

**HOMES POLICY DEVELOPMENT GROUP
15 JANUARY 2019**

THE HOUSING OPTIONS SERVICE – SUPPLY AND DEMAND POLICY

Cabinet Member Cllr Ray Stanley
Responsible Officer Housing Options Manager, Mike Parker

Reason for Report: Homelessness legislation states under the Housing Act 1996, as amended under the Homelessness Act 2002 Part VII, that the Housing Options Service should have a Supply and Demand policy. This has also been stated in recent Supreme Court cases.

RECOMMENDATION(S):

- 1) **The Cabinet approves the revised Housing Options Supply and Demand Policy; and**
- 2) **The Cabinet notes that the Housing Options Service will continue to make best use of its temporary housing resources when accommodating homeless households.**

Relationship to Corporate Plan: The Council's duties are governed by the Housing Act 1996 as amended under the Homelessness Act 2002 Part VII, Homeless Reduction Act 2017. This legislation sets out what a Council must provide and what duties it might owe a homeless applicant.

Financial Implications: There is a provisional budget within the Council for the Housing Options Service.

Legal Implications: Failure to provide advice and assistance could result in the Council being taken to court. The Council is required, under the Housing Act 1996 as amended under the Homelessness Act 2002 Part VII and Homeless Reduction Act 2017, to publish the following documents:

- Housing Supply and Demand Policy (Homelessness)
- Housing Strategy
- Homelessness Strategy

Risk Assessment: The regulator holds Councils responsible for ensuring that the Housing Act 1996, as amended under the Homelessness Act 2002 Part VII and Homeless Reduction Act 2017, is adhered to. Failure to provide advice and assistance under the legislation could lead to financial implications.

Equality Impact Assessment: No equality issues identified for this report.

1.0 Introduction

- 1.1 The Council's statutory duties are governed by legislation by the [Housing Act 1996](#), as amended under the [Homelessness Act 2002 Part VII](#) and [Homeless Reduction Act 2017](#). These are as follows:

- 1.1.1 The primary homelessness legislation – that is, [Part 7 of the Housing Act 1996](#) – provides the statutory under-pinning for action to prevent homelessness and provide assistance to people threatened with or actually homeless.
- 1.1.2 In 2002 the government amended the homelessness legislation through the [Homelessness Act 2002](#) and the [Homelessness \(Priority Need for Accommodation\) \(England\) Order 2002](#) to:
 - a) ensure a more strategic approach to tackling and preventing homelessness, in particular by requiring a homelessness strategy for every housing authority district; and
 - b) strengthen the assistance available to people who are homeless or threatened with homelessness by extending the priority need categories. More information can be found at <http://www.legislation.gov.uk/uksi/2002/2051/contents/made>
- 1.2 The [Homelessness Reduction Act 2017](#) significantly reformed England's homelessness legislation by placing duties on local authorities to intervene at earlier stages to prevent homelessness in their areas. It also requires housing authorities to provide homelessness services to all those affected, not just those who have 'priority need'. These include:
 - 1.2.1 an enhanced prevention duty extending the period for assisting a household threatened with homelessness from 28 days to 56 days, meaning that housing authorities are required to work with people to prevent homelessness at an earlier stage; and
 - 1.2.2 a new duty for those who are already homeless so that housing authorities will support households for 56 days to relieve their homelessness by helping them to secure accommodation.

2.0 Homelessness review and strategy

- 2.1 The [Homelessness Act 2002](#), states that all housing authorities must have in place a homelessness strategy based on a review of all forms of homelessness in their district. The strategy must be renewed at least every 5 years.
- 2.2 The strategy must set out the authority's plans for the prevention of homelessness and for ensuring that sufficient accommodation and support are or will be available for people who become homeless or who are at risk of becoming so.

3.0 Duty to refer

- 3.1 The [Homelessness Reduction Act 2017](#) introduced a duty on certain public authorities to refer service users who they think may be homeless or threatened with homelessness to a housing authority. The service user must give consent, and can choose which authority to be referred to. The housing

authority should incorporate the duty to refer in their homelessness strategy and establish effective partnerships and working arrangements with agencies to facilitate appropriate referrals.

