

# WIRRAL COUNCIL

## CABINET

13<sup>TH</sup> JUNE 2013

<b>SUBJECT:</b>	<b><i>POLICY TO USE PRIVATE RENTED SECTOR TO DISCHARGE HOMELESS DUTY</i></b>
<b>WARD/S AFFECTED:</b>	<b><i>ALL</i></b>
<b>REPORT OF:</b>	<b><i>STRATEGIC DIRECTOR REGENERATION AND ENVIRONMENT</i></b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b><i>COUNCILLOR GEORGE DAVIES</i></b>
<b>KEY DECISION?</b>	<b>YES</b>

### 1.0 EXECUTIVE SUMMARY

- 1.1 Approval is sought for the adoption of a policy to discharge a homelessness duty into the private rented sector.
- 1.2 The Localism Act 2011 includes significant changes to the way in which local authorities can deal with applications for social housing and homelessness applications under Parts 6 and 7 of the Housing Act 1996. Local authorities owe applicants who are homeless, eligible for assistance, in priority need and not intentionally homeless the main housing duty to secure suitable accommodation (unless a referral to another local authority can be made under the local connection provisions).
- 1.3 From 9 November 2012, the Localism Act allows local authorities to fully discharge the full housing duty by a 'private rented sector offer'. This must be an offer of an assured short-hold tenancy in privately rented accommodation with a minimum fixed term period of one year. The property attached to the offer must be in a reasonable physical condition and the landlord must be a fit and proper person.
- 1.4 If Wirral intends to use this power it must develop a clear policy around its use. A draft policy that sets out how the Council intends to discharge a homeless duty into the Private Rented Sector is enclosed as Appendix One.

### 2.0 BACKGROUND AND KEY ISSUES

- 2.1 Improving access to housing is a key priority in Wirral's Housing Strategy 2014-26 and developing a policy for increasing the use of the private rented sector is also identified as an action within Wirral's Homelessness Strategy under Priority 4: Increasing access to the private rented sector. Ensuring that more privately rented properties meet minimum standards by linking into Wirral's property accreditation scheme will also help to address poor standards in the private rented sector and will

contribute towards the Corporate target of 400 interventions to improve private rented properties in 2013/14.

There has recently been a rise in the number of statutory homeless acceptances in Wirral with 165 cases in 2012/13 which is an increase of 65% compared to the previous year. Welfare reform and other austerity measures are likely to further contribute towards this upwards trend. Whilst homeless households are assessed and, if eligible, wait for an allocation of accommodation, the Council has a duty to accommodate them in temporary accommodation. Expenditure on temporary accommodation almost doubled in the last year from £64,000 in 2011-12 to £126,500 in 2012-13 with the increase in homeless applications and statutory homeless acceptances

- 2.2 Local authorities owe applicants who are homeless, eligible for assistance, in priority need and not intentionally homeless the main housing duty to secure suitable accommodation. The Localism Act 2011 means that Local Authorities now have the power to decide whether people who apply as homeless to the Council can no longer refuse the offer of privately rented accommodation in favour of a social rented tenancy. At present the Council discharges its duty to most homeless cases in Wirral through an offer of a social tenancy through Property Pool Plus.
- 2.3 Having the ability to discharge the Council's homelessness duty in the private sector will provide the Council with more accommodation options to offer a household. This should result in homeless households having a shorter stay in emergency temporary accommodation (TA) and, where possible, not having to go into emergency accommodation in the first place which can be costly to the Council and disruptive for the homeless household. The average length of time spent by statutory homeless households in TA in Wirral increased from 7.1 weeks in 2011-12 to 8.4 weeks in 2012-13. Discharging the homeless duty into the private rented sector will also remove any perverse incentive to households who may see becoming homeless as a quick route to social housing.
- 2.4 Under the proposed policy, applicants accepted as homeless may be offered a privately rented property, which must have a fixed term of at least one year. Prior to this legislation, an applicant has been able to decline such offers and insist that they be provided with a social rented home. Applicants will now lose the discretion to decline the offer, although they will retain the right to request an independent review of the suitability of the accommodation under homeless legislation.
- 2.5 If an applicant is housed in this way and subsequently given a notice to leave by their private landlord within two years of the offer being accepted, and where the applicant is eligible for assistance and not intentionally homeless, the Council's duty to secure further suitable accommodation is revived.
- 2.6 The duty revives even if the applicant no longer has a priority need, but it only applies to the first incidence of homelessness within the two year period. Government guidance advises that those who become homeless for a second time during the two-year period are entitled to make a fresh homelessness application to the Council.
- 2.7 Suitability of Accommodation

The Government also introduced a new Homelessness (Suitability of Accommodation) (England) Order 2012 with which the Council will have to comply when making of private rented sector accommodation to homeless households. The current guidance on suitability contained in the Homelessness Code of Guidance will also continue to apply.

The Suitability of Accommodation Order covers:

- Reasonable physical condition
- Electrical regulations
- Fire safety
- Carbon monoxide safety
- Fit and proper person – landlord
- Houses in Multiple Occupation licensing
- Energy performance certificate
- Gas safety record
- Tenancy agreement (12 months)

2.8 Guidance from the Government states that a full inspection by an Environmental Health Officer would not be required. However, property inspections are already being carried out by experienced and technically trained Housing Standards Officers as part of their core functions for addressing sub-standard properties e.g. enforcement, accredited privately rented properties and Houses in Multiple Occupation. Properties secured in order to discharge the homelessness duty will be treated in the same way, but closer working and procedures will need to be established between the Housing Options and Housing Standards Teams.

