

Subject:	Local Discretionary Social Fund (Local Welfare Provision)		
Date of Meeting:	29th November 2012 Policy & Resources Committee		
Report of:	Director of Finance		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Government has abolished Community Care Grants and Crisis Loans from April 2013. These national schemes were administered by the Department of Works and Pensions (DWP). A budget which reflects the 2005/6 expenditure for these schemes will be given to local authorities to use from April 2013. The Government is referring to this as Local Welfare Provision. Councils are expected, but not prescribed, to have a suitable scheme in place and to use these funds to 'give flexible help to those in genuine need'. The DWP have said they expect to audit and publish details of how councils choose to do this.
- 1.2 This provision is another aspect of the Government's welfare reform programme and one of a number for which the council has been given the responsibility to deliver. Others include council tax support, various changes to housing benefit and Local Housing Allowance.
- 1.3 This report sets out the council's proposed scheme to administer this budget to address the needs of the most vulnerable in the city in a way which supports the council's strategic objectives.

2. RECOMMENDATIONS:

- 2.1 That the feedback from consultation be noted.
- 2.2 That it be agreed an interim scheme for Local Welfare Provision will be set up for the first year and the information and evidence gathered from this first year be used to review and update the scheme for year 2.
- 2.3 That the proposed interim scheme as set out in paragraph 3.17 and appendix 1 be agreed.
- 2.4 That the Director of Finance, the Head of City Services and other officers exercising relevant functions be authorised to take all appropriate steps to develop, implement and administer the scheme.

- 2.5 That the Head of Law be authorised to amend the Scheme of Delegations to Officers as appropriate to refer to the Local Welfare Provision.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Currently Crisis Loans are available nationally from Jobcentre Plus for people who face a short term emergency, where they face a realistic prospect of harm. These payments are made on the basis of loans and claimed back via reductions against national benefits. Community Care Grants also available nationally for people who need help to return to or remain in the community and are often used to buy items such as furniture and white goods.
- 3.2 As part of the Government's welfare reform programme Crisis Loans and Community Care Grants are being abolished from April 2013. The DWP expect to reduce expenditure on these items in 2012/13 to 2005/6 levels. The budgets passed to councils will be based on the actual level of expenditure the DWP will pay in 2012/13. DWP officials have stated they expect to meet their target to reduce expenditure to 2005/06 levels.
- 3.3 The indicative budget for 2013/14 is £629,487 with £133,015 for administration; for 2014/15 the budget is £629,487 with £121,923 for administration. These amounts are based on 2005/06 spend. Broadly, we will have at least £400,000 less money to pay out than people in the city currently received in 2010/11 through these means from Jobcentre Plus and £100,000 less than 2011/12. (Figures for expenditure in 11/12 were published on 29th October 2012).

Legislation and guidance

- 3.4 The Welfare Reform Act 2012 abolished Crisis Loans and Community Care Grants. The budgets are being handed to councils probably under section 93 of the Local Government Act 2000 (grants for welfare services).
- 3.5 The budget does not come with any new duties, as such it is for the council to determine how it is used.
- 3.6 It is the Government's intention that we use this in such a way as to help genuinely vulnerable people. The following is from the DWP settlement letter dated 6th August 2012;

As you are aware, the Government has decided that it would not be appropriate to place a new duty on local authorities/devolved administrations in respect of the new provision you are planning. You need to be able to flex the provision in a way that is suitable and appropriate to meet the needs of your local communities.

However, whilst we do not want or expect you to replicate the current scheme in either whole or part, it is incumbent upon me to say that it is the intention of the Government that the funding is to be used to provide the new provision. Whilst the Government recognises the difficulties relating to the boundary between providing financial support and social services, we expect the funding to be concentrated on those facing greatest difficulty in managing their income, and to

enable a more flexible response to unavoidable need, perhaps through a mix of cash or goods and aligning with the wider range of local support local authorities/devolved administrations already offer. In short, the funding is to allow you to give flexible help to those in genuine need.

