing Benefit regulations deal with rents and service charges where they are considered high for this type of tenancy
  - proposes that the service charge element of the rent be restricted for all new Housing Benefit claims made for this project.

### **RECOMMENDATION**

- 2.1 To restrict the service charge element of the Housing Benefit paid for any new claims made in respect of this project by £40.50 per week from its current level of £131.46 to £90.96.

### **REASONS FOR RECOMMENDATION**

- 3.1 The Housing Benefit legislation places a duty on 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 year. In 2007/08 the subsidy lost for this type of claim was £197,135. This grew to £482,000 in 2008/09. We anticipate that in the current financial year the subsidy loss will grow to around £830,000.

## **SUPPORTING INFORMATION**

- 4.1 Since 2005 a housing provider in the city has been running a supported housing project for vulnerable single people, some of whom have been identified through the night shelter at Milestone House. The project provides accommodation and intensive management support for people who have been homeless and are moving towards independent living. The project is, in part, funded through the Supporting People programme.
- 4.2 We only receive partial subsidy for these types of case. Because Housing Benefit is paid at the full rent charged, the subsidy loss has increased significantly over the past 18 months. Details of how subsidy is calculated for this type of project are in paragraph 4.9.
- 4.3 When the project began the rent and service charge was around £120.00. The exact charge varied slightly from property to property. The rent charge remained at those levels until 2008. In 2008 the landlords increased their charges to around £200.00 per week. This rent included a new and increased service charge of £131.46. A breakdown of the rent and service charge for this project is included at Appendix 2.

The reason given for this increase was that the project was running at a loss. In particular the repairs and maintenance and the management charge was proving much higher than they had originally budgeted for.

We agreed to pay Housing Benefit based on these new charges because the Council valued and supported the project and at that time the numbers were relatively small.

- 4.4 Since 2008 the number of units has increased significantly. In April 2008 there were 49 Housing Benefit claims for this project; this has now risen to 130. The increase in numbers has been incremental and has led to a gradual rise in Housing Benefit subsidy loss over the past year.
- 4.5 The Council have supported the project and at the outset Housing and Advice Services worked with the landlords to help set it up, and access Supporting People funds for the support element.

The subsequent growth in numbers has occurred because the landlords have expanded the project to meet a perceived increase in demand for accommodation for this type of client. However, this expansion has not been developed strategically nor has it been planned for by Supporting People.

4.6 The Supporting People Commissioning Board, at its meeting of 26 May 2009, following recommendation from the Supporting People Core Strategy Group, decided to commission a 'Move-on Service' in recognition of the need to move clients on from Milestone House and hostel accommodation. This service, in line with procurement rules, was put out to tender and, although Derbyshire Housing Aid submitted a tender, they were unsuccessful in winning the contract. The contract was awarded to Action Housing and the 80 units of move-on accommodation will all be in place by April 2010. The 80 units arose from sound research into the need to move clients on to prevent silt up in hostel accommodation. The growth in the Derbyshire Housing Aid scheme has not been strategically commissioned.

4.7 The Council has no power to control the growth of this project. The landlords of this scheme, like any other landlord, can let out as many units of accommodation as they choose. Those tenants have a right to claim Housing Benefit and we have a legal duty to pay any claims made.

The only power we have to control the loss of Housing Benefit subsidy is to limit the level of Housing Benefit paid by restricting the rent or service charge.

4.8 There are special rules for these types of Housing Benefit claim which prescribe:

- the level of subsidy the council receives
- the level of rent we must use to calculate Housing Benefit
- whether the service charge used to calculate Housing Benefit should be restricted.

#### **Subsidy rules for these types of claim**

4.9 We only receive partial Housing Benefit subsidy under the rules that apply to these types of claim. The way the subsidy regime works for these types of cases depends on valuations supplied by the Rent Service. This is because the landlords are a registered charity and some support is provided.

Each Housing Benefit claim must be referred to the Rent Service who tell us the rent level that would be reasonable for the property. This rent figure dictates the level of subsidy we will get for each case. 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, families or disabled, we will get 60% of any amount paid above the Rent Service's figure.

