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Under-occupation Policy

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1 EXECUTIVE SUMMARY

- 1.1 The introduction of the Welfare Reform Act 2012 has led to cuts in the amount of housing benefit people receive if they are deemed to have a spare bedroom in their council or housing association home. This measure applies to housing benefit claimants of working age from 1st April 2013. South Cambridgeshire District Council (SCDC) has prepared for this by identifying and contacting those tenants potentially affected and offering a range of opportunities to minimise the impact of these changes. This includes the option to downsize to a smaller property, access to an approved lodger scheme, advice and support in finding work or training and financial/benefits advice via Cambridge Citizens Advice Bureau (CAB). SCDC housing and benefits staff are working closely with residents to offer advice and support to help minimise the financial impact of these changes on households including working closely with local partner organisations in the public and voluntary sector. SCDC has joined the Huntingdonshire Under-occupation Partnership Agreement to provide a joined up approach to tackling the issue of under-occupation in the sub region and to help share best practice.

2 INTRODUCTION AND BACKGROUND

- 2.1 The Chancellor announced Government's plans to restrict Housing Benefit for under-occupying, working age social sector tenants in the June 2010 emergency budget. This led on to the introduction of the Welfare Reform Act 2012 which allowed for the introduction of the Housing Benefit (Amendment) Regulation 2012 which came in to force on 1st April 2013. This new legislation introduced a size criteria for social housing tenants which is now in line with restrictions applied to the private rented sector under the local housing allowance. From 1st April 2013 housing benefit will be reduced for working age, social housing tenants deemed to be under-occupying their rented property. This does not apply to anyone of state pension credit age. Where one member of a couple receiving Housing Benefit is over state pension credit age then the size limit will not apply to them. This situation may alter with the introduction of Universal Credit.

3 UNDER-OCCUPATION DETERMINATION

- 3.1 The size criteria in the social rented sector will restrict housing benefit to allow for one bedroom for each person or couple living as part of the household with the following exceptions:
- Two children under 16 of same gender expected to share.
 - Two children under 10 expected to share regardless of gender.
 - Disabled tenant or partner who needs non-resident (not a member of the household) regular overnight care will be allowed an extra bedroom.

- Approved foster carers will be allowed an additional room so long as they have fostered a child, or become an approved foster carer in the last 12 months.
 - Adult children in the armed forces will be treated as continuing to live at home when deployed on operations.
 - Children who are unable to share a bedroom because of a severe disability.
- 3.2 Where parents who don't live together have shared care of their children, the children will be treated as living with the parent who is considered as responsible for them and provides their main home. The parent who is not considered to provide their main home will not be entitled to receive Housing Benefit for an extra room for their child/children.
- 3.3 Children that are living away, such as at university, are not included as a member of the household unless their absence is temporary (less than thirteen weeks or 52 weeks for students) and the young person concerned intends to return home.
- 3.4 Couples, where one partner has a disability, will still be expected to share a room under the legislation. If there is a reason that an extra room is necessary due to the disability the Council may be able to help with the extra rent through the Discretionary Housing Payment fund (see point 9. below).
- 3.5 There may be circumstances where someone in receipt of Housing Benefit would be considered to be under-occupying because of a death in their households. In these circumstances they would be protected and the size limit rules would not be applied until after 12 months or they moved home or there was another change of circumstances.
- 3.6 Where a tenant could previously afford to pay rent but finds themselves in a situation where they can no longer, for example because of a loss of job, provided they have not claimed Housing Benefit in the last 52 weeks, the size limit rules will not be applied for the first 13 weeks. They will be applied earlier than 13 weeks if the tenant moves home or there is another change of circumstances.

4 BEDROOM SIZE

- 4.1 There is no definition of a minimum bedroom size set out in legislation. The Department of Work and Pensions HB/CTB Circular A4/2012 – Adjudication and Operations circular states:- 'We will not be defining what we mean by a bedroom and in legislation there is no definition of a minimum bedroom size set out in regulations. It will be up to the landlord to accurately describe the property in line with the actual rent charged.'
- 4.2 Some residents have queried whether the small bedroom at their property is large enough to be deemed a habitable room and have referred to legislation set out in the 1985 Housing Act. However this legislation regarding minimum room sizes relates to a statutory determination of overcrowding and has no

other relevance. Given that overcrowding legislation accepts habitable rooms as bedrooms, living rooms, dining rooms and kitchens it is unlikely that any social housing tenants will be statutorily overcrowded.

- 4.3 Before moving in to properties all SCDC tenants have agreed with and signed Tenancy Agreements accurately describing their properties in terms of the number of bedrooms and rent charged. Therefore the Council's policy is that the number of bedrooms stated on the signed Tenancy Agreement will be used to calculate housing benefit entitlement.
- 4.4 We will not be re-designating properties based on differing room sizes as a result of the Welfare Reform changes.

5 REDUCTION IN HOUSING BENEFIT

- 5.1 The reduction will be a fixed percentage of the housing benefit eligible rent for the property. The Government has set this at 14% for one extra bedroom and 25% for two or more extra bedrooms.

6 PAYMENT OF RENT

- 6.1 Any shortfall in rent following a reduction in housing benefit will need to be paid by the tenant to the Council.
- 6.2 If a tenant falls into arrears because of non payment of the shortfall, then the normal procedure for collection of rent arrears will be followed, including legal action where no attempt is made to clear the arrears.

7 OPTIONS AVAILABLE TO SUPPORT TENANTS AFFECTED BY A REDUCTION IN HOUSING BENEFIT

- 7.1 All tenants identified as being affected by the changes in housing benefit were initially made aware of the changes in October 2012 by letter and this was followed up through a home visit or telephone call to ensure tenants were aware of the implications and the options available to them.