I would add that spending decisions are, and will continue to be, a matter for local authorities and the Government does not intend to start placing restrictions on any future decisions they may make on funding

A copy of the full letter is included in appendix 2

The Budget

- 3.7 It is the DWP's intention to return to 2005/06 levels of funding for Community Care Grants and Crisis Loans for Local Welfare Provision in 2013/14. The DWP have stated this will only be the case for 2013/14 if they can achieve these levels in 2012/13.
- 3.8 The DWP released the settlement letters to all upper tier Local Authorities on 6th August 2012. The letter states that the indicative Social Fund budget for Brighton & Hove in 2013/14 will be £629,487. The program funding is a proportion of the total expenditure for the Discretionary Social Fund, based on the spend for each area for 2011/12. These are indicative figures and final figures are expected in November 2012.
- 3.9 The New Burdens Funding has also been announced. Brighton & Hove has been awarded set-up funding of £6,295 and administrative funding of £133,015 for 2013/14. In 2014/15 the administrative funding will be reduced to £121,923. After this point the administrative funding is likely to be part of the wider Local Authority Grant Settlement
- 3.10 It is important to note that Crisis Loans are currently made as a loan payment with repayments made through reductions in state benefits. The council will not have this latter option and has no powers, for instance, to make deductions from housing benefit to take repayment of a crisis loan.

Demand

- 3.11 DWP information shows that there were around 9,650 applications for Crisis Loan and Community Care Grants in 2010/11 and 7420 in 2011/12.
- 3.12 The reduction in grant between that paid out in 2010/11 and the amount which is due to be given to the council is £403,613; the reduction between that which was paid out in 2011/12 and the amount due to be given to the council is £112,213.
- 3.13 Because of the reduction in money the council will not be able to make payments at the same level or to make the same number of awards as have been made in the last six years by the DWP.
- 3.14 In addition, the level of administrative funding which has been provided to the council will mean dealing with the same level of demand as for the last two years for which there are figures will be very challenging. There is also a significant risk

that demand for discretionary funds will increase as levels of statutory benefits, specifically housing benefit and council tax support decrease from April 2013.

- 3.15 As such, it is absolutely essential the council prioritises cases with the most need and signposts those who could access other statutory funds to mitigate the situation they are in to the appropriate agencies. Officers have worked with partners in the city and undertaken consultation to develop an approach which will achieve this. The most effective way of doing so will be to provide a service with acute response times which delivers provisions in kind.

Approach to designing the scheme

- 3.16 In designing the scheme the council has taken into account a wide range of complex issues including:
- Feedback from initial consultation with stakeholders including prior recipients of crisis loans and community care grants.
 - Feedback from formal consultation.
 - Information provided by the DWP about Crisis Loans and Community Care Grants.
 - Information provided by the local Jobcentre Plus.
 - The interaction with other discretionary funds available in the city.
 - Government guidance.
 - An assessment on the impact on Equalities (Equality Impact Assessment appendix 3).
 - Management of expectation and demand.

The proposed Scheme

- 3.17 The following criteria are suggested for the scheme. The first two mirror the policy intentions of Crisis Loans and Community Care Grants
- To allow people to return to or remain in the community without the need for extra care.
 - To support the most vulnerable in urgent situations through signposting to appropriate support services, advice, or through provision and access to goods.
 - To use the funds in the short term to prevent further and higher impacts on other service budgets in the city.
 - To engage individuals with appropriate support services where needed to prevent repeat applications.
 - To support the most vulnerable in a holistic way which will have a positive effect, without the use of cash.
 - To meet standing statutory duties under Homeless, Equalities, Human Rights Act and Child Protection legislation.

The Scheme

- 3.18 The proposed scheme is set out in appendix 1; its key features include:

