

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	14 th October 2014
Report of:	Benefits Manager
Subject/Title:	Notice of Motion – Spare Room Subsidy
Portfolio Holder:	Cllr Peter Raynes, Finance

1.0 Report Summary

- 1.1 The purpose of this report is to respond to the following Motion to Council on 27th February 2014 on Spare Room Subsidy¹ which was proposed by Cllr K Edwards and seconded by Cllr P Raynes:

“In line with the aspiration to improve the quality of life of all in Cheshire East, this Council should be satisfied that there has been no harm done to the health and wellbeing of the residents who have been affected by the Spare Room Subsidy.

We therefore call upon this Council to carry out Health Impact, and Equality Impact Assessments on the effects of the implementation of the Spare Room Subsidy throughout the Borough.

In particular, the Council should assess the impact on those residents who have been detrimentally affected, because they have been in receipt of Housing Benefit Support since before 1996.”

- 1.2 The interim response was considered by Cabinet on 29th April 2014², outlining the approach to be taken.

2.0 Recommendations

- 2.1 That Cabinet consider the response to the motion and consider further actions to support those affected by the Spare Room Subsidy. Whilst supporting the regulations to encourage households to downsize and incentivise people to find work or increase hours/pay, Cabinet write to the Rt. Hon. Ian Duncan Smith with the findings of the study.

¹

<http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s32658/Notices%20of%20Motion%20Council%2027%20Feb%202014.pdf>

² <http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s34179/NOM%20-%20Spare%20Room%20Subsidy%20-%20report%20final.pdf>

- 2.2 These are the areas where it is believed a review should be considered:
- Having a clear definition within the Housing Benefit rules with regards to minimum size criteria for a bedroom
 - Allow a bedroom for a child where there is regular access (e.g. a child stays at least one day a week overnight)
 - Consideration is given to allow an additional bedroom where a couple are unable to share, matching the rules where children are unable to share a bedroom due to the medical needs of one of them
 - An additional bedroom can be allowed where it is required to store medical needs
 - Local Planning authorities should encourage the building of more one and two bedroom accommodation

3.0 Reasons for Recommendations

- 3.1 To minimise the impact of the changes on the health and wellbeing of those affected.
- 3.2 To support the aim of the reforms to encourage and support the residents of Cheshire East into employment.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Those affected by the Spare Room Subsidy are entitled to apply for a Discretionary Housing Payment (DHP). The DHP Policy³ outlines the discretionary support for those facing a shortfall between their housing benefit award and rental liability.
- 6.2 The Cheshire Homechoice Common Allocation Policy⁴ ensures those households downsizing, where agreed by their landlord, are placed in the highest priority band (band A).

³ http://www.cheshireeast.gov.uk/benefits_housing_council_tax/discretionary_housing_payments.aspx

⁴ http://www.cheshireeast.gov.uk/housing/housing_options/rented_social_housing.aspx

7.0 Implications for Rural Communities

- 7.1 Those living in rural communities may have less access to alternative affordable properties in the local area and have to move away from family and support

8.0 Financial Implications

- 8.1 The Council receives funding from the Department for Work and Pensions (DWP) for the Discretionary Housing Payment Scheme. Any spend over the Government's contribution is to be funded by the Council. The expenditure for 2012/13 onwards is shown below for comparison:

Year	Government Maximum contribution	Expenditure
2014/15	£488,079	£267,510 as at 31 August 2014
2013/14	£451,401	£287,063
2012/13	£226,396	£118,363

Table 1 DHP expenditure showing actual and committed expenditure by Cheshire East

- 8.2 The DWP has stated the increased funding for DHPs is to reflect the potential increase in demand as a result of various welfare reforms.
- 8.3 The following chart depicts the original national DHP allocation with the increased (in £m) allocation for the changes to Local Housing Allowance (affecting private rented claimants), the removal of the Spare Room Subsidy (affecting working age Social Housing claimants) and the Benefit Cap (affecting working age claimants with higher income including housing benefit):

