

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**STRATEGIC HOUSING ADVISORY BOARD**

**25 February 2013**

**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.**

**1.1 Background**

- 1.1.1 Members will be aware from a previous report to this Board in July 2012 that the Localism Act 2011 gives local authorities the flexibility to end the rehousing duty owed to accepted homeless households by arranging an offer of suitable accommodation in the private rented sector, without requiring the applicant's consent. A private sector tenancy will only discharge the duty if it is for a minimum period of 12 months and is suitable. The definition of 'suitability' is described in the Homelessness (Suitability of Accommodation) (England) Order 2012 which came into force on 8 November 2012.
- 1.1.2 Supplementary guidance on the homelessness changes in the Localism Act was issued on 8 November 2012, which confirms that the discretion to arrange a private sector tenancy is a power and not a duty, and the decision to exercise this discretion should be based on the individual circumstances of the household.
- 1.1.3 Members of the Kent Housing Options Group (on which this Council is represented) have compiled a private sector rehousing policy framework which will ensure that all Kent authorities have a common approach to the use of private sector tenancies. A copy of the draft policy is at **[Annex 1]**. At the time of writing this report, there were some minor amendments still to be completed to the draft policy, which is anticipated will be finalised by the end of February.

- 1.1.4 It is recommended that all homeless accepted cases be considered for a private sector tenancy initially, but it is acknowledged that there is the potential for some cases to be exceptional, usually due to the vulnerability of the applicant or the size of the household. 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.
- 1.1.5 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.

## **1.2 Private sector rehousing policy and equalities impact assessment**

- 1.2.1 In the previous report to this Board in July 2012, it was stated that the private sector rehousing policy will be subject to a full equalities impact assessment before adoption. Tunbridge Wells Borough Council carried out an initial equalities impact screening on behalf of the Kent authorities in October 2012. This initial screen revealed no impacts, and as a result a full equalities impact assessment is unnecessary. Details are given in the 'Screening for equality impacts' table at the end of this report.
- 1.2.2 It was originally reported that the private sector rehousing policy would be incorporated within the Council's revised housing allocation scheme, which is the subject of a further report to this Board. However, the private sector rehousing policy is considered to be a 'stand alone' policy as it will only affect a small proportion of all applicants on the housing register, and does not therefore need to be included within the allocation scheme which deals with the general rules applicable to all applicants.

## **1.3 Legal Implications**

- 1.3.1 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, temporary accommodation including bed and breakfast accommodation must be made available instead.
- 1.3.2 This rehousing duty can only be discharged in one of the ways prescribed in the Housing Act 1996, which was amended by the Localism Act 2011 to include the use of an offer of suitable private sector accommodation.

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

- 1.4.1 The use of private sector tenancies for homeless households should reduce the need to use emergency bed and breakfast accommodation.

## 1.5 Risk Assessment

- 1.5.1 The use of private sector accommodation as described in this report should assist the Council in the discharge of its duties to homeless households as well as assisting with the provision of housing to other households in housing need.

## 1.6 Equality Impact Assessment

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

## 1.7 Recommendations

- 1.7.1 **CABINET** is **RECOMMENDED** to:

- 1.7.2 **APPROVE** the **ADOPTION** of the policy 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. **[Annex 1]**.

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

Screening for equality impacts:		
Question	Answer	Explanation of impacts
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	This policy will not cause adverse impact or discriminate against different groups in the community – it will only affect people who are accepted as homeless by the Council, who could be from any group in the community.

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	This policy doesn't have potential to make a positive contribution to equalities – it is a policy which centres on just a small part of the implementation of homelessness legislation.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

*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.*