



## Report of the Cabinet Member for Economy, Finance and Strategy

Cabinet –16 February 2023

### Cost of Living Support Scheme – Additional Discretionary Scheme Categories

<b>Purpose:</b>	To consider additional discretionary powers available to the Authority under the Welsh Government's Cost of Living Support Scheme to provide financial support to householders considered to be in need of assistance with living costs.
<b>Policy Framework:</b>	Tackling Poverty
<b>Consultation:</b>	Access to Services, Finance, Legal, Social Services
<b>Recommendation(s):</b>	It is recommended that: <ol style="list-style-type: none"><li>1) The details of the mandatory scheme set out in this report are noted and further that they have already been implemented.</li><li>2) The details of the discretionary powers relating to the Cost-of-Living Support Scheme are also noted.</li><li>3) The details of the current discretionary scheme previously approved by cabinet on 21<sup>st</sup> April 2022, and which have already been implemented, are noted.</li><li>4) Any taxpayers who have been identified as eligible for a payment under the current discretionary scheme but have not registered for that payment as required by Sunday 19<sup>th</sup> February, will have any remaining discretionary sums they are eligible for paid directly to their Council Tax account.</li><li>5) The following categories and amounts are approved as additional discretionary payments to be made under the Cost-of-Living Support Scheme:<ol style="list-style-type: none"><li>a) £150 will be paid to the Council Tax account of taxpayers not eligible for the main scheme Cost-of-Living Support Scheme who,</li></ol></li></ol>

as at 15/2/22, were entitled to a Council Tax disregard awarded in respect of:

- An adult with a Severe Mental Impairment (SMI) resident in their property.
  - A carer for another adult resident in the property, the other cared for adult living in the property not being their partner.
- b) £150 will be paid to the rent account of Council tenants who were excluded from eligibility for the main scheme Cost-of-Living Support Scheme due to having a Class N (Student) exemption on their Council Tax account.
- c) A payment of £150 is to be paid to the rent account of Council tenants who are in rent arrears and were identified as eligible for the main scheme Cost-of-Living Support Scheme but who failed to register for the payment before the deadline of 30th September 2022.
- d) A payment of £55 is to be paid to all households occupying domestic dwellings in Council Tax Band E who were not eligible for a payment from the Main Scheme Cost-of-Living Support Scheme.
- e) The maximum payment to one household from the Cost of Living Support Scheme as a whole (including both Main Scheme and Discretionary Scheme elements) will remain at £300.

<b>Report Author:</b>	Julian Morgans
<b>Finance Officer:</b>	Ben Smith
<b>Legal Officer:</b>	Tracey Meredith
<b>Access to Services Officer:</b>	Rhian Millar

## 1. Introduction

- 1.1 As part of the Welsh Government's Supplementary Budget, on 15 February 2022 the Welsh Government announced a Cost-of-Living Support Scheme ("the scheme") to be administered on its behalf by local authorities. The guidance for the scheme was published on 23 March 2022 – see Appendix A to this report.
- 1.2 The Scheme is part of a national package of measures to help people with the cost-of-living crisis. The national package includes £152m to provide a £150 cost of living payment to eligible households (the Main Scheme) and £25m to provide discretionary support for other purposes related to living costs (the Discretionary Scheme). The schemes are intended to provide immediate support as Wales recovers from the pandemic and support households to deal with the impact of increasing energy and other costs.

- 1.3 The Discretionary Scheme fund can be used by each local authority to support households it considers to be in need of assistance with their living costs, including households eligible for support under the main Scheme. Each local authority can determine its use of discretionary support as it deems appropriate to address known and identified local needs. Cabinet approved the initial discretionary categories of eligible households for Swansea on 21<sup>st</sup> April 2022 – see Appendix B to this report.