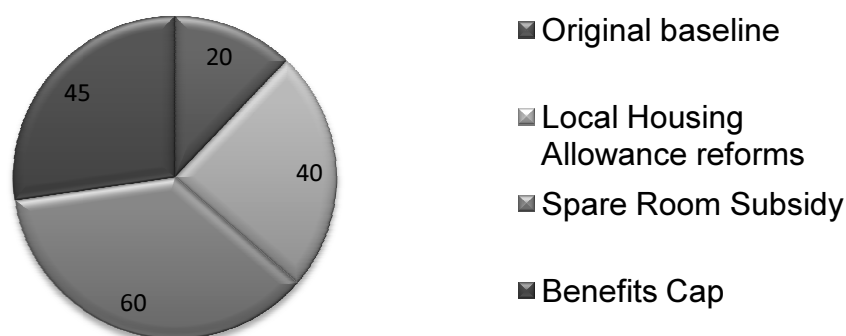


Figure 1 DHP national expenditure for 2014-15 in £m

- 8.4 As the Council does not have its own housing stock, any impact on rent collection rates and increased cost of collection only affects Registered Housing Providers (Housing Associations). More information on this impact is included in 11.8.

9.0 Legal Implications

- 9.1 The government made changes to housing benefits with effect from 1 April 2013. The Housing Benefit (Amendment) Regulations 2012 reduced the rent that is eligible for housing benefit by 14% where a recipient of housing benefit is judged to have one spare bedroom and by 25% where there are two or more extra bedrooms.
- 9.2 However, when previous changes to the housing benefit scheme were introduced in 2006, transitional protection was provided to claimants in certain circumstances. When the housing benefit rules were changed again in 2013, this transitional protection was preserved and some tenants were seeking to have their housing benefit entitlement decided in accordance with the transitional provisions in the 2006 Regulations instead of the Housing Benefit (Amendment) Regulations 2012. This in effect prevented any deductions due to under-occupancy, which was causing an anomaly and defeating the policy intention of the government in certain circumstances.
- 9.4 Amendments have therefore been made to The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 which came into force on 3 March 2014. This amendment should ensure that all tenants are now subject to The Housing Benefit (Amendment) Regulations 2012 and therefore ensure consistency of approach in application of the under-occupation reductions to housing benefit claims.

10.0 Risk Management

- 10.1 The Corporate Welfare Reform Group and the Benefits Section maintain a risk log in connection with all the welfare reform changes. Following the initial implementation the main remaining risk surrounding the removal of the Spare Room Subsidy is:
- Demand for Discretionary Housing Payments exceed the available budget
- 10.2 As part of the implementation of this change and on-going monitoring of impacts, a Health Impact Assessment has been maintained. Further information on this is included at 11.12.

11.0 Background and Options

- 11.1 Principles of under-Occupancy (Spare Room Subsidy)
From April 2013, when assessing claims for Housing Benefit, the household is reviewed to determine the number of bedrooms required, compared to the number of bedrooms in the property. If a working age claimant is considered to be occupying a property with more rooms than their household requires, the rent used for calculating Housing Benefit is reduced by:

- 14% if classed as having one spare bedroom
- 25% if classed as having two or more spare bedrooms

Those of pension age are not affected.

11.2 The objectives of the reforms are to encourage households to:

- Downsize, freeing accommodation for larger households in need
- Encourage those who can work to do so

11.3 A great deal of publicity was undertaken by the Council and the Registered Housing Providers to ensure all those affected were aware in advance of the changes being introduced, and of the options available to them. Claimants were advised in mail shots, at drop-in sessions and by visits and telephone about the changes and signposted to support and advice, such as moving to smaller properties or taking on lodgers, claiming Discretionary Housing Payments and assistance in managing household budgets.

11.4 Pre-1996 'loophole'

As outlined in the report to Cabinet on 29 April 2014, there was a loophole in the regulations, which was amended from 3 March, where some claimants who had been continuously in receipt of Housing Benefit since 1996 would not be affected by the Spare Room Subsidy until the rules changed. The following is an update on the review of those who may be eligible:

- 206 of the requests considered so far (118 have been allowed and 88 refused)
- 127 left to check
- Average refund for 1 room: £528
- Average refund for 2 or more rooms: £1,090
- Total refunded so far: £92,740

11.5 The following shows the number of households affected by Spare Room Subsidy across Cheshire East, split by those under occupying by one bedroom and those by two or more bedrooms.