- A holistic approach to support an individual or family in crisis including advice and referral to other agencies as an alternative to, or in addition to, the provision of emergency goods.
- Assistance by goods in kind, direct referral to local retailers and in very rare cases use of payment cards. Generally, the council does not propose to make cash payments available through this scheme. The council is committed to avoiding stigmatising anyone who needs support from this service; the council is working to ensure payments cards will not allow retailers or other customers to identify that these have been provided through this service.
- Awards will be made where people have undergone an unforeseeable emergency or crisis and as a result they or their family face significant harm which may be alleviated by assistance from this fund. In addition, assistance will be made where a person needs help moving into the community, or staying in the community where otherwise they would not be able to do so.
- Utilising the trade in quality second hand and refurbished goods from charitable partners in the city and county.
- The assistance will be strategically aligned to other statutory and discretionary funds which are available to customers in the City to avoid repeat applications and duplication of provision.
- The cost to the council of the assistance will, in principle, be an interest free loan. This will maximise the number of people the council can help. However an individual and their family's circumstances will be taken into account when deciding whether it is reasonable to recover that amount. (Subject to further research on the legal mechanics of this approach)
- Given the cash limited nature of the budget, the cost to the council of assistance made will need to be flexible according to demand and take up.
- Where appropriate make direct specific provision through other agencies.

Administration

3.19 The proposed administration of the service will be run from within the Revenues & Benefits Service. Due to the level of funding given for the administration costs it is likely this will be a phone and online service in all but the most exceptional cases.

3.20 Feedback from consultation has suggested there is no requirement for an out of hours service for these provisions, as cases can be picked up by the police and social services as they would be now.

Interim scheme for year one

3.21 The council will keep this scheme fully under review during its first year of operation. As such, details will be retained on numbers of applications, the reasons for applications, number of successful applications and the value of those awards. In addition, details will be kept of unsuccessful applications and the reasons they were unsuccessful. The council will continue to engage with and learn from colleagues in the voluntary and charitable sectors about the impact of these changes.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 The council has sought to consult as widely as the very tight timescales will allow on this issue.
- 4.2 There are no requirements accompanying this budget specifying a requirement to consult.
- 4.3 Early consultation was undertaken widely with voluntary agencies, charities, council services, Jobcentre Plus and prison support staff that support customers who have in the past applied for Crisis Loans and Community Care Grants. A full list is in appendix 4.
- 4.4 Public consultation opened on 26th September 2012 and ran until 24th October 2012. A copy of the full consultation report is in Appendix 4.
- 4.5 Voluntary agencies agreed to engage with customers of Crisis Loans and Community Care Grants to assist them to complete the consultation so we can ensure we have information from the people who may use the service.
- 4.6 Of the people who responded to the consultation, 37% have had direct personal experience of applying for Community Care Grants or Crisis Loans. Additionally, a further 27% of respondents did so on behalf of organisations which support people in applying.
- 4.7 The key findings from the consultation are:
- Administration: 36% were in favour of running the scheme via a telephone service; 30% as an online service; 20% face-to-face and 14% via paper application only. From April 2013 it is likely the scheme will be run predominantly as a telephone based service with some facility for face-to-face provision where the needs of the customer means this is required. In addition, 77% of respondents agreed to the proposed review process if a person disagreed with a decision the council made.
 - 64% are in favour of providing food as an in-kind payment rather than giving cash for food. 24% disagreed with this. The council is continuing to look for opportunities to work with local food providers and voluntary schemes to enable this, however this work is ongoing and will continue to be developed through the first year of the scheme. From April 2013 it is likely the council will need an expedient solution to this issue which is likely to mean direct referral agreements with some supermarket branches and the use of shop payment cards.
 - 79% are in favour of furniture and white goods being provided directly to applicants where they are required. In addition 85% were in favour of the proposal to use good quality second hand and recycled goods to meet this need. Officers have met and are working with charities in the city and East Sussex who specialise in the provision of second hand furniture to meet this need. In addition they have identified a charitable supplier who can source new white goods at a 'social tariff' should there at any time not be sufficient second hand resources.

