

## **SANCTION OF HOUSING BENEFIT FOR ANTISOCIAL BEHAVIOUR - PILOT**

### **1. PURPOSE**

- 1.1 To agree delegations to enable officers to carry out new duties under the Social Security Benefits and Contributions Act 1992, the Housing Benefit (Loss of Benefit) (Pilot Scheme) Regulations 2007 and the Housing Benefit (Loss of Benefit) (Pilot Scheme) (Supplementary) Regulations 2007.

### **2. INTRODUCTION**

- 2.1 In January 2006 the Respect Action Plan set out the Government Agenda to build on the strong progress in tackling antisocial behaviour. The plan itself was designed to go further and deeper than had previously been done to prevent the next generation of young people becoming involved in antisocial behaviour, through action on poor parenting, problem families and bad behaviour in schools. The plan also announced that the Government was considering a possible sanction of housing benefit as an incentive to undertake rehabilitation. This proposal now forms part of the Welfare Reform Bill that is currently before Parliament. It is based on the premise that with rights (in this case welfare benefits) come responsibility. The original intention was to pilot the scheme in around 10 local authorities with an assumed starting date of October 2007, for a period of approximately 2 years.
- 2.2 At the time, the Portfolio Holder for Housing, Cllr Peter Greenfield, expressed an interest in being involved in the pilot study. As a result of this expression of interest, the District Council was accepted as a pilot area for the Benefits Sanctions Project.

### **3. KEY ELEMENTS OF THE SCHEME**

- 3.1 The initial thought was that housing benefit sanctions would be applied at the discretion of the local authority to anyone involved in serious antisocial behaviour. However, as the scheme has taken its course through Parliamentary proceedings, this initial premise has been changed considerably. The sanction now can only be applied in very limited circumstances:
- A household that has been previously evicted for antisocial behaviour;
  - has refused to take up help and support offered; and
  - has subsequently applied for housing benefit in a pilot area.
- 3.2 The intention of housing benefit sanctions is to act as an incentive to targeted persistent offenders who have refused to address their problem and to engage with support services designed to tackle the root causes of their particular antisocial behaviour. The local authority will have to decide

whether housing benefit sanction is an appropriate way of dealing with the household in each particular case. The sanction, if imposed, will increase incrementally: a 10% loss of housing benefit for the first 4 weeks, 20% for a further 4 weeks, and then total removal for up to 5 years if there is still continued non-cooperation.

- 3.3 There are very specific hardship elements built into this system. These will be set out in regulations but basically the rate of reduction will be 30% instead of 100% in cases of hardship.
- 3.4 A household can accept an offer of support at any stage, at which point the housing benefit payment would be reinstated. The local authority will have discretion to bring the end to the sanction, where appropriate, or if the circumstances of the family change.

#### **4. THE SANCTION ITSELF**

- 4.1 What is clear is whilst this is portrayed as a sanction for antisocial behaviour, it is actually a sanction for non-engagement with support services. Having looked in detail at the proposals and some of the parliamentary queries that have been raised over them, it is also clear that this is not a test of how well the treatment or the services offered perform, as clearly in many cases they will not be cures for the root cause of the problems. However, the question will undoubtedly be whether those who are referred to support services engage and stay with them and make amends to their behaviour.

#### **5. CURRENT POSITION OF THE DEVELOPMENT OF THE SANCTION**

- 5.1 The District Council attended a meeting with the Department of Work and Pensions and the other pilot authorities, to look at how the sanction would work in practice and to contribute to content of the guidance and warning notices for the households. There is already a considerable amount of draft paperwork outlining processes and looking at some of the issues that are involved should the sanction process be initiated, including –

- the outline of the sanction process itself;
- what should be said to households about the sanction prior to eviction;
- involving private landlords;
- involving Her Majesty's Court Service including educating judges that a sanction may be a consequence of eviction;
- the application of the sanction to persons who were in the household at the time of the eviction;
- the issues around people who claim that they had not lived in the household that caused the problem at the time of the eviction;
- information from the Department of Work and Pensions in relation to the local authority knowing that a particular household meets the criteria;