## **2. The Main Scheme**

- 2.1 Payments of £150 per household were made between April and October 2022 under the main scheme, if the householder(s) met the criteria determined by Welsh Government. Payments were made to nearly 76,500 households in Swansea resulting in a total payment of approximately £11.465m (this figure continues to rise).
- 2.2 Any main scheme funding underspend as at 5<sup>th</sup> November 2022 was transferred to the Discretionary scheme fund as permitted by Welsh Government. There was an underspend as the funding had been based on an estimate of the number of people eligible and also because some householders believed eligible for the Main Scheme did not register for a payment before the deadline of 30<sup>th</sup> September 2022. This was in spite of the authority's efforts to encourage them to do so by various methods such as by sending additional letters reminding them to apply, additional publicity, liaison with partner organisations such as local housing associations, briefings to members and other Council departments and, where possible, telephoning people to encourage an application (other LAs reported experiencing similar issues).

## **3. The Current Discretionary Scheme**

- 3.1 In addition to supporting the eligible categories through the Main Scheme, each local authority can use the funding provided under the Discretionary Scheme to provide support to households it considers to be in need of assistance with their living costs. This support may take any form the Authority considers appropriate in order to satisfy the aims of the scheme. For example, a payment to a household not already covered in the main scheme, an additional payment on top of that paid from the Main Scheme or by covering the cost of other services provided to households in need by setting up an emergency fund to deal with a specific issue.
- 3.2 Various categories of household have already been identified as eligible for a discretionary payment in the report approved by Cabinet on 21<sup>st</sup> April 2022 – see Appendix B to this report. So far over 40,000 payments have been made under Swansea's Discretionary scheme, with a value of approximately £1.5m.

- 3.3 Furthermore, the Section 151 Officer (or his nominated representative) has unfettered discretion to consider, on a case-by-case basis and in exceptional circumstances, any individual compelling cases for payments from the Cost-of-Living Support Scheme in circumstances other than those specified in the original report. This discretion being subject to the amount of funding provided by Welsh Government for the scheme in Swansea.
- 3.4 In order to ensure that all eligible households receive the financial benefit of payments due under the Discretionary Scheme, this report recommends that any taxpayers who have been identified as eligible for a payment under the current discretionary scheme but have not registered for that payment as required by Sunday 19<sup>th</sup> February, will have any remaining discretionary sums they are eligible for paid directly to their Council Tax account regardless of whether they have a balance outstanding. This is considered a reasonable and measured approach as the potential beneficiaries of the discretionary scheme could be considered more vulnerable than main scheme beneficiaries.

#### **4. Additional Discretionary Scheme Payments**

- 4.1 Each local authority has complete autonomy to determine how it utilises the available discretionary funds in its area to achieve the aims of the overall scheme. Also, the amount that is paid under the discretionary scheme, subject to the available funding. As a result of that flexibility the guidance does not indicate an application is required in every case for a payment to be made from the discretionary scheme. This is because the funds might not always be utilised to provide support to individuals. Where a discretionary payment is to be issued to an individual, an application may be needed where the council does not already hold sufficient information to make such a payment.
- 4.2 As we approach the final months of the scheme, which ends in March 2023, it has been identified that there is likely to be an underspend of the available discretionary funds now available. As mentioned in paragraph 2.2, remaining funds from the Main Scheme were transferred to the Discretionary Scheme fund increasing the amount available. To ensure that the authority makes full use of this funding, further consideration of the full range of households that could be helped under the discretionary scheme is now required.
- 4.3 With the cost-of-living crisis and substantial bill increases continuing to affect households, deciding how best to help those who may have previously missed out on assistance, and doing so at a rapid pace, is considered of the utmost importance. There are difficulties associated with this process as we are dealing with a constantly changing amount in the remaining funds we have for distribution and we are also attempting to predict the behaviour of those citizens who may be eligible, in respect of whether they claim a payment or not. It would be preferable to conduct a co-produced, fully impact assessed, wide consultation process

however, as with the earlier discretionary scheme, this in itself would somewhat defeat the pressing nature of the matter at hand, as bills are due now and we need to issue payment quickly before the end of the scheme. The pragmatic approach remains to rely heavily on information we already hold on who is faced with extra cost of living pressures, and who has already been helped with payments under the main scheme and current discretionary scheme.

