

# Brighton & Hove City Council

**Policy and Resources (Recovery)  
Sub-Committee**

**Agenda Item 33**

**Subject: Discretionary Energy Payment Scheme**

**Date of meeting: 21 April 2022**

**Report of: Executive Director Governance, People & Resources**

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**Ward(s) affected: All**

## **For general release**

Note: The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that due to a miscalculation of public holidays the report was not completed when the agenda was published.

## **1. Purpose of the report and policy context**

- 1.1 The government has introduced a nationwide scheme to provide a £150 energy payment for households in Council Tax Bands A – D. Alongside the main Energy Payment scheme, the government has provided Brighton and Hove with £0.594m for discretionary awards to cases that are not eligible for the main payment. The discretionary allocation will pay for the equivalent of 3,963 awards at £150.
- 1.2 This report outlines recommendations for criteria and indicators that will determine how decisions are to be made and who will receive discretionary payments.

## **2. Recommendations**

- 2.1 That Committee approves the criteria set out in paragraphs 3.9 to 3.18 for making Discretionary Energy Payment decisions.
- 2.2 That Committee notes the creation of a donation scheme, through Third Sector partners, for residents to make donations to support households impacted by the cost of living increase.

## **3. Context and background information**

- 3.1 The £150 Council Tax energy payment is part of the government's response to the rising cost of energy bills from April 2022. Local Authorities are tasked

with administering the scheme. Later in the year, energy companies will be tasked with crediting £200 to energy bills, repayable over five years. However, the £150 Council Tax rebate does not have to be repaid.

- 3.2 The main scheme will see households in Bands A – D receiving a £150 payment. The expected number of eligible households is 105,000. 71,000 of those are on Direct Debit and will receive the payment directly into their bank accounts during April. The remaining 34,000 are not on Direct Debit and will have to complete a simple application, providing their bank details via the council's website before their payment is made. There will also be an option for these 34,000 households to receive the payment as a credit to their Council Tax bill. A third option for payment is currently being investigated, in the event that neither of the other two choices are suitable.
- 3.3 The government has also provided £0.594m to the Local Authority for making Discretionary Payments. This amounts to the equivalent of 3,963 payments of £150. This report outlines the conditions under which awards can be made and recommends a framework for making discretionary decisions.
- 3.4 The government suggests that the scheme could cover households in need who have not benefited from the main scheme, but could also be used to top up help for households in Bands A – D who have already received a payment. However, in designing the scheme, there must be awareness that the fund is limited. The main scheme will cover 105,000 payments, but the discretionary scheme only has enough funding to cover a further 3,963 cases.
- 3.5 Under the main scheme, the government requires payments to be made by 30 September 2022, but payments for the Discretionary Scheme can be made up to 30 November 2022. The council will not receive reimbursement for payments made after those dates.
- 3.6 To ensure that all remaining claims are processed in time for the 30 November payment deadline, the application period will end on 13 November 2022. If, in advance of scheme closure, it appears likely that the scheme will be underspent, the application period may be extended and proactive communication and engagement will be undertaken to ensure disbursement of the fund as far as practicably possible.
- 3.7 The government has set certain limitations and exclusions. Awards cannot be made to:
  - occupants with a Class M Council Tax exemption (Halls of Residence) – unless they are subject to rising energy costs
  - Occupants with a Class O Council Tax exemption (Ministry of Defence properties)
- 3.8 In designing the decision-making framework, the following principles have been incorporated:

- The criteria should allow sufficient flexibility to respond to individual cases;
- The application process should be as straightforward as possible;
- Specific cohorts and groups could be identified for a payment;
- There will need to be a fair and transparent way to differentiate requests as it will not be possible to help every applicant;
- The discretionary scheme should not be so burdensome to administer that it prevents other more significant welfare support being provided
- Vulnerability and hardship should be recognised as part of the process;
- The priority focus will be on households who have not received a main scheme payment, and;
- There will be consistency with the main scheme in terms of the amount awarded i.e. £150.

