

Supplementary written evidence from Chartered Institute of Housing Scotland in response to questions raised at the Devolution (Further Powers) Committee, 19th February 2015



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1. Introduction

- 1.1 We are pleased to provide additional supplementary evidence to the Devolution (Further Powers) Committee following the meeting of 19th February, in which Lewis Macdonald asked the following question:

“I want to follow up on the issue of discretionary housing payments. There are specific eligibility restrictions in the clauses and I am particularly interested in the view of the housing providers or housing profession on those. Those restrictions, for example, prevent the use of housing benefit to meet service charges and so on, and given people’s care needs, that could be quite a significant restriction. Are the clauses unduly restrictive? Do they reflect the intent of the Smith commission? How will they work in practice?”

2. Response from CIH Scotland

Does the draft clause relating to Discretionary Housing Payments (Clause 19) reflect the intention of the Smith Commission?

- 2.1 The Smith Commission report did not recommend any changes to the DHP system but it did recommend that *“The Scottish Parliament will have complete autonomy in determining the structure and value of the benefits at paragraph 49,”* which includes powers over Discretionary Housing Payments (DHPs).
- 2.2 The draft legislative clauses outlined in [“An Enduring Settlement”](#) appear to fulfil that requirement in principle, but they do so by creating further exceptions to existing exceptions which are outlined in Section F1 of Part 2 of Schedule 5 to the Scotland Act 1998. In our view, the current wording of Clause 19, outlining the transfer of powers relating to DHPs, does not appear to place significant additional restrictions on the way in which DHPs can be used, but it does specify restrictions that already exist under the current system.
- 2.3 However, it may be worth noting that one of the specified restrictions is a liability to meet payment of “local taxes” rather than Council Tax. This particular choice of wording would appear to have the purpose of restricting payment towards any scheme which would potentially replace Council Tax in Scotland should the Scottish

Government proceed with its intention to abolish Council Tax in favour of a different form of taxation.

- 2.4 In our view, it does not appear that the draft legislation gives the Scottish Government “complete autonomy” to determine the “structure and value” of DHPs as suggested by the Smith Commission, given that restrictions on how DHPs can be used are written into Clause 19.

Are Discretionary Housing Payments overly restrictive from a housing provider’s perspective and how will they work in practice?

Current DHP Restrictions

- 2.5 Current [DHP Guidance](#) issued by the Department for Work and Pensions (DWP) states that DHPs can be used to cover ‘housing costs’. The term is not defined in regulations so this gives a significant degree of flexibility for local authorities and the DWP gives the following suggestions for the use of DHPs:
- Rent in advance;
 - Deposits;
 - Other lump sum costs associated with a housing need such as removal costs;
 - A shortfall in rent caused by reductions in HB or UC or other benefit reductions.
- 2.6 DHPs cannot be used to cover the following:
- Council Tax liability;
 - Ineligible service charges – any charges that are not covered by Housing Benefit, water, sewerage or environmental charges.
 - Increases in rent due to outstanding rent arrears;
 - Sanctions and some reductions in benefits cannot be covered by DHPs as this would undermine the purpose of the sanction or benefit reduction.
- 2.7 As noted above, it does not appear that the draft clauses place significant additional restrictions on DHPs but reflect those that are already in place. However, consultation with colleagues in the housing sector has highlighted significant concerns about the DHP system as it stands and particularly with regards to the fact that DHPs cannot currently cover the cost of support services which are essential to helping many people live independently in their own homes.
- 2.8 The current financial climate has created a situation whereby local authorities are coming under increasing pressure to provide services for more people, but with reducing resources. In some areas this is resulting in the withdrawal of funding for low level support potentially leaving vulnerable tenants in the difficult position of having to cover the shortfall. It does not make sense that a household can receive help to cover the cost of their rent through DHPs but cannot receive help to cover the cost of the support services which they need to maintain their tenancy.
- 2.9 It is our view that there is not enough flexibility within the DHP system to allow the Scottish Government to support people to live independently in their own homes.