- 70% are in favour of making larger payments on the basis of a loan rather than a grant. It is proposed that payments are made in principle on the basis that they are a loan for the key reason that any money paid back to the council can be used again to help other vulnerable people and families. However in deciding whether to recover a payment from an individual, the council will need to be very sensitive to the impact that recovery may have on that individual in terms of their economic sustainability. There is a wide range of opinion over what level of award should be recovered. 34% thought this should start at £100, however 10% thought this should not be repayable until awards were over £500.
- 94% were in favour of further sign-posting and advice being available via the service which will administer this scheme. This will be the key element of the service which is developed. It is imperative the council can assist individuals and families in addressing underlying issues in addition to meeting the needs of an acute emergency or crisis.
- The grants for this fund are not ring-fenced and do not come with any new duties. Therefore the council could choose to use them to provide support by absorbing the funding into other services. Only 16% were in favour of this approach. Fears expressed centred around lack of transparency and the potential exclusion of individuals and families who are not engaged, or will be, with other council services.
- 82% agreed with the criteria (set out in para 3.17). Some people felt they should specifically mention some vulnerable groups such as survivors of domestic violence and those with mental health or disability needs.
- The consultation asked if people thought the scheme should be limited to people who are on income related benefits. 49% disagreed with this, with only 40% agreeing. The main thrust of the arguments against this was that there will always be people 'on the edge' of categories and this definition could exclude a number of people who may still face crisis or emergency situations. In response to this the proposals have been changed to include people who have an entitlement to Working or Child Tax credits.
- 84% of people agreed that the scheme should be limited to residents of Brighton & Hove. All local authority areas will have their own version of a scheme and therefore it is appropriate that these funds should be focussed on people who live in Brighton & Hove. Residency may be very short term, for example in the case of people moving here because they are fleeing domestic violence or for those without a permanent residence. The council will need to be sensitive to these issues when deciding whether a person is resident.
- 46% agreed that funding should be used to help people accept work opportunities and 42% disagreed with this proposal. The disagreements were mainly on the basis that there are already funds in place to assist people in this situation from Jobcentre Plus. As such, the council is working closely with Jobcentre Plus so our staff have a clear understanding of these funds and can refer people as appropriate.

- 73% favoured limiting the number of successful awards a person could receive in a year while only 55% favoured limiting the number of applications a person could actually make. Opinion varied on the actual number of maximum successful awards a person should be able to receive in a year but 63% thought it should be three or less. This mirrors the current national provisions.
- 72% felt there should be a limit on the value awards over a year and 68% that there should be a limit to the value of single awards. Opinions on the amount of that limit in either case varied from £200 to £1,750. Given the range of replies it is not possible to use these figures to draw out a sensible level to limit awards to, however the council will have to be mindful in each case that the budget for this fund is limited needs to be managed to help as many people as have a requirement for it as it can.
- Several suggestions were given for the name of the scheme including the existing 'Social Fund', 'Brighton & Hove Discretionary Fund', 'Catch' and 'Brighton & Hove Social Support Scheme'. However the name with the highest level of support was 'Brighton & Hove Community Support Scheme'. Officers are working with colleagues across the city to make sure this does not overlap or duplicate the name of any other provisions in the city.

A copy of the full consultation report is in appendix 4

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

- 5.1.1 The indicative 2013/14 funding levels for this scheme are £629,487 for the programme and £133,025 for administration and £6,295 set up costs. The administration funding will be used to pay for the staff costs to run this service and the programme funding issued as payments in kind. There will be a requirement for a clear paper and audit trail between applications from customers through to payments; and a reconciliation process to account committed expenditure against payments made. Internal Audit will need to be consulted as part of the process of setting this service up.
- 5.1.2 The proposal to administer this service through the Revenues & Benefits team will mean that there will not be significant additional support costs such as Finance, ICT & HR.
- 5.1.3 The budget provided by DWP is non-ring fenced and limited. As such there is a risk that changes in demand on the service could result in an under or overspend. The budget will therefore need to be monitored throughout the year and reported as part of the council's Targeted Budget Management (TBM) process. This reporting will need to cover any factors affecting the level of demand and actions taken to mitigate any potential overspend.
- 5.1.4 In addition to this fund, this council is responsible for administering other discretionary funds including Discretionary Housing Payments, Section 17 funds and the new fund to support Council Tax Support. To avoid duplication of

payments and to make furthest use of the funds these payments must work in a way which complement but do not overlap one another.

- 5.1.5 Indicative funding levels have been provided for 2013/14 and 2014/15. The council has received no specific details on how funding will be provided after this although discussion papers have proposed it may be included as part of the councils' overall settlement. This needs careful oversight until the position is clear.