4.4 Whilst there are risks of challenge with a further “design at haste and repent at leisure scheme” the balance remains tilted towards immediate decision and action to achieve the policy objective of Welsh Government which is immediate relief of part of the cost of living where the authority is reasonably practicably able to do so. No individual in receipt of a payment is disadvantaged, so the scheme in absolute terms is beneficial. The risk of challenge would be in the choice of who is and was considered eligible, but the mitigation is that it is entirely for the authority to decide, with no right of appeal, on how to operate the scheme, in line with the discretionary grant offer from Welsh Government. It is felt this justifies the “act now” principle as the primary driver over other considerations. In addition, further mitigation is available in the Section 151 Officer’s discretionary powers as outlined in paragraph 3.3

4.5 The estimated funding available in the discretionary fund is approximately £717,000 and this is to be allocated as follows, although this distribution may be subject to change as the scheme progresses as all costings are based on estimates of the number of eligible households.

4.5.1 A payment of £150 will be paid to the Council Tax account of taxpayers not eligible for the main scheme Cost-of-Living Support Scheme who, as at 15/2/22, were entitled to a Council Tax disregard awarded in respect of:

- An adult with a Severe Mental Impairment (SMI) resident in their property.
- A carer for another adult resident in the property, the other cared for adult living in the property not being their partner.

The rationale is that these households have a vulnerable person in occupation and as such are likely to have higher living costs.

The estimated number of households is 206. Estimated cost is £30,900.

4.5.2 A payment of £150 will be made to the rent account of Council tenants who were not eligible for the main scheme Cost-of-Living Support Scheme due to having a Class N (Student exemption) on their Council Tax account as at 15/2/22.

The rationale is that as these are Council Tenants, they are likely to be households who are mature students with families.

The estimated number is 53 households. Estimated cost is £7,950

4.5.3 A payment of £150 will be made to the rent account of Council tenants:

- Eligible for the main scheme Cost-of-Living Support Scheme and
- Who failed to register for the payment before the deadline of 30<sup>th</sup> September 2022 and
- Who are currently in rent arrears.

If they live in a property in Council Tax band A or B, they will also be credited with the additional £28 due under the current discretionary scheme

This provision to credit the rent accounts will only apply to tenants in this group who have not already received a discretionary payment direct to their Council Tax account under the current discretionary scheme.

The rationale is that these households can be identified as eligible for the main scheme payment and further identified as being in financial difficulty from information already held as they are in rent arrears. For one reason or the other they did not register for the main scheme payment to be paid to them directly and in order to prevent them from missing out on the financial benefit of the Cost of Living payment, their rent account can be credited to help reduce the balance of debt outstanding.

The estimated number of households is 142. Estimated cost is £25,276

4.5.4 A payment of £55 is to be paid to the Council Tax account of all households occupying domestic dwellings in Council Tax Band E as at 15/02/2022, who were not eligible for the main scheme cost of living payment.

The rationale is that there remains a large number of Swansea residents who did not meet eligibility criteria for the main scheme payment. Awarding a payment to this large number of households will allow us to assist a large number of people with the increased cost of living.

The estimated number of households is 10,995. Estimated cost £604,725

4.6 The maximum total payment that can be paid to a single household from the Cost of Living Support Scheme (from the Main and/or Discretionary Schemes) where all the necessary eligibility criteria are satisfied is £300.

4.7 Making these payments directly to the Council tenants' rent accounts or directly to Council Tax accounts will remove the requirement for households to register for the payment, distributes the maximum financial benefit of the available funding across the City and ensures the

funding is allocated before the scheme ends on 31<sup>st</sup> March 2023.