The examples in Appendix 3 help to illustrate how these subsidy rules work.

4.10 The valuations given by the Rent Service are, broadly speaking, property based valuations. For projects 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 a project like this. The Rent Service valuations vary, but on average are around £65.00.

Because the rents in this project are much higher than the valuations given by The Rent Service we are losing a significant amount of subsidy.

In 2007/08 the subsidy lost for this type of claim was £197,135. This grew to £482,000 in 2008/09. We anticipate that in the current financial year the subsidy loss will grow to around £830,000.

This increase in expenditure is almost entirely attributable to this scheme. The level of subsidy loss has grown at this rate because the charge was increased in 2008 and the number of units has grown considerably over the past 18 months.

### **Restricting the Rent for these types of claim**

- 4.11 There is some discretion regarding the extent to which we can restrict the rent used to calculate Housing Benefit for these types of claim.

If we decide that the rent is high, we should restrict the Housing Benefit to the cost of suitable alternative accommodation. Any suitable alternative accommodation used for comparison must be of a similar type in terms of the service provided as well as the rent charged.

In addition there are some special rules for certain protected groups (elderly, families or disabled) which mean that in those cases we can only restrict the rent if we are satisfied that there is suitable alternative accommodation available, and it is reasonable for the customers to move. Clearly these rules relate to the specific circumstances of the customer and could vary from case to case. Around 25% of Housing Benefit claims at these addresses are from tenants who fall into these protected groups.

This presents some difficulties in restricting the rent at this scheme. The reasons for this are:

- there is only limited accommodation in the area to compare with, much of which also has rents which are high
- the added rules for protected groups make it very difficult to restrict the rent in these cases.

Any decisions would depend on the personal circumstances of the customer and could only be made on a case by case basis.

### **Restricting the Service charge for these types of claim**

- 4.12 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 2 shows in detail the individual elements which make up the service charge. Whilst we accept that some of these elements are reasonable, we believe that some are high based on our 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 project 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. We consider that a charge of £10.00 per week for each tenant for communal cleaning is high. The average charge for communal cleaning in comparable accommodation is £2.14.
- **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. We consider that a charge of £14.42 per week for communal heating and lighting for each tenant is high. The average charge for communal heating and lighting in comparable accommodation is £7.15.
- **Management and Administration costs** – weekly charge £15.44. 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 £7.06.
- **Void / 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 we consider that restricting the service charge by a total of £40.50 per week is reasonable. We have calculated this based on the average of charges at similar accommodation in the area. The figure of £40.50 represents the amount by which the service charges at this scheme exceed this average.

Details of the comparisons we have made and a summary of how we have calculated this proposed restriction are in Appendix 4.

If this restriction were to be applied it would result in a reduction of £40.50 for any new benefit claim from tenants at this scheme.

- 4.13 The consequences for the customer if we applied this restriction to the service charge would be a shortfall of £40.50 between the rent the landlords of this scheme are charging and the level of Housing Benefit we pay.

This may lead to an increase in requests for Discretionary Housing Payment to cover the shortfall. However it is unlikely that these requests would be successful if the Council has already made a decision that the service charges were excessively high.

- 4.14 Our regular monitoring of Housing Benefit subsidy identified a steady but significant increase in this type of expenditure early in 2009. We met with Derbyshire Housing Aid in April and this led to a series of meetings to try to resolve the issue. In these meetings they explained that they were not in a position to decrease the charge. They have advised that the project was running on a non-profit making basis and that there was no scope to reduce the rent or the service charge. In their opinion if any restriction to the service charge was applied the project would be unable to continue in its current form.

In their view the project is providing a much needed provision in the City. They said that there were 40 people are on the waiting list. They have had 10 cases where tenants had successfully moved on to independent living in the last six months and a further 20 awaiting move on. The landlords also felt that NI141 (% of vulnerable people achieving independent living) is performing better and this project had contributed to this. This indicator has improved from 57.7% in quarter 3 of 2008/09 to 76.22% in quarter 1 of 2009/10.