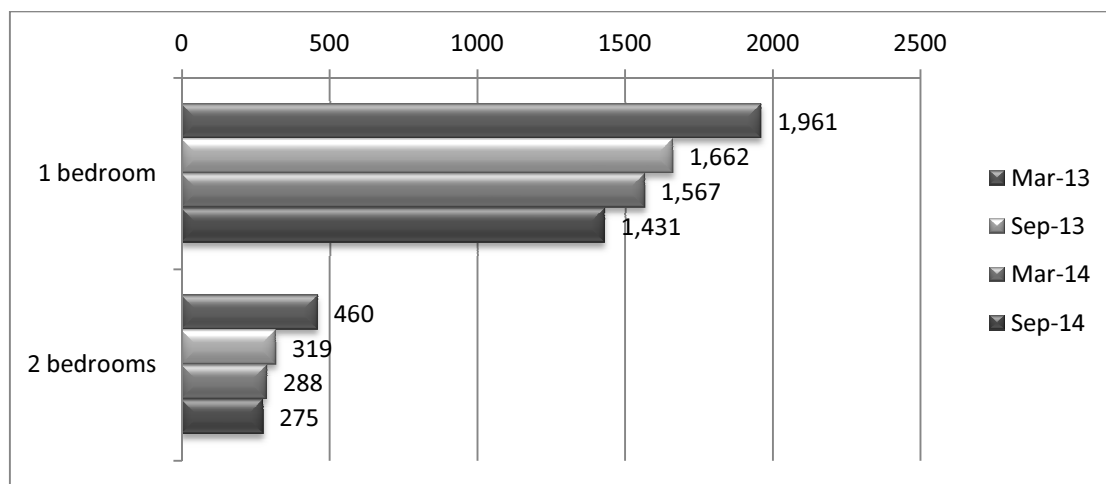


Figure 2 Numbers affected by Spare Room Subsidy

- 11.6 The average weekly reduction in eligible rent, used for Housing Benefit purposes, for those affected is:
£13.54 for those under occupying by one bedroom
£25.06 for those under occupying by two or more bedrooms
- 11.7 Of those currently affected, 319 are in receipt of a DHP. The average weekly award is £15.85.
- 11.8 Based on feedback from Registered Housing Providers:
- 8.9% of the stock affected
 - Arrears increased by 5.4%
 - 10% of those affected have downsized
 - 3% are waiting to move on
 - Remainder have decided to remain
- 11.9 There has been a 30% increase since 2013/14 in the number on the waiting list looking for social housing, due to the increased demand to downsize with an increase of 12% by those facing overcrowding:

As at 9 September 2014:

6,324 households are waiting for accommodation of which
923 have been awarded priority due to under occupation and
554 have been awarded priority due to overcrowding

Bedrooms required	Applications held
1	3295
2	2181
3	701
4	133
5	14
6	1

Table 2 Demand for property size

11.10 When comparing 2012-13 to 2013-14 there has been a 25% increase in property turnover:

- 5% increase in 1 bedroomed
- 35% increase in 2 bedroomed
- 40% increase in 3 bedroomed
- 70% increase in 4 bedroomed
- 400% increase in 5 bedroomed

11.11 The following case studies help to demonstrate the impact and outcomes of the removal of the Spare Room Subsidy:

Case study 1 - downsizing

Miss A is working part time and lived in a 2-bedroomed property. The rent was £92.45 per week. As she was under-occupying by one room her eligible rent was reduced by 14% (£12.94). She has moved to a 1-bedroomed property but the rent is higher at £105.94.

Based on her housing benefit entitlement, she used to contribute £53.83 per week. Following the move she now pays £40.43, so is better off financially. If she rented in the private sector, the maximum rent which would be met by Housing Benefit under the Local Housing Allowance⁵ is £84.

Case study 2 – size of bedroom and access to a child

Currently the Benefits Section relies on Landlords for confirmation as to how many bedrooms a property has. There is not a legal definition outlining any size criteria for a bedroom for Housing Benefit purposes.

Mr B is living in a 2-bedroomed property on his own. The landlord has confirmed that it is classed as having 2 bedrooms. Mr B has a child staying with him overnight occasionally, but this is not his main home.

