

Central Bedfordshire Council

Executive

4 December 2018

Discharge of Homelessness Duty to a Suitable Private Sector Home Policy

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This report relates to a decision that is Key

Purpose of this report

1. To present the draft Discharge of Homelessness Duty to a Suitable Private Sector Home Policy for Executive approval.

RECOMMENDATIONS

The Executive is asked to:

1. consider Overview and Scrutiny Committee recommendations concerning the draft Discharge of Homelessness Duty to a Suitable Private Sector Home Policy and provide recommendations for Executive; and
2. approve draft Discharge of Homelessness Duty to a Suitable Private Sector Home Policy.

Overview and Scrutiny Comments/Recommendations

2. On 17th September 2018 Overview and Scrutiny Committee recommended that the Discharge of Homelessness Duty to a Suitable Private Sector Home Policy to the Executive be fully endorsed.

Issues

3. The Council's current Discharge of Homelessness Duty to a Suitable Home Policy was approved by Executive in August 2014.

The policy included a review date of August 2017 but at that time, it was clear that the Homelessness Reduction Act 2017 (2017 Act) would bring new duties and requirements including suitability of accommodation for homeless applicants.

4. Statutory guidance was issued in February 2018, shortly before the 2017 Act was implemented on 3rd April 2018. The 2017 Act introduced the Duties to Prevent and Relieve homelessness. The “main” re-housing duty is retained where homelessness cannot be relieved and where applicants are in priority need, eligible for assistance, and not intentionally homeless.
5. At all three stages (Prevention, Relief, Main Duty), the Council has opportunity to discharge duties to a suitable home although the statutory requirements vary according to the exact status of the homelessness applicant. This has made the situation more complex for Officers. The intention of this revised policy is to provide clarity to Officers and customers in terms of the statutory requirements and how suitability is considered.
6. The draft policy is clear that for homeless applicants at prevention or relief stages, the Council will seek to make a suitable Private Sector Housing Offer (PSO). Over recent years, most of the private tenancies facilitated by the Council through Let’s Rent have been preventing homelessness. These were not PSOs but prevention (before it became a duty). Where the “main” duty was owed, the Council discharged that duty with a PSO for 19 cases in 2017/18. In 2015/16 there were 14 and 2016/17 there were 9. To date this year there have been 2 cases where a PSO was made at main duty.
7. The aim of the 2017 Act was to significantly reduce rough sleeping through the introduction of new duties (prevention and relief). The policy clarifies the legislation to consider for applicants at different stages and whether they have a priority need. A non-priority household can have a PSO made but a 6 month tenancy will meet legal requirements. There is a risk of a return to homelessness if the tenancy is not extended by the landlord and the Council has to process a new application.

Options for consideration

8. The draft policy includes suitability criteria for the main rehousing duty that is consistent with the existing Council policy. In respect of the suitability criteria for the new duties introduced by the Homelessness Reduction Act 2017, the policy mirrors statutory guidance and the Suitability Order. Whilst there is the option for the policy to have higher suitability standards, this would restrict the accommodation that the Council could use for PSOs and would prevent move on from Transitional Accommodation (TA). It is considered that the policy provides the right balance.
9. The draft policy is clear that each case will be considered on it’s merits so any particular issues that might make a particular property unsuitable should be considered. The comprehensive assessment required under the 2017 Act should mean that any risks or issues are recognised at an early stage.

10. The suitability criteria provides safeguards to homeless households in terms of accommodation that their homelessness duty could be discharged to. The Housing Service wants to see homeless applicants create successful and sustainable tenancies but at the same time the pressure of homelessness means that absolute choice is not possible.

Reason/s for decision

11. The draft policy is considered to strike the right balance in providing safeguards to homeless applicants whilst not being too onerous on Housing Officers when trying to discharge the various homelessness duties. Consequently, it is recommended that Executive approve the draft, revised policy.