4.8 The qualifying date of 15 February 2022 used in the main Scheme and the authority's original Discretionary Scheme is retained for continuity in respect of these additional eligibility criteria now proposed.

4.9 The new categories eligible to receive a payment under the discretionary scheme will be at an estimated cost of £668,851. Remaining funds will be kept to meet ad hoc requests for assistance that will be considered by the 151 Officer on a case-by-case basis and also for payments to be made to anyone eligible for a payment that the authority may not yet be aware of.

## **5. Impact on Tax and Benefits**

5.1 The DWP has confirmed that that payments (main scheme or discretionary) are considered a Local Welfare Provision and so are disregarded in the assessment of Income Support, Income Based Job Seekers Allowance (JSA) and Income Related Employment and Support Allowance (ESA), so these benefits will not be affected. In their LA Welfare Direct Lite Bulletin issued on 14 March 2022, the DWP confirmed that the Government has legislated to ensure that payments made under the Energy Rebate scheme announced on 3 February 2022 for England and equivalent schemes in the devolved administrations in Scotland and Wales, do not affect entitlement to Universal Credit.

5.2 HMRC has confirmed that the payments from this scheme would be made as Local Welfare Provision and are not taxable.

## **6. Integrated Assessment Implications**

6.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Deliver better outcomes for those people who experience socio-economic disadvantage
- Consider opportunities for people to use the Welsh language
- Treat the Welsh language no less favourably than English.
- Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

- 6.2 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.
- 6.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 6.4 Although Welsh local authorities have been given the ability to determine their own local discretionary schemes with their own local criteria, they have also been tasked by the Minister for Finance and Local Government to proceed with designing and delivering their schemes as soon as quickly as possible. With that requirement in mind, and furthermore the obvious need to deliver immediate financial support to those in difficulty the period over which engagement would normally take place has been foreshortened with only informal discussions with partners having taken place. There has been, by necessity, a trade-off between a lengthy consultation process and swift action to support Swansea's citizens at a difficult time.
- 6.5 The ability to make rapid payments from the Cost-of-Living Support Scheme will have a positive impact for recipients. The support will help maximise income to households and will help reduce hardship in the city. Additionally, there may also be positive impacts on the workload of the Poverty and Prevention Service, Housing, Finance and other Departments. By rapidly designing and implementing the discretionary scheme so we can issue payments to citizens in need without delay, and before the scheme closes, as the authority has been asked to do by the Minister for Finance and Local Government.

## **7. Financial Implications**

- 7.1 Welsh Government has provided funding of £14,155,208 to cover all costs associated with the Scheme. An estimated amount of £717,000 remains available to distribute.
- 7.2 The new categories eligible to receive a payment under the discretionary scheme will be at an estimated cost of £668,851.
- 7.3 This leaves a reasonable reserve to meet ad hoc requests for assistance that will be considered by the 151 Officer on a case-by-case basis.



## **8. Legal Implications**

- 8.1 The risks attaching to the selection of criteria for the allocation of the additional Discretionary Scheme are set out in paragraphs 4.2 to 4.4 of this report. There is a risk that individuals or groups of individuals who feel aggrieved that they have not benefitted from the additional Discretionary Scheme may seek to challenge the Council's decision making process.
- 8.2 This risk is mitigated by the 151 Officer having ultimate discretion to award financial assistance on a case-by-case basis to households who make a request for assistance who did not meet the eligibility criteria under the Main or Discretionary schemes' specified categories of eligible households. Sufficient reserve funding has been kept for this purpose.

**Background Papers:** None

### **Appendices:**

- Appendix A Welsh Government Guidance for the Cost-of-Living Support Scheme
- Appendix B Cabinet report approved 22<sup>nd</sup> April 2022 – Mandatory and Discretionary Scheme
- Appendix C Integrated Impact Assessment Screening Form