3.9 The following categories describe specific groups that have been identified for help. It is proposed that households or individuals in the following groups will receive a £150 payment, upon completion of an application form:

<b>Category</b>	<b>Estimated Numbers</b>
People in emergency and supported accommodation who are not liable to pay Council Tax, but who are liable to pay energy costs	Approximately 400-600 cases (c£60,000 - £90,000)
People on Council Tax Reduction in Bands E – H. These households will already have qualified for low income help from Council Tax Reduction	Approximately 439 cases (c£70,000)

3.10 For the remainder of the scheme, as funds are limited, awards will be targeted towards households who are experiencing financial or other vulnerability. To make a discretionary decision, officers will take account of any or all of the following indicators:

*The following list is not exhaustive and other indicators may be taken into account.*

- People who receive a Personal Independence Payment, Disability Living Allowance, or Attendance Allowance People with disabilities or chronic health conditions
- Carers or those receiving care
- Older people (70 +) with financial vulnerability
- Pregnant women with financial vulnerability
- Households using a key meter;
- On Universal Credit or other benefits;

- On low or nil income
- In overall debt, beyond debt that has solely been caused by rising fuel costs;
- Someone in the household has specific medical needs that drive up fuel costs
- Someone in the household has an exemption or a disregard for Severe Mental Impairment.

- 3.11 Where it is possible to identify households with specific financial or health indicators, for example those where a household member is in receipt of Disability Living Allowance, Personal Independence Payment or Attendance Allowance, those households will be contacted proactively to be invited to claim.
- 3.12 Consideration will also be given to households and individuals who did not receive the main £150 payment as they were not in qualifying accommodation on 1 April 2022, but they subsequently move into qualifying accommodation prior to 30 November 2022.
- 3.13 There will also be consideration for other situations, for example:
- Survivors of Domestic and Financial Abuse, where the individual did not receive the benefit of the original £150 payment.
  - Marginalised and isolated communities - including Refugees and Migrants; Gypsies, Roma and Travellers and BAME communities.
- 3.14 Where a household has already received a main scheme payment, whether in a Brighton and Hove address or from another Local Authority, they will not receive an additional payment unless they are experiencing exceptional hardship when compared to other households.
- 3.15 Efforts will be made to ensure that support provided to households will include signposting to further fuel help, as outlined on the council's website, for example the Warmth for Wellbeing scheme.
- 3.16 Due to the limited extent of the fund, once the budget has been spent, no further awards will be possible. If the awards are fully allocated in advance of 13 November (the planned application closure date), then the fund will by necessity be closed early.
- 3.17 There will be no right of appeal against any discretionary decision taken.
- 3.18 Nothing in the criteria shall fetter or restrict the discretion of the Council in the exercise of its powers.

#### Third Sector Donation scheme

- 3.19 Under the main scheme for Energy Payments, nearly all households in Bands A – D will receive a £150 payment regardless of whether they request it. There has already been interest from individuals who do not feel they need the extra money and would rather it went to other households in need.
- 3.20 In partnership with Brighton and Hove Food Partnership and Citizens Advice Bureau (CAB), the two organisations will create a new donation scheme where residents can visit the partners' websites, or access them via the council's web site, and donate their energy payment, or make other donations, which the two organisations will distribute to provide further support to households impacted by the cost of living increase.

#### **4. Analysis and consideration of alternative options**

- 4.1 In designing a discretionary scheme, there are a number of different options, including setting specific categories for assistance, or having a more generalised case-by-case discretion.
- 4.2 It is also important that the scheme is administratively proportionate to the level of the award. While a £150 award is supportive to households it should not detract from the other council initiatives that are contributing more significant assistance to those in need. Therefore the discretionary scheme should be designed so it is not administratively burdensome on the same services that are providing other essential welfare support.
- 4.3 Generally, the simpler and more transparent the scheme, and the more it is focused around specific groups, the easier it will be to administer, and, critically, for residents to apply for. They would be required to provide less evidence and the decision making would be simpler and quicker. This would leave officers with more time to focus on supporting vulnerable residents accessing the main scheme. However, the disadvantage is that the simpler the discretionary scheme, the less responsive it may be to individual cases of hardship. Courts have held that whilst it is lawful and essential for decision makers to follow policies for the exercise of discretion, overall discretion should not be fettered by such policies, and there should always be the ability to consider exceptional cases.
- 4.4 Two specific groups have been identified in the table at paragraph 3.9, as they will have experienced financial vulnerability and can be identified easily. However, there will still be enough funding left to allow for other applications to be made on a case-by-case basis. This should offer a balanced blend of approaches.
- 4.5 There are options around the amount of award given. It is open to the Local Authority to choose amounts for the discretionary scheme, and it is also allowable to top up existing recipients. However, justification of different payment levels would be potentially difficult and the preferred option is for Discretionary Energy Payments to match the main scheme, at £150 per household. This is to ensure consistency and equity, especially in light of the overall main scheme being a bulk exercise in distributing flat amounts of