Council Priorities

12. The draft policy most closely aligns with the Council priority; protecting the vulnerable; improving well being. The suitability criteria provides safeguards to homeless households in terms of accommodation that their homelessness duty could be discharged to.
13. Discharging homeless duty to a PSO can also be cost effective for the Council in terms of reducing TA costs. The policy also aligns with being an efficient Council.

Corporate Implications

14. The suitability criteria looks to ensure the health of applicants is not put at risk. There are safeguards built in to help prevent ill health and injury.

Legal Implications

15. The draft policy (section 5) contains the significant legal and regulatory framework. Reference is made to the legislation throughout the draft policy, indicating compliance. The policy has been subject to external expert and LGSS review to ensure compliance with legislation. Local Authorities have four primary accommodation and assistance duties under the Housing Act 1996 (as amended), these are:
 - The duty to prevent homelessness (section 195)
 - The duty to secure interim accommodation (section 188)
 - The duty to help secure accommodation (section 189B)
 - The Main duty – to secure ongoing accommodation (section 193)
16. The draft policy is also clear that homeless applicants have right of review (appeal) to the various discharges of duty and the Council has to be prepared for these review requests. Having a clear, published policy provides additional guidance and clarity to all homeless applicants. This might also be helpful in instances where a customer take a complaint to a higher authority, for example the local government ombudsman.

Financial and Risk Implications

17. There are no direct financial implications arising from this report, which sets out what the Council considers suitable in terms of properties that homelessness duties are discharged to. The size and type of property will be considered against the household make up to help ensure that the property is affordable based upon household income. In many cases, Housing Benefit (or Universal Credit) will have to be applied for and this assistance is capped at what the need is. By getting a PSO “right” for the household, the Council avoids future costs.
18. Facilitating lets into the private sector helps relieve some pressure on demand for social housing accommodation. In most instances, however, there needs to some financial assistance to help the applicant (new tenant) access and establish the tenancy. The Council has a Homelessness Prevention budget of approximately £0.19M, provided mainly through the Let’s Rent scheme that was approved by Executive in August 2017. In many cases applicants will establish repayment plans with the Council so that payments of rent in advance can be recycled.
19. The main financial benefit of facilitating a PSO is that the applicant can move out of transitional accommodation, which might be expensive Nightly Let accommodation. Consequently, this policy can help towards TA cost avoidance.

Equalities Implications

20. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
21. Whilst homeless applicants are often vulnerable due to the nature of their housing situation, the Council has to take into account any particular additional issues when considering how to discharge its homelessness duty. The draft policy is clear (4.3.6) that each case must be considered separately and that this must arise from the assessments undertaken. The suitability criteria looks to safeguard applicants’ welfare and health but should also take account of any particular needs associated with any of the nine protected characteristics.
22. An equality impact assessment was completed for the 2014 policy. Although the 2014 policy has not changed in respect of the main rehousing duty, it was considered appropriate to refresh the equality impact assessment, provided as a background paper. A targeted engagement was focused on key equality issues and the outcome report, which outlines the comments and the Council’s response, is attached at appendix B.

Conclusion and next Steps

23. The draft policy (appendix A) is considered by Officers to provide an appropriate and legally compliant level of safeguard to ensure the health and well-being to homeless applicants where their homelessness duty is being discharged. At the same time, the policy does not overly restrict the Council from making use of private rented accommodation. Not every applicant will be happy with a property considered to be suitable but there are clear review mechanisms available to help judge what is reasonable.
24. It is recommended that Executive Committee approve the draft policy, which can then be published to provide clarity as to the Council's policy position.

Appendices

Appendix A: Draft Discharge of Homelessness Duty to Suitable Private Sector Home Policy

Appendix B: Engagement response report

Background Papers

The following background papers, not previously available to the public, were taken into account and are available on the Council's website:

Equality Impact Assessment, [180801 Discharge of Homelessness Duty EIA Not Protected.doc \(company only\)](#)

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