4.0 Duty to provide advisory services

4.1 The housing authority has a duty to provide advice and information about homelessness and the prevention of homelessness and the rights of homeless people or those at risk of homelessness, as well as about the help that is available from the housing authority or others and how to access that help. The service should be designed with certain listed vulnerable groups in mind and authorities can either provide it themselves or arrange for other agencies to do it on their behalf.

5.0 Applications and inquiries

5.1 Housing authorities must give proper consideration to all applications for housing assistance, and if they have reason to believe that an applicant may be homeless or threatened with homelessness, they must make inquiries to see whether they owe them any duty under Part 7 of the 1996 Act. This assessment process is important in enabling housing authorities to identify the assistance which an applicant may need, either to prevent them from becoming homeless, or to help them to find another home. In each case, the authority will need to first decide whether the applicant is eligible for assistance and threatened with or actually homeless. [Part 7 of the 1996 Act](#) includes provisions that make certain people from abroad ineligible for housing assistance. Housing authorities need to satisfy themselves that applicants are eligible before providing housing assistance. The provisions on eligibility are complex and housing authorities will investigate individual cases to ensure eligibility.

5.2 Broadly speaking, a person is threatened with homelessness if they are likely to become homeless within 56 days. An applicant who has been served with valid notice under [section 21 of the Housing Act 1988](#) to end their assured shorthold tenancy is also threatened with homelessness, if the notice has expired or will expire within 56 days and is served in respect of the only accommodation that is available for them to occupy.

5.3 An applicant is to be considered homeless if they do not have accommodation that they have a legal right to occupy, which is accessible and physically available to them (and their household) and which it would be reasonable for them to continue to live in.

6.0 Assessments and personalised housing plans

6.1 Housing authorities have a duty to carry out an assessment in all cases where an eligible applicant is homeless or threatened with homelessness. This will identify what has caused the homelessness or threat of homelessness, the housing needs of the applicant and any support they need in order to be able to secure and retain accommodation. Following this assessment, the housing authority must work with the person to develop a personalised housing plan

which will include actions (or 'reasonable steps') to be taken by the authority and the applicant to try to prevent or relieve homelessness.

7.0 Prevention duty

7.1 Housing authorities have a duty to take reasonable steps to help prevent any eligible person (regardless of priority need status, intentionality and whether they have a local connection) who is threatened with homelessness from becoming homeless. This means either helping them to stay in their current accommodation or helping them to find a new place to live before they become actually homeless. The prevention duty continues for 56 days unless it is brought to an end by an event such as accommodation being secured for the person, or by their becoming homeless.

8.0 Relief duty

8.1 If the applicant is already homeless, or becomes homeless despite activity during the prevention stage, the reasonable steps will be focused on helping the applicant to secure accommodation. This relief duty lasts for 56 days unless ended in another way. If the housing authority has reason to believe a homeless applicant may be eligible for assistance and have a priority need they must be provided with interim accommodation.

9.0 Main housing duty

9.1 If an applicant's homelessness is not successfully prevented or relieved, a housing authority will owe a main housing duty to applicants who are: eligible, have a priority need for accommodation and are not intentionally homeless. Certain categories of households, such as pregnant women, families with children and households that are homeless due to an emergency, such as a fire or flood, have priority need if homeless. Other groups may be assessed as having priority need because they are vulnerable as a result of old age, mental ill health, physical disability, having been in prison or care or as a result of becoming homeless due to domestic abuse.

9.2 The main housing duty states that housing authorities must ensure that suitable accommodation is made available for the applicant and their household, until the duty is brought to an end. Guidance on how to end the prevention and relief duty can be found in [Chapter 14: Ending the prevention and relief duties](#).

10.0 Suitable accommodation

10.1 Housing authorities have various powers and duties to secure accommodation for homeless applicants, whether on an interim basis, to prevent or relieve homelessness, to meet the main housing duty or as a settled home. Accommodation must always be 'suitable' and there are particular standards set when private rented accommodation is secured for households which have priority need.

- 10.2 Under the [Homelessness \(Suitability of Accommodation\) \(England\) Order 2003](#), bed and breakfast accommodation is not considered suitable for families with children and households that include a pregnant woman, except where there is no other accommodation available, and then only for a maximum of 6 weeks. The Secretary of State considers that bed and breakfast accommodation is unsuitable for 16 and 17 year olds.