£150. However, there will be enough flexibility to allow for some discretion to top up smaller cases in exceptional circumstances.

## **5. Community engagement and consultation**

- 5.1 The timeframe for setting up the Energy Payment Scheme has been very restricted and has not allowed time for a broader consultation. The Discretionary Scheme has been designed by a cross-section of officers from Welfare and Council Tax teams based on their knowledge of managing existing hardship schemes, working with the Community Hub and administering other discretionary schemes such as LDSF and the Household Support Fund. Money Advice Plus, and the Advice Matters / Moneyworks partnership were also invited to one of the design meetings and contributed important feedback and ideas to the discussion. Feedback from Public Health (specifically the Fuel Poverty Steering Group) has also been incorporated into the scheme.

## **6. Conclusion**

- 6.1 Once approved, the scheme will enable further support to be provided to qualifying households experiencing fuel poverty in the coming months.

## **7. Financial implications**

- 7.1 The government is providing funding for the energy payment scheme and the discretionary energy scheme through Section 31 grant and has passed the funding to the council in advance. The energy payment scheme is estimated to be £15.897m in total within Brighton and Hove however the final funding will be based on actual allocations and therefore the government will adjust this allocation accordingly.
- 7.2 The discretionary scheme has total resources of £0.594m and all allocations will need to be made by 30 November 2022.
- 7.3 Administering these new schemes is recognised by government as a new burden on local authorities and one-off funding will be provided. However, the level of funding is not known and the council will therefore incur additional administrative costs, including IT costs, with a low risk that they are not fully covered.

Name of finance officer consulted: James Hengeveld Date consulted 04/04/2022

## **8. Legal implications**

- 8.1 A discretionary scheme such as the one proposed in the report must be implemented reasonably and fairly by the Council. A written Policy setting out the criteria for decision making will assist in achieving this aim. Ensuring there is flexibility to review exceptional circumstance or representations will prevent the Council from applying the Policy too rigidly.

Name of lawyer consulted: Elizabeth Culbert Date consulted 23/03/22

## **9. Equalities implications**

- 9.1 The Discretionary Energy Payment scheme has been designed with the considerations from the Equalities Impact Assessment in mind. There is a limited impact overall in terms of mitigation, as payments are a maximum of £150 and the overall fund allows only for a maximum of 3,963 awards.
- 9.2 Section 3 sets out the categories where inequality due to vulnerability (financial and health) is likely to present. In terms of access to the scheme, there will be proactive work to award the payment to some of these cohorts, and the Community Hub will be on hand to assist with applications.
- 9.3 Organisations in the voluntary sector will be fully apprised of the scheme (both main and discretionary) so that they can ensure clients are able to access it with support.
- 9.4 We will gather officer and voluntary sector feedback about the scheme, which will be used to understand demand in the city for support. This insight will help to shape future schemes, should funding opportunities arise.

## **10. Sustainability implications**

There will be a marginal benefit in the sense that households may be referred into energy saving / energy efficiency schemes as a result of applying for discretionary help.

### **Public health implications:**

11. There is a clear Public Health benefit in assisting households with their fuel bills. However, compared to the scale of rising fuel costs, the £150 payment represents a relatively low amount. The value of it may be multiplied up by ensuring that residents are signposted to appropriate fuel support schemes at the same time as receiving their payment.

## **Supporting Documentation**

### **Appendices**

1. [Equalities Impact Assessment](#)
- 2.

### **Background documents**

- 1.
- 2.