- applying a sanction in circumstances where a household has split up after eviction;
- where someone moves into a household but was not the subject of the previous possession order (i.e. Will they be sanctioned?);
- where a visitor to the house contributed to the ASB and does or does not subsequently live with the householder at a later date;
- where the person who is causing the ASB has left the household;
- how to decide what support is appropriate, actions the local authority can take if unable to get appropriate support;
- the role of the ASB co-coordinator and how to make the assessment of what support is appropriate;
- what happens if somebody appears to engage in the support provided but doesn't improve their behaviour;
- who makes the decision on whether they have engaged sufficiently; and
- what if part of the household engage and the other half does not.

The Current draft guidance runs to some 40 pages and includes comments from a whole variety of individuals and organisations.

## **6. PILOT AREAS**

6.1 The following local authorities have been chosen as pilot areas:

Blackburn with Darwin Borough Council  
 Blackpool Borough Council  
 Dover District Council  
 Manchester City Council  
 New Forest District Council  
 Newham London Borough Council  
 South Gloucestershire Council  
 Wirral Metropolitan Borough Council

6.2 As well as the authorities listed above there are a number of other organisations who have been actively involved in the consultation meetings and commenting on the draft guidance that is available. These include:

National Housing Federation  
 Mind (Mental Health Charity)  
 Her Majesties Court Service  
 And some Children's Charities

- 6.3 At the meeting, considerable concern was expressed particularly by the mental health charities about dealing with diagnosed and undiagnosed mental health conditions and looking at people's ability to engage when they are impaired by drugs, alcohol or other mental health issues. There are also issues that have been raised concerning carrying out race equality impact assessments, disability impact assessments every time you come to use the housing benefit sanction. Clearly there are also issues that come into play when a household considered for eviction may contain vulnerable young adults or children.

## **7. IMPACT ON TENANTS**

- 7.1 From discussions with other authorities it would appear that this sanction will be very rarely used. For a sanction to be considered, four separate criteria will have to have been met:
- the person will have been evicted for anti social behaviour (something that doesn't happen on a regular basis anyway);
  - they will have to have moved to housing within a sanctions pilot area;
  - they must be claiming housing benefit; and
  - they will not have engaged with support services.
- 7.2 The pilot will run for a 2 year period from the 1<sup>st</sup> November 2007 to 31<sup>st</sup> October 2009 and it has been estimated that in the New Forest only one or two individual cases are likely to arise. The purpose of the pilot is to gauge whether there is any long term, potential for Housing Benefit sanctions to work. The pilot is to be evaluated by Sheffield Hallam University, The University of York and The University of Glasgow and a research team has been appointed by the Department of Work and Pensions. Most participants at the meeting with DWP felt there would be very little data on which to base any findings. However, the research team have made it clear that they expect the decision-making in all cases to be fully supported with detailed reasons in all cases whether or not a sanction is applied.

## **8. THE ENABLING LEGISLATION AND OFFICER DELEGATIONS**

- 8.1 Draft Statutory Instruments have been laid before Parliament and are expected to come into force on the 1<sup>st</sup> November 2007 as the Housing Benefit (Loss of Benefit) (Pilot Scheme) Regulations 2007. As one of the pilot authorities, New Forest District Council is listed in the schedule as a relevant authority to which the regulations apply. Therefore officers will need to have the necessary delegated authority to act under the regulations.

