

**HUNTINGDONSHIRE DISTRICT COUNCIL**

**Title/Subject Matter:** Discharging A Homelessness Duty Through The Private Rented Sector

**Meeting/Date:** O & S Panel (Social Well-Being) - 7 January 2014  
Cabinet - 23 January 2014

**Executive Portfolio:** Customer Services: Cllr B. Chapman

**Report by:** Head Of Customer Services

**Ward(s) affected:** All

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**Executive Summary:**

The Localism Act 2011 amended the 1996 Housing Act and further statutory regulations have also been produced. These provide a new power that allows a local housing authority to end the main homeless duty owed to a household through an offer of private rented sector accommodation. Previously the applicant's agreement was required to bring the Council's duty to an end through a private rented sector offer.

The revised regulations require that the Council take a number of matters into account in determining the suitability of accommodation and as long as these are satisfied the duty owed to an applicant may be ended without the applicant's agreement. This allows the Council to make greater use of the private rented accommodation in the district to house households accepted as statutorily homeless. Where a household refuses an offer of suitable private rented sector accommodation the Council may end the full homelessness duty.

This report explains the policy and how the Council will use these powers.

**Recommendation(s):**

That Cabinet approve this policy for adoption.

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## **1. WHAT IS THIS REPORT ABOUT/PURPOSE?**

- 1.1 The purpose of this report is to explain the powers, introduced through the Localism Act 2011 and subsequent regulations, which allow the Council to end its 'duty' to a household accepted as homeless by making an offer of suitable private rented sector accommodation.
- 1.2 The Council already helps a significant number of households threatened with homelessness into private rented sector properties as part of its homelessness prevention measures. This work is carried out prior to the Council accepting a legal 'duty' to house and tends to be more successful where a household is willing to consider a private rented property as an option for avoiding their actual homelessness. This policy (at appendix A) explains how the Council may use the 'powers' available to it to help a household into a private rented sector property after a full housing duty has been accepted under the homelessness legislation.

## **2. WHY IS THIS REPORT NECESSARY/BACKGROUND**

- 2.1 This report is necessary to approve the policy which explains how the Council may use these powers.

## **3. OPTIONS CONSIDERED/ANALYSIS**

- 3.1 The Council recognises that the number of private rented sector properties that are likely to be available to offer to households accepted as homeless is unlikely to meet the demand from all eligible applicants. Therefore the decision to offer private rented sector accommodation will be considered on a case by case basis whenever a suitable property can be identified.

## **4. COMMENTS OF OVERVIEW AND SCRUTINY PANEL**

- 4.1 The Overview and Scrutiny Panel (Social Well-Being) recommends that the policy is adopted. While the policy will provide the Council an opportunity to fulfil its homelessness duty through the offer of suitable private rented sector accommodation, it is recognised that it is not likely to be frequently used. Members support the fact that Regulations contain criteria that will ensure accommodation is suitable, safe and reasonable.

## **5. KEY IMPACTS/RISKS? HOW WILL THEY BE ADDRESSED?**

- 5.1 The impact of this policy is twofold:
- i) That it may help alleviate some of the demand for social rented in the district by helping some households accepted as homeless into private rented sector accommodation; and
  - ii) That it may help reduce the number of households having to be placed in temporary accommodation whilst awaiting an offer of social rented housing.
- 5.2 The risks associated with this policy revolve around the resourcing of the work required to verify that any identified private rented sector property meets the requirements of the legislation and regulations. As it is unlikely that there will be a significant number of properties that require this verification process it is anticipated that this will be carried out within existing resources. Members will receive a further report making the business case if a higher number of private

rented sector offers become available than expected which require a greater resource input.

## **6. WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION**

- 6.1 The policy will be implemented as soon as it is approved. No targets are being set for the number of households that will be assisted under this policy as it will depend upon their individual circumstances and whether suitable private rented sector accommodation can be identified that meets those needs.

## **7. LINK TO THE LEADERSHIP DIRECTION**

- 7.1 This policy links directly to the theme of improving the quality of life in Huntingdonshire by contributing to a low level of homelessness.

## **8. CONSULTATION**

- 8.1 There is no requirement for the Council to consult on the implementation of this policy.

## **9. LEGAL IMPLICATIONS**

*(Comments from the Head of Legal & Democratic Services)*

- 9.1 The Head of Customer Services has delegated authority to exercise the Council's powers and duties to homeless households who satisfy the criteria laid down in the Housing Act 1996. This policy makes use of an additional power available to the Council as a result of amendments to the Housing Act 1996 by the Localism Act 2011.

## **10. RESOURCE IMPLICATIONS**

*(Comments from the Assistant Director, Finance & Resources)*

- 10.1 It is anticipated that there will be no additional resource implications associated with the implementation of this policy.

## **11. OTHER IMPLICATIONS**

*(Equalities, environment, ICT, etc)*

- 11.1 There are no other implications

## **12. REASONS FOR THE RECOMMENDED DECISIONS**

*(Summary leading to the Recommendations)*

- 12.1 The policy aims to help households accepted by the Council as statutorily homeless into suitable private rented sector accommodation, hence resolving their homelessness. As well as resolving a crisis homelessness situation for the household involved this policy will help alleviate some demand for social rented accommodation in the district by making use of the private rented options available to households. This in turn may reduce the number of households having to be placed in temporary accommodation as a result of their homelessness whilst they have to wait for an offer of more permanent housing.