2.9 Whilst new legislation offers the Council a useful alternative to the use of very limited housing available through Property Pool Plus, discharging the Council's homelessness duty to an applicant by providing a private rented tenancy, can only be achieved if there are suitable private rented properties available where landlords are prepared to offer a minimum tenancy of one year. This means that the Council will not always be able to offer a privately rented home to accepted homeless households as a discharge of the homelessness duty.

2.10 In addition, not all accepted homeless applicants would be suitable for a private rented tenancy, and suitable private sector accommodation may not be available to meet the needs of certain households due to their personal circumstances. Each household will be carefully considered on a case-by-case basis having regard to areas of need and risk including but not limited to:

- Housing need
- Bedroom eligibility under Local Housing Allowance
- Physical Mobility / Health needs
- Mental / Emotional Health needs
- Practical Support / Advice needs
- Cultural/ Faith needs
- Risks to personal and community safety
- Risk to self (e.g. substance misuse/self-harming)
- Five year housing history
- Offending background
- Ability to manage finances/maintain home

- Ability to manage personal health and hygiene
- Relevant issues raised by the applicant
- Areas of preference.
- Financial circumstances and affordability, Location of places of work or education of members of the household schools
- Caring responsibilities
- Need to access medical facilities

2.11 As part of the offer process and in accordance with Council policy, applicants will be advised of their right to request a review on the suitability of the accommodation offered. Applicants will be able to request a review within 21 days of the local authority telling them that they consider an offer to be suitable and that it has discharged its duty under homeless legislation.

2.12 The policy will be reviewed on an annual basis and will come into effect from 1<sup>st</sup> July 2013.

### **3.0 RELEVANT RISKS**

3.1 Applicants are able to appeal the Council's decision if conditions within the Homelessness (Suitability of Accommodation) (England) Order 2012 are not met therefore comprehensive procedures will be developed prior to this policy being adopted to ensure that robust checks on the suitability and quality of the accommodation are carried out.

3.2 There is a risk that there may be a shortage of private landlords willing to grant 12 month tenancies to this client group whom they may view as risky and therefore the ability to discharge into the private rented sector may be limited. In this case statutory households would continue to live in temporary accommodation until suitable social rented accommodation was found. Experience with the bond scheme has shown that this risk can be mitigated through the engagement of a Private Sector Tenancy Support role to support tenants moving into the private rented sector and provide a point of liaison with landlords around any difficulties which may arise with regard to the tenancy.

### **4.0 OTHER OPTIONS CONSIDERED**

4.1 The option to continue with the current arrangement was considered, however the risks of increased costs of temporary accommodation and the current difficulties experienced in housing some homeless applicants in social housing means that this option could prevent the Council in complying with its statutory obligations effectively.

### **5.0 CONSULTATION**

5.1 Statutory & community and voluntary sector agencies have been consulted on the Homelessness Review and the Homelessness Strategy and supported the action to improve access to private rented sector accommodation which this policy supports. The action plan contained the action to "develop a policy to discharge the Council's homeless duty into the private rented sector" and the consultation asked if this policy was supported. Internal consultation has also taken place with the Housing Options Team, Housing Strategy Standards and Renewal Team and private landlords were invited to contribute towards the development of the policy via their newsletter.

## **6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

6.1 Voluntary, community and faith organisations work closely with those who are at risk of homelessness or are homeless and have been involved in the homeless review and the development of the Homelessness Strategy for Wirral which identified the need to develop a policy for discharging into the private rented sector.

## **7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

7.1 Expenditure on temporary accommodation almost doubled in the last year from £64,000 in 2011-12 to £126,500 in 2012-13 with the increase in statutory homeless acceptances. The proposal contained within the report could help reduce expenditure on temporary accommodation if suitable properties are available to enable the Council to discharge its homeless duty more quickly, thereby avoiding, or reducing, the number of nights spent in temporary nightly-paid accommodation.

7.2 As a last resort the Council may need to provide incentives to private landlords for them to offer more secure 12 month assured Short-hold Tenancies such as rent in advance or the bond scheme. Funding could be made available from the Homeless Prevention Grant; however this would be considered when the policy is reviewed in 12 months time.

7.3 The Housing Options Team currently has one private sector tenancy support officer who supports households where the duty is discharged into the private rented sector or where homelessness is prevented in the private rented sector. This officer carries a case load of up to 20 clients at any one time. It will be necessary to assess demand on this service as a result of this policy change in order to inform future resource requirements.

## **8.0 LEGAL IMPLICATIONS**

8.1 The Localism Act 2011 gives Councils new powers to discharge a homeless duty into the private rented sector.

## **9.0 EQUALITIES IMPLICATIONS**

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(a) Yes and impact review is attached.

<http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-2010/regeneration-housing-planning>

## **10.0 CARBON REDUCTION IMPLICATIONS**

10.1 Improvements to the quality of the private rented sector will contribute towards carbon reduction targets, particularly where heating and insulation improvements are implemented as a result of a property inspection.

**11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

11.1 There are no planning or community safety implications

**12.0 RECOMMENDATION/S**

12.1 That Cabinet be requested to recommend that the Council adopt a Policy to Discharge a Homeless Duty into the Private Rented Sector.

**13.0 REASON/S FOR RECOMMENDATION/S**

13.1 By adopting a policy on discharging the homelessness duty into the private rented sector the Council will be providing an opportunity to work more closely with private landlords to secure more suitable accommodation for statutory homeless households. The desired outcomes are that homeless households would be housed more quickly and supported to sustain their tenancies and that the use of expensive temporary accommodation would be reduced.

**REPORT AUTHOR:** *Emma Foley*  
*Housing Standards and Renewal Manager*  
telephone: (0151 691 8198)  
email: [emmafoley@wirral.gov.uk](mