

# TONBRIDGE & MALLING BOROUGH COUNCIL

## STRATEGIC HOUSING ADVISORY BOARD

16 July 2012

### Joint Report of the Director of Health and Housing and Cabinet Member for Housing

#### Part 1- Public

#### Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

#### 1 REFORM OF HOMELESSNESS LEGISLATION

##### Summary

**This report sets out the proposals for discharging the Council's duty to house homeless households by an offer of accommodation in the private rented sector. This report also updates members on the consultation procedure in respect of the associated Homelessness (Suitability of Accommodation)(England) Order 2012.**

#### 1.1 Background

- 1.1.1 The Localism Act 2011 will give local authorities the flexibility to end the rehousing duty owed to unintentionally homeless households by arranging an offer of suitable accommodation in the private rented sector, without requiring the applicant's consent. These changes to the homelessness legislation will give local authorities freedom to make better use of good-quality private rented sector accommodation. They are part of Government reforms to social housing to ensure that the system is fair; that good, affordable housing is available for those who genuinely need it; and that we make the best use of the social and affordable rented sector.
- 1.1.2 Any private sector tenancy secured must meet the minimum standards set out in the Homelessness (Suitability of Accommodation) (England) Order 2012 which is currently undergoing a public consultation process before enactment. The Localism Act requires a minimum tenancy period of 12 months to provide certainty for homeless households. Should an applicant become unintentionally homeless again within two years of accepting the private tenancy, the main duty will automatically recur, regardless of any changes in respect of priority need.
- 1.1.3 Under Part VII of the Housing Act 1996, an eligible, unintentionally homeless applicant who is in priority need is owed a duty by the Council to ensure that accommodation is made available to him or her. The current Housing Allocations Scheme awards such households a reasonable priority on the housing register,

and they would usually be offered a social housing tenancy within a few bidding cycles of the Council accepting the duty to house. At the present time, an accepted homeless household can only be offered a private sector tenancy as a qualifying offer if they agree to this, and the Council is required to fund the necessary deposit and/or rent in advance.

## 1.2 Current situation

1.2.1 In the last four years, we have assisted five homeless households into a private sector tenancy by way of a qualifying offer, at an average cost of £1,161. Two of the cases were large families where the prospects of obtaining social housing were very low.

1.2.2 The number of households where we have accepted the duty to house has reduced to an average of between 2 and 3 cases per month due to the proactive work of the housing options team in preventing homelessness:

| Period               | Number of homeless acceptances |
|----------------------|--------------------------------|
| January – June 2009  | 11                             |
| July – December 2009 | 9                              |
| January – June 2010  | 33                             |
| July – December 2010 | 26                             |
| January – June 2011  | 11                             |
| July – December 2011 | 25                             |
| January – June 2012  | 5                              |

1.2.3 The largest category of homeless applications is from households who are excluded from their existing shared accommodation by parents, relatives or friends. Whilst there will always be cases where the existing accommodation is unsustainable, the prospect of achieving a social tenancy can act as a perverse incentive to apply as homeless. The ability to discharge our housing duty by offering a private sector tenancy will help to reduce this incentive, and break the automatic link between homelessness and social housing.

## 1.3 Private sector rehousing policy

1.3.1 Within the housing sector it is widely recognised that there are essentially four broad options to consider, balancing the best use of the social housing stock, and ensuring that those households with a high level of need due to factors other than homelessness do not have a disproportionate wait for rehousing. Districts and boroughs in Kent have worked together to develop:

- Option one - No change to the current policy. All accepted homeless households continue to have the duty discharged by an offer of social housing, by being given a priority on the housing register and an unlimited time in which to bid for a property;

- Option two - Targeted approach for those homeless households that have been placed into temporary accommodation. These households would retain their priority on the housing register, but for a limited time. After this period, which could be for example six weeks (equivalent to two bidding cycles), if they have not been successful in securing social housing, the duty will be discharged by an offer of a private sector tenancy;
- Option three - Targeted approach for certain homeless households according to their household composition. Some households, for example those requiring two, three (or more) bedroomed properties would only be offered a private tenancy, unless there are defined reasons why a social tenancy would be preferable. Households requiring a one bedroomed home would not be required to consider an offer of a private rented tenancy, and could decide whether they would prefer a social tenancy, as one bedroomed social rented properties become available more frequently than larger properties; and
- Option four- Complete change of policy for all accepted homeless households, where the duty would only be discharged by an offer of a private rented tenancy. Again, in defined circumstances, some households could be considered for a social tenancy instead. This could include households with a vulnerable member, for example those with a disability where a longer period of certainty would be beneficial. Vulnerability for this purpose would be assessed in the same way as a priority need assessment, which is already well defined and understood.