- 12.2 It is therefore recommended that Cabinet approve this policy for adoption.

### **13. LIST OF APPENDICES INCLUDED**

Appendix 1 – Policy To Discharge The Council's Homelessness Duties  
Through the Private Rented Sector

### **BACKGROUND PAPERS**

Homelessness (Suitability of Accommodation) (England) Order 2012

### **CONTACT OFFICER**

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# **Policy To Discharge The Council's Homelessness Duties Through the Private Rented Sector**

## **1. Introduction**

- 1.1 The Localism Act 2011 gives Local Authorities the power to discharge their duty to secure accommodation for homeless applicants by way of arrangements it has made with a Private Sector Landlord.
- 1.2 The introduction of this power ends the provisions to make available a "qualifying offer" of private sector accommodation which required the agreement of the applicant. From 9<sup>th</sup> November 2012, local authorities can discharge their homeless duty through an offer of a private rented sector tenancy, without the agreement of the applicant.
- 1.3 Taking into account the prevailing housing demand and supply pressures in its area, this policy sets out how the Council will apply the legislation in respect of discharging its homelessness duty into the private rented sector and make best use of available housing stock.

## **2. Legal Framework**

- 2.1 Under S.193(2) Housing Act 1996, where the Council is satisfied that an applicant is homeless and owed a duty the Council must secure that accommodation is available for occupation by the applicant. The duty to secure accommodation ceases by events set out in section 193. Where it is not possible to immediately cease the duty by providing an offer of Social Rented Housing (a part VI offer) the Council can provide other accommodation, which is temporary, until the duty ceases.
- 2.2 Section 148 Localism Act 2011, amended Section 193 Housing Act 1996 to include the offer of private sector accommodation as an event which would bring the duty to secure accommodation to an end. The duty will cease irrespective of whether the applicant accepts or refuses the offer, provided they have been informed in writing of:
  - i) the possible consequence of refusal or acceptance of the offer, that the applicant has the right to request a review of the suitability of the accommodation, and
  - ii) the effect of a further application to a local housing authority within two years of acceptance of the offer.

## **3. Applying the Policy**

- 3.1 This policy will apply to all applicants where, after 9<sup>th</sup> November 2012, the Council accept a homelessness duty irrespective of whether the applicant has been placed into temporary accommodation, is likely to be placed into temporary accommodation or is able to secure their own temporary accommodation.
- 3.2 Applicants who previously occupied a social rented tenancy and have been accepted as homeless following an application due to fleeing violence; threats of violence; or domestic abuse, will not normally be considered for a private

rented sector offer, unless there is an overriding benefit to the applicant. This is to ensure that those households are not negatively impacted in respect of security of tenure for having to escape violence or abuse.

3.3 An applicant who is currently under offer, or who has an offer pending from a registered provider will not be considered.

3.4 The Council recognises that the number of private rented sector properties available to discharge the homelessness duty is unlikely to meet the demand from all eligible applications. Therefore the decision to offer private rented sector accommodation will be considered on a case by case basis if a suitable property is available that meets the needs of the household concerned.

#### **4. Suitability of Accommodation**

4.1 The suitability of accommodation is considered in two parts:

- i. The structure and management of the property, which covers the physical condition, safety aspects and how the landlord or agent manages properties and their suitability to do so, and
- ii. Suitability of the property for the tenant, which takes into consideration the individual needs of that applicant and their household considering such factors as location, affordability and accessibility.

4.2 When considering whether to make an offer of accommodation in the private rented the Council will first ascertain that the property is suitable and then that it is suitable for the proposed tenant. The assessment of suitability will be carried out before a formal offer is made to the applicant.

#### **4.3 The Structure and Management of the Property:**

When making an offer of private rented sector accommodation to bring to an end the Council's full homelessness duty the property will not be regarded as suitable where one or more of the following apply:

- i. the tenancy is an Assured Shorthold Tenancy for a period of less than 12 months;
- ii. the landlord has failed to provide a written tenancy agreement for the private rented sector offer that the Council considers to be adequate;
- iii. the Council is of the view that the accommodation is not in a reasonable physical condition;
- iv. the Council is of the view that any electrical equipment supplied with the accommodation does not meet the requirements of regulations 5 and 7 of the Electrical Equipment (Safety) Regulations 1994;
- v. the Council is of the view that the landlord has not taken reasonable fire safety precautions with the accommodation and any furnishings supplied with it;

- vi. the Council is of the view that the landlord has not taken reasonable precautions to prevent the possibility of carbon monoxide poisoning in the accommodation;
- vii. the property requires but does not have a valid Energy Performance Certificate;
- viii. the accommodation is a house in multiple occupation subject to licensing under section 55 of the Housing Act 2004 and is not licensed;
- ix. the accommodation is a house in multiple occupation subject to additional licensing under section 56 of the Housing Act 2004 and is not licensed;
- x. the Council is of the view that the landlord is not a fit and proper person to act in the capacity of landlord, having considered if the person has:
  - a. committed any offence involving fraud or other dishonesty, or violence or illegal drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
  - b. practised unlawful discrimination on grounds of sex, race, age, disability, marriage or civil partnership, pregnancy or maternity, religion or belief, sexual orientation, gender identity or gender reassignment in, or in connection with, the carrying on of any business;
  - c. contravened any provision of the law relating to housing (including landlord or tenant law); or
  - d. acted otherwise than in accordance with any applicable code of practice for the management of a house in multiple occupation, approved under section 233 of the Housing Act 2004.