7.2 Downsizing to smaller accommodation:

- The Council has employed a dedicated Under-occupation Officer to provide advice and support to those wishing to transfer to smaller accommodation.
- All lettings of rented social housing in the sub region is allocated through Home-link, which is a sub-regional Choice Based Lettings Scheme. Tenants wishing to transfer need to register with Home-link. Their application will be assessed and given a priority based on their housing circumstances. Applicants can then 'bid' for suitable properties which are advertised when available for letting.
- The Allocations Policy was reviewed in 2012 in consultation with partners, members, organisations and applicants, and was approved by the Housing

Portfolio Holder for implementation from 1st April 2013. The new Allocations Policy gives greater priority to tenants who are under-occupying, with highest priority given to those households under-occupying by two or more bedrooms.

- Tenants wishing to transfer to smaller accommodation who are affected by a reduction in housing benefit due to being under-occupied may be offered a direct let where they have been unsuccessful in finding a suitable property through Home-Link. Decisions on direct lets where the property is not advertised through Home-Link can be authorised by the Housing Options and Allocations Team Leader or the Housing Management Services Team Leader.
- Support to move scheme. Where tenants need help to downsize SCDC has a range of discretionary support it can offer which will be tailored to individual needs from the list below:
 1. Organise and pay for removals costs through a local approved contractor.
 2. Time given to hand in keys for the old property – up to 2 weeks rent free.
 3. Organise additional cleaning and/or decorating of the property the tenant is due to move to (above the basic void standard).
 4. Payment towards rent arrears at existing property to help facilitate move and prevent transfer of former tenant debt to new property.
 5. Organise and pay for a room/s to be carpeted or for someone to take up and refit carpets in the new property.
 6. Help with organising the move or paying for change of utilities or appliances e.g. disconnection and reconnection of gas appliances.
 7. Help with organising or paying for any other reasonable costs associated with the move.

Support of up to £600 per move can be awarded and has to be authorised by the Housing Services Team Leader or Housing Options and Allocations Team Leader.

7.3 Taking in a Lodger

- All secure and flexible tenants have the right to take in a lodger as long as their property is not considered to be overcrowded. They must inform the Council of who is living with them.
- Introductory tenants will need to seek the permission of the Council before they can take in a lodger.
- A guidance booklet has been published to give advice and support to tenants considering taking in a lodger.

7.4 Approved Lodger Scheme

- SCDC is working in partnership with King Street Housing Society to operate an approved lodger scheme.
- The scheme is beneficial in two ways in that it helps those seeking accommodation in South Cambs who otherwise would find it difficult to afford private sector rents and it helps those households identified as under-occupying who stand to lose housing benefit due to the welfare reform changes.
- The scheme has a co-ordinator employed by King Street Housing Society who will help people throughout the process. Support is provided to help

ensure a successful lodger placement including conducting a thorough initial assessment which includes a risk assessment and preparing all the relevant paperwork.

7.5 Financial/Benefits Advice

- SCDC is working in partnership with Cambridge CAB to help facilitate good financial advice for our customers. Cambridge CAB can advise on; budgeting and saving; getting good deals; claiming the right benefits and dealing with debts. Appointments are available with experienced CAB advisers at SCDC offices or there is a visiting/telephone support service if people have transport difficulties.

7.6 Help with finding work

- SCDC has established links with a local housing association – CHS Group who offer free employment, education, training and volunteering advice. One-to-one support is provided to tenants in the comfort of their own home to help with preparing CV's, applying for jobs and developing interview techniques, as well as signposting to training and further education.
- As part of the development of the Council's Tenant led scrutiny function, tenants have the opportunity to participate in a voluntary role to help shape the housing service. Training, support and mentoring will be provided by the Council to enable tenants to gain additional skills which can assist them in finding employment.

8 UNDER-OCCUPATION PARTNERSHIP AGREEMENT

8.1 The Partnership Agreement was initially established in Huntingdon between the local authority and registered providers. South Cambridgeshire District Council joined the partnership in July 2012 with the view to widen the scheme out across the sub-region. The aim of the Partnership Agreement is to agree a joint approach to work pro-actively and share good practice to reduce under-occupation in the social rented stock. Actions include

- Data collection and monitoring
- Providing consistent advice and information
- Targeting the development of new affordable housing
- Review the Home-link Choice Based Lettings Scheme
- Investigate incentives to move and funding available

9 DISCRETIONARY HOUSING PAYMENTS (DHP)

- In certain circumstances a tenant may be entitled to a payment from the Discretionary Housing Payment fund. This is a fund administered by the Council for those considered to be in real need of additional help with their housing costs, which includes both rent and council tax. The Government give

local authorities a limited amount of money to pay out each year as DHP's and we cannot spend any more than this.

- Awards of DHP's will be based on a detailed household financial assessment and decisions will be confirmed in writing. A DHP leaflet is available to tenants providing further details.
- There is an appeals procedure if people do not agree with our decision not to award a DHP.

10 APPEAL

10.1 If a tenant disagrees with a decision based on this policy they can formally request an appeal. The appeal will be heard by a panel that will include officers who were not party to the original decision. The appeal panel will consider the following:

- Whether the property is correctly described in the Tenancy Agreement.
- Whether the Council is correct to reduce housing benefit entitlement based on the household details.

11 SERVICE STANDARDS

11.1 Our commitments:

- We will be clear and transparent to tenants and housing register applicants regarding the new Welfare Reform changes.
- We will publish information about advice and assistance available and ensure that services are accessible.
- We will give our best endeavours working with partners to prevent financial hardship wherever possible. We will promote welfare benefit and independent money advice to customers as well as our in house advice services.
- We will have a fair system of administering and awarding Discretionary Housing Payments based on a detailed financial assessment and will refer people to financial/benefits advice services.