Finance Officer Consulted: Jeff Coates

Date: 31/10/2012

5.2 Legal Implications:

- 5.2.1 The Department for Work and Pensions has confirmed that no new duty will be placed on local authorities to distribute the funds which they will receive when the two government run schemes end, but it is intended that authorities will use the money to set up new flexible arrangements. Therefore it is necessary to identify existing statutory powers under which the proposals in this report can be progressed.
- 5.2.2 Where the giving of advice is not sufficient, the proposals contemplate that help will usually be by securing the provision of goods or services. The value of such assistance in any particular case will usually be regarded as an interest-free loan, which may not be recovered depending on the circumstances.
- 5.2.3 To assist with the type of crisis or emergency contemplated in this report, there will be a number of statutory provisions available to the Council. These include: - (a) in connection with people living in Council accommodation, the welfare provisions in Section 11A of the Housing Act 1985, (b) if the need is to safeguard or protect a child, section 17 of the Children Act 1989 which specifically includes assistance in kind or cash and (c) more widely, the general power of competence in section 1 of the Localism Act 2011.
- 5.2.4 The Council cannot use the general power of competence to do anything which would be (1) contrary to any restriction in earlier overlapping legislation, (2) contrary to limitations in other legislation, or (3) other than through a company if it is for a commercial purpose, and there are also restrictions if it is intended to make charges. For the proposals in this report, it appears that none of these restrictions or limitations will come into play to rule out reliance on the general power of competence. However, as the Children Act provision is a statutory duty, where it applies in any particular case it should be used in preference to the general power of competence or the Housing Act power.
- 5.2.5 The mechanics of giving assistance by way of loan will need further investigation. Also there will be circumstances where loans are not possible – for example in most cases where the Children Act duty is engaged.
- 5.2.6 In creating this scheme, the Council must have regard to its general duties under section 149 of the Equality Act 2010 towards people with protected characteristics (age; disability; gender reassignment; marriage and partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation) and

the duty to mitigate child poverty under the Child Poverty Act 2010. Case law demonstrates that these are continuing duties.

Lawyer Consulted:

John Heys

Date: 30/10/12

5.3 Equalities Implications:

5.3.1 An Equalities Impact assessment has been undertaken as a part of this work and is included in appendix 3.

5.4 Sustainability Implications:

5.4.1 The scheme is proposing to maximise the use of good quality second hand and refurbished items in the city.

5.5 Crime & Disorder Implications:

5.5.1 Officers have met with colleagues from the Probation Service, the Crime Reduction Initiative, representatives of the Inspire project (which helps resettle female ex-offenders) and the local Prison Service. The main implications of these changes are the scrapping of Community Care Grants which are very commonly taken up by prisoners on release. Officers are working with colleagues to make sure the replacement provisions which are being put in place do not increase the risk of immediate re-offending of prisoners on release.

5.6 Risk and Opportunity Management Implications:

5.6.1 There is a detailed risk register attached to this project, this covers areas such as:

- Changes in local demographics
- ICT implications
- Last minute legislative alterations
- Financial inclusion
- Procurement

5.7 Public Health Implications:

5.7.1 The health implications of the broader welfare reform programme have been assessed as part of the welfare reform projects work. An assessment of these implications can be found within the Equalities Impact Assessment (appendix 3)

5.8 Corporate / Citywide Implications:

5.8.1 Between 2011 and 2018 the Government's Welfare Reform programme is fundamentally changing the way welfare benefits are delivered. Most national provision will be provided remotely via Universal Credit with a larger proportion of discretionary funds being directed to councils to deliver. The city will see a direct impact on the funding of some specific provisions, for example rent and council tax through reductions in housing and council tax benefit. In addition some families will see reductions in their overall levels of income. The provisions proposed in this report need to be seen in this context.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Whilst there is the option of not running a scheme with an excess of 10,000 applications from people a year, there is a clear demand for this type of payment in the city.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The council considers that the provisions set out in this report are the best way to meet the need of vulnerable people in emergency or crisis in the city whilst keeping demand for the service at levels which the budget can meet.

SUPPORTING DOCUMENTATION

Appendices:

1. The Proposed Scheme
2. Brighton & Hove Settlement Letter from DWP
3. Equalities Impact Assessment (EIA)
4. Consultation report with list of organisations specifically consulted

Documents in Members' Rooms

1. None

Background Documents

1. Responses to the consultation exercises