#### 4.4 The Applicant

The applicant's circumstances will be considered against available properties to ensure that best use is made of suitable properties. Where a property is suitable for more than one applicant the Council will identify the applicant whose need is best met by the property in terms of:

- i. The location of the property in proximity to the applicant's employment. Consideration will be given to the work patterns of the applicant, the financial impact of accessing the place of employment from the property and the availability of public transport if employment requires working unsociable hours.
- ii. Care received or provided by the applicant over and above immediate family support. Consideration will be given as to the level and frequency of care received or provided and whether this would be unable to continue from the property offered.



- iii. Educational establishments attended by the applicant and their household. Consideration will be given to the viability of maintaining the existing educational establishment and travelling from the property offered. Alternatively it may be deemed reasonable to expect a household member to change school or educational establishment unless a student is at key a point in their education, such as the final year before exams, or where a child has a statement which requires special educational needs to be met at a particular establishment.
- iv. Specialist medical treatment being received by the applicant or a member of their household where proximity to the medical facility is essential and this cannot otherwise be accessed. Consideration will be given to the proximity to the property offered, the ability to travel to that facility and the option of transferring the treatment to a medical facility that is closer to the accommodation offered.
- v. Access to local services required by the household. Consideration will be given to any increased in travel arrangements or costs through relocation to the offered property.
- vi. Size of property. The property must be of suitable size for the household and will be assessed under the Local Housing Allowance size criteria.
- vii. The requirement for aids and adaptations to assist the applicant or a member of their household who may be disabled or have mobility issues. Consideration will be given to the feasibility of adapting the property. Where the applicant or member of their household does not presently require adaptations but there is a likelihood that they may do so in the next 12 months then the potential need for adaptation will be considered.

4.5 In the interests of creating sustainable communities and where the Council are satisfied that, in respect of an applicant, there are overriding management reasons which will not serve the interests of the applicant or the community, the Council will not exercise its power to make available to an applicant a private rented sector offer.

## **5. Offer Hierarchy**

5.1 In some cases the Council may determine that a suitable property best meets the needs of more than one applicant and in such circumstances the accommodation currently occupied will determine which applicant is prioritised for a private rented sector offer. Accommodation currently occupied is ranked as below, where a) is the highest priority.

- a) Those in Bed and Breakfast accommodation
- b) Those in Temporary Accommodation where there is a cost to the Council or due to the high level of rent charged there is cost to the applicant
- c) Those who are threatened with homelessness and where an offer of a PRS property would avoid the need to go into temporary accommodation.

## **6. Offers, Acceptances, Refusals and Reviews of Suitability**

6.1 The availability of any private rented sector offer will be notified to the applicant by the Council in writing. The notification will clearly state the address, size,

type and rent of the property. The applicant will be notified of the likely consequences of refusing the property and their right to request a review of the suitability of the accommodation.

- 6.2 Prior to notifying an applicant of the availability of any private rented sector offer the Council will complete an assessment of the suitability of the property with the applicant. An arrangement to offer the accommodation to the applicant will proceed provided the Council is satisfied that the offer is suitable for the needs of the applicant and their household.
- 6.3 Where the applicant refuses the private rented sector offer and there has been no change of circumstances since the assessment of suitability was completed with the applicant the Council will cease its duty to the applicant under s.193 Housing Act 1996.
- 6.4 Any request for a review of suitability must be made in writing to the Housing Needs & Resources Manager within 21 days of the date of the notice.

## **7. Re-Application Following Loss of Accommodation**

- 7.1 Under section 195A Housing Act 1996, should the applicant approach the Council as homeless within a period of two years following acceptance of the private rented sector offer under s.193(7AA) Housing Act 1996, irrespective as to whether the approach is from the offer property or elsewhere, the Council will:
  - i. Treat the applicant as being homeless from the date of expiry of the notice. The landlord therefore will not be required to apply to court to regain possession. The Council will confirm the validity of the notice.
  - ii. Not reinvestigate the priority need of the household as the priority need of the applicant will be retained from the date of the acceptance of a duty under 193 (2) irrespective of any change in circumstances or household composition that may affect this.
  - iii. Satisfy itself that the Applicant is eligible for assistance and did not become homeless intentionally from their last settled accommodation.
- 7.2 Where the applicant applies under this section and the Council accept a re-application duty, then the applicant shall be further reconsidered under this, or any successor policy, for discharge into the private rented sector.