The second bedroom is 7 feet 11inches by 4 feet 6 inches.

Mr B can only be treated as needing a one-bedroomed property so is subject to a 14% deduction for having one extra room.

Mr B appealed and his case was heard by the First Tier Tribunal (HM Courts and Tribunal Service). Following the hearing, the Tribunal allowed the appeal on the grounds that he has access to his son and the room is too small to be a bedroom.

Case study 3 – adapted property

If a claimant or partner requires overnight care provided by someone who is not a member of the household, an additional bedroom can be allowed. This is not the case if the care is required for a dependent child or other adult. An additional bedroom is not allowed where a couple are unable to share a bedroom due to medical needs or need a room to store medical equipment. They are required to claim a DHP to help meet the shortfall.

Mrs C lived in a 5-bdroomed property which was adapted. As some of her adult children had moved away she was under-occupying by 2 bedrooms and had to downsize as she could not afford the shortfall. The adaptations at the new property cost £16,333.

⁵ http://www.cheshireeast.gov.uk/benefits_housing_council_tax/local_housing_allowance.aspx

The average cost of adapting a property in 2013/14 was £4,712. The lowest cost is usually £1,300 (installing a stair lift), through to the upper grant limit of £30,000.

11.12 The Health Impact Assessment covering the removal of the Spare Room Subsidy, highlighted the following:

Of the **167,616** properties within Cheshire East, there are **19,433** properties where the landlord is a Registered Housing Provider

18,927 households in Cheshire East are receiving Housing Benefit (social housing and private rented)
of which:

12,757 of the households are renting from Registered Housing Providers (social housing)

7,630 of these households are claimants of working age and potentially subject to the Spare Room Subsidy with

1,706 actually affected by the Spare Room Subsidy

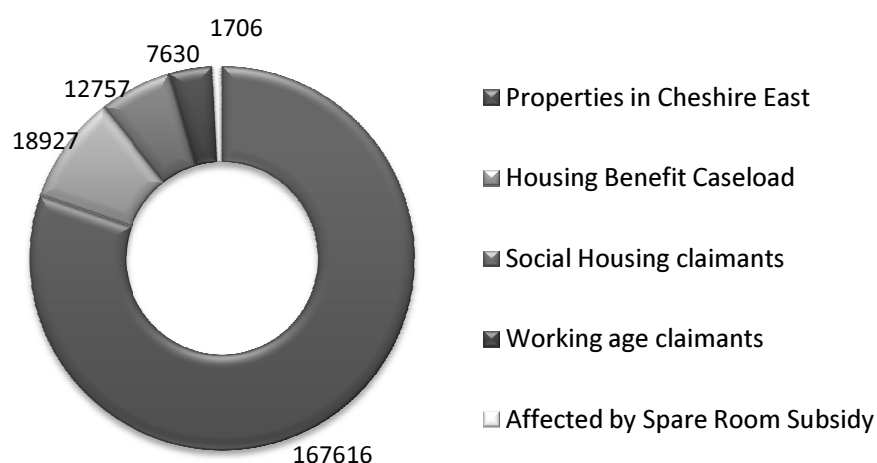


Figure 3 Impacts on properties within Cheshire East

11.13 From the Health Impact Assessment, the majority of those affected can move and downsize and/or gain employment or increase hours, with only the following groups felt to be most vulnerable and most likely to be supported by a Discretionary Housing Payment:

- Those in adapted properties (more than just a minimum adaptation)
- Those requiring an additional bedroom for storing medical equipment
- Couples who are unable to share a bedroom due to health needs of one of the couple
- Families where an extra bedroom is required by a non-resident overnight carer providing support for another member of the

household who is not the claimant or partner (a room can be allowed in that scenario)

Ongoing review

- 11.14 The Corporate Welfare Reform Group is continuing to review and plan for the introduction of the wider welfare reforms, working with partners, and to evaluate the impacts on Cheshire East. The Benefits Team have been working hard with customers and stakeholders to help to mitigate the impact and provide support and advice for those affected.
- 11.15 The group will continue to work with partners to encourage and support residents of Cheshire East into employment.

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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