11.0 Intentional homelessness

- 11.1 A person would be homeless intentionally where homelessness was the consequence of a deliberate action or omission by that person. A deliberate act might be a decision to leave their previous accommodation even though it would have been reasonable for the person (and everyone in the person's household) to continue to live there. A deliberate omission might be non-payment of rent that led to rent arrears and eviction despite the rent being affordable.
- 11.2 Where applicants have a priority need but found to be intentionally homeless the housing authority must provide advice and assistance to help them find accommodation for themselves and help secure suitable accommodation for them for a period that will give them a reasonable chance of doing so.
- 11.3 If, despite this assistance, homelessness persists any children in the household could be in need under the [Children Act 1989](#), and the family should be referred (with consent) to the children's social services authority.

12.0 Local connection and referrals to another authority

- 12.1 Broadly speaking, for the purpose of the homelessness legislation, people may have a local connection with a district because of residence, employment or family associations in the district, or because of other special circumstances. (There are exceptions, for example, residence in a district while serving a prison sentence there does not establish a local connection.)
- 12.2 When applicant's meet the criteria for the [relief duty](#) or for the [main housing duty](#), and the authority considers that the applicant does not have a [local connection](#) with the district but does have one somewhere else, the housing authority dealing with the application can ask the housing authority in that other district to take responsibility for the case. However, applicants cannot be referred to another housing authority if they, or any member of their household, would be at risk of violence in the district of the other authority.
- 12.3 The definition of a 'local connection' for young people leaving care was amended by the [Homelessness Reduction Act 2017](#), so that a young, homeless, care leaver has a local connection to the area of the local authority that looked after them. Additional provision is made for [care leavers](#) who have been placed in accommodation, under [section 22A](#) of the [Children Act 1989](#)

13.0 Reviews and appeals

- 13.1 Housing authorities must provide written notifications to applicants when they reach certain decisions about their case, and the reasons behind any

decisions that are against the applicant's interests. Applicants can ask the housing authority to review most aspects of their decisions, and, if still dissatisfied, can appeal to the county court on a point of law.

- 13.2 Housing authorities have the power to accommodate applicants pending a review or appeal to the county court. When an applicant who is being provided with interim accommodation, requests a review of the suitability of accommodation offered to end the relief duty, the authority has a duty to continue to accommodate them pending a review.

14.0 The Revised Policy

- 14.1 The revised policy refers to the regulatory framework and also to the Council's statutory obligations that it would owe a homeless applicant. The policy has been written to take account of government guidance and recent case law, the [Homelessness \(Suitability of Accommodation\) \(England \) Order 2012](#) and specifically all the statutory requirements in part 1 which cover the suitability of the location of accommodation.

- 14.2 When the Council accommodates a household in temporary accommodation or offers permanent accommodation, it must have due regard to an equality impact assessment under the [Equality Act 2010](#) and the [Public Sector Equality Duty](#), when applying the test of suitability.

- 14.3 The consideration includes:

14.3.1 The suitability of the accommodation in relation to its location, proximity and accessibility of the accommodation to local services, amenities and transport

14.3.2 The significance of any disruption which would be caused by the location of the accommodation to children's education.

14.3.3 The proximity and accessibility of the accommodation to medical facilities and other support which are (i) currently used by or provided to members of the household; and (ii) are essential to the well-being of members of the household

14.3.4 Any other subjective matters and issues that relate to the household's circumstances

14.3.5 Satisfaction that the accommodation is affordable having fully considered the cost of the rent and any other expenditure relating to the property

14.3.6 Must consider existing legislation, statutory guidance and case law relating to making suitable offers of accommodation and specifically [chapter 17 of the Governments "Homelessness Code of Guidance"](#)

14.3.7 The provisions of the Housing Act 1985 relating to [slum clearance](#) and overcrowding

14.3.8 Regard to the availability of properties within the District to suit the applicant's household's requirements

14.3.9 The Equality Act 2010.

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Circulation of the Report: Councillor Ray Stanley, Cabinet Member for Housing, Leadership Team