- 8.2 It is proposed that all the following officers be delegated authority to act under the legislation as listed in (i) – (iv):

Assistant Director (Environmental Health)  
Tax and Benefits Manager  
Assistant Director (Customer Services)  
Assistant Director (Housing)  
Corporate Directors

- (i) To determine whether warning notices in relation to anti-social behaviour should be issued;
- (ii) To determine whether there has been a failure to comply with a warning notice without good cause and the implementation of a Restriction Period;
- (iii) To determine if a Restriction Period should be ended/restarted;
- (iv) To determine any matter under the Social Security Benefits and Contributions Act 1992 to give full affect to the Housing Benefit (Loss of Benefit) (Pilot Scheme) Regulations 2007 and the Housing Benefit (Loss of Benefit) (Pilot Scheme) (Supplementary) Regulations 2007.

## **9. FINANCIAL IMPLICATIONS**

9.1 The Department of Work and Pensions will be paying a grant of £10,000 for each of the two years that the pilot scheme runs to each participating authority as reimbursement for taking part in this pilot. Housing Benefit sanctions are likely to be very rarely used in the New Forest throughout the pilot period. However the pilot has already taken up a considerable amount of officer time in the initial preparations.

9.2 The software supplier will need to make amendments to the Housing Benefit computer system to enable it to account for the prescribed percentage reductions to weekly benefit entitlements. The supplier has not quoted a price yet, nor any timescales for delivery of the changes. However, it is unlikely to exceed the amount of the grant figure of £10,000.

## **10. ENVIRONMENTAL IMPLICATIONS**

10.1 Clearly, antisocial behaviour has a very negative effect on the environment we live in and therefore this may be seen as a way of further combating that as an issue.

## **11. CRIME AND DISORDER IMPLICATIONS**

11.1 Anti social behaviour continues to be an issue over which the public express great concern in this district. We already have good processes with dealing with antisocial behaviour.. It is envisaged that potential sanction cases would be the subject of case conference by a group of interested parties before any decision was made to apply the sanction, in the same way that an ASBO application is.

## **12. DIVERSITY IMPLICATIONS**

- 12.1 As part of the process for considering the use of this sanction in any case, the Department for Work and Pensions will carry out a review of whether the sanction was applied to one minority group disproportionately to others. However, the sanction's effect on the individual must be fully taken into account and this must include an assessment of race, disability or faith and the impact the sanction may have on any of those matters.

## **13. PORTFOLIO HOLDERS COMMENTS**

### **13.1 Comments from Councillor Cleary - Housing Portfolio Holder**

- 13.1.1 It is a great pity that this scheme has been watered down and now does not have the teeth that it was originally intended to have. I still support the scheme proposed by the previous Portfolio Holder but I do have some reservations on its relevant use by this authority

### **13.2 Comments from Councillor Beck – Crime and Disorder Portfolio Holder**

- 13.2.1 When this subject was originally mooted I supported the then Portfolio Holder for Housing, (Councillor Peter Greenfield) as indicated in paragraph 2.2 of the document, at that stage the scheme appeared to give this Council an additional 'tool in the box' to combat ASB within the Housing Portfolio.

- 13.2.2 As this Council have been accepted as a member of the pilot scheme it is disappointing to note that as the scheme has passed through the various corridors of Parliament the entire scheme has been somewhat diluted.

- 13.3.3 Notwithstanding my observations, I remain supportive of the scheme in principle but with reservations, in particular paragraph 3.2.

## **14. RECOMMENDATION:**

The Cabinet are asked to

- (i) note the contents of the report and the nature of the pilot scheme and that once finalised, the details will be widely distributed so that private landlords in particular understand the implications if they evict a household for antisocial behaviour; and
- (ii) agree that all the officers listed be authorised to act as appropriate under the legislation listed in (i) – (iv) below:

Assistant Director (Environmental Health)  
Tax and Benefits Manager  
Assistant Director (Customer Services)  
Assistant Director (Housing)  
Corporate Directors

- (i) To determine whether warning notices in relation to anti-social behaviour should be issued;

- (ii) To determine whether there has been a failure to comply with a warning notice without good cause and the implementation of a Restriction Period;
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**For Further Information:**

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**Background Papers:**

Published documents