The outcome from the meetings has been that the landlords agreed not to extend the project further. However, we have no control to ensure that they adhere to this promise.

- 4.15 The Housing Benefit regulations only allow us to apply this restriction to new Housing Benefit claims. The claims for the 130 existing Housing Benefit claims 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.
- 4.16 If we applied this restriction to all new claims, initial estimates show that the subsidy loss would in time be £200,000 per year less that it would be if we carried on with no restriction. However, this would still leave us with an annual subsidy loss of around £630,000.
- 4.17 As with any 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 they could support them in that process if they wished.

## OTHER OPTIONS CONSIDERED

- 5.1 We could carry on as now with no change. If that were the case we would have to budget for a subsidy loss in the region of £830,000. However if the project continues to grow the subsidy loss will increase.

<b>For more information contact:</b>	Maurice Curtin 01332 255133 e-mail maurice.curtin@derby.gov.uk
<b>Background papers:</b>	None
<b>List of appendices:</b>	Appendix 1 – Implications Appendix 2 – Typical rent and service charge breakdown at this scheme Appendix 3 – Examples of how the subsidy rules work for claims at this scheme Appendix 4 - Service charge comparisons and a summary of how we have calculated this proposed restriction.

<b>IMPLICATIONS</b>
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**Financial**

- 1.1 As set out in the report and appendices.

**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.

**Corporate objectives and priorities for change**

- 5.1 There are links to the Council's Priorities, in particular:
- giving you excellent services and value for money.

## Typical rent and service charge breakdown at this scheme

<b>Typical core rent charge</b>	<b>68</b>
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<b>Service &amp; Management Charges:</b>	
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
<b>Total service charge</b>	<b>131.46</b>

<b>Total rent and service charge</b>	<b>199.46</b>
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## Examples of how the subsidy rules work for claims at this scheme

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

This example illustrates a case where the claimant fall into a protected group, the Rent Service's subsidy level figures are lower than the rent being charged but we have chosen to pay the full rent charged.

In these cases we get full subsidy up to the level set by The Rent Service and then 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	<b>£53.78</b>
				Above the Rent Service figure	$£135.00 \times 60\% = £80.68$	
				Total subsidy paid	$£65.00 + £80.68 = \mathbf{£145.68}$	

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

This example illustrates a case 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 chosen to pay the full rent charged.

In these cases we get full subsidy up to the level set by The Rent Service and then 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	<b>£134.46</b>
				Above the Rent Service figure	Nil	
				Total subsidy paid	<b>£65.00</b>	

## Service charge comparisons and a summary of how we have calculated this proposed restriction

Landlord	This scheme	Comparable accommodation					
		Rethink	Stonham	Creative support	Stonham	Carr Gomm	English Churches
Type of accommodation	1 roomed accommodation	1 bedroom flat	Single room	1 bedroom flat	1 bedroom flat	Room in a shared house	Room in a shared house
Type of client	Homeless – 2 <sup>nd</sup> stage	Mental health with support	Mental health with support	Mental health with support	Supported accommodation	Mental health with support	Homeless – 2 <sup>nd</sup> stage
Core rent	68	50.22	64.16	135.67	72.06	61.53	63.07

									Average of comparable accommodation
Service & Management Charges:	Cleaning communal	10	2.85	1.07	1.64	No charge	4.02	1.14	2.14
	Heat & Light Com	14.42	2.48	18.19	2.46	No charge	7.88	4.74	7.15
	Management and Admin costs	15.44	11.17	14.31	0.65	2.69	No charge	6.48	7.06
	Voids/bad debt	25.48	No charge	No charge	No charge	No charge	No charge	No charge	8.49 (5% used)*
	<b>Total</b>	<b>65.34</b>							<b>24.84</b>

Excessive cost is the difference between average for comparable accommodation and the charges for this scheme	<b>40.50</b>
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\* The voids/bad debt provision at this scheme was 15%. Guidance indicates that 5% would be reasonable.