- 1.3.2 The last option would serve to break the link between being accepted as homeless and obtaining social housing, and may change the culture especially for parent/relative exclusions. This would also reinforce the prevention work undertaken by the housing options team, who currently assist households with a planned move into the private rented sector before they actually become homeless as there would no longer be any incentive to wait until the last minute.
- 1.3.3 It is proposed to adopt Option four within the new private sector rehousing policy, as the number of households where we accept a rehousing duty due to homelessness is a relatively low proportion of the cases that we are involved with, and will reinforce the positive attributes of renting in the private sector.
- 1.3.4 It is acknowledged that there is the potential for some cases to be exceptional, usually due to the combination or severity of various factors. It is proposed that the policy will allow for discretion to be exercised in exceptional cases, to allow some households, who would otherwise not be considered, to be offered social housing.
- 1.3.5 Once drafted, the proposed private sector rehousing policy will be subject to a full equalities impact assessment before adoption. The details of the procedure will be incorporated within the Council's housing allocation scheme, which will be

reviewed shortly. As part of the review process, the scheme will be subject to a formal consultation, and all comments considered with the final amended allocation scheme reported back to Members for adoption.

- 1.3.6 The private sector rehousing policy will be reviewed after twelve months in operation. Members will be advised of the operation of the policy, including any cases where discretion on exceptional grounds has been exercised, by regular updates to this board.

## **1.4 The Homelessness (Suitability of Accommodation)(England) Order 2012**

- 1.4.1 Alongside the changes to the rehousing duty for homeless households, the Government is introducing an Order, detailing when a private sector tenancy is not deemed to be suitable. We will continue to inspect private sector properties to ensure that they meet the minimum safety requirements before assisting households into a tenancy.

- 1.4.2 The Homelessness (Suitability of Accommodation)(England) Order 2012 will set out the proposed circumstances in which accommodation used for the purposes of a private rented sector offer to end the main homelessness duty is not to be regarded as suitable. It will provide extra legislative protection by preventing local authorities from using poor quality private rented accommodation for households owed the main homelessness duty. The Order proposes five broad areas to be considered in determining whether a property may not be regarded as suitable to discharge the main housing duty:

- physical condition of the property;
- health and safety matters (gas, electrical and fire safety);
- licensing for houses in multiple occupation;
- Landlord behaviour; and
- elements of good management.

- 1.4.3 The consultation document also looks at how best to strengthen requirements in relation to location and suitability when local authorities secure accommodation for the use of households owed duties under homelessness legislation.

- 1.4.4 A copy of the consultation document will be found at **[Annex 1]**, and the Council's draft response at **[Annex 2]**.

## **1.5 Legal Implications**

- 1.5.1 The Council has a legal duty to provide accommodation for households that are homeless, eligible for assistance and in priority need. In the absence of suitable permanent accommodation, bed and breakfast and other forms of temporary accommodation must be made available instead.

- 1.5.2 This rehousing duty can only be discharged in one of the ways prescribed in the Housing Act 1996, which will be amended by the Localism Act 2011 to include the use of an offer of suitable private sector accommodation.

## **1.6 Financial and Value for Money Considerations**

- 1.6.1 The timely use of private sector tenancies for homeless households could reduce the need to use emergency bed and breakfast accommodation.
- 1.6.2 The abolition of 'qualifying offers' will reduce the need for the Council to fund deposits and/or rent in advance for private sector tenancies, as accepted homeless households will be required to repay any funds advanced to secure a home.

## **1.7 Risk Assessment**

- 1.7.1 None arising from this report.

## **1.8 Equality Impact Assessment**

- 1.8.1 See 'Screening for equality impacts' table at end of report.

## **1.9 Recommendations**

- 1.9.1 **CABINET** is **RECOMMENDED** to:
- 1.9.2 **ENDORSE** the proposed policy change to discharge the housing duty owed to all accepted homeless households by way of an offer of suitable accommodation in the private rented sector, except in exceptional circumstances. Prior to implementation, the proposed policy to be subject to a full equalities impact assessment and then incorporated into the updated housing allocation scheme which will be subject to public consultation prior to reporting back to Members for adoption;
- 1.9.3 **ENDORSE** the consultation response attached at **[Annex 2]**.

The Director of Health and Housing confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Lynn Wilders

Nil

John Batty  
Director of health and Housing

Councillor Jill Anderson  
Cabinet Member for Housing

| <b>Screening for equality impacts:</b>  |               |  |
|---|---------------|--|
| <b>Question</b>   | <b>Answer</b> | <b>Explanation of impacts</b>  |
| a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? | No            | 1.9.2 Only applies to accepted homeless households<br>1.9.3. Consultation response only  |
| b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?   | Yes           | Accepted homeless households where there are exceptional circumstances such as an elderly or disabled member will still have the option to chose social housing rather than private sector housing |
| c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?   |               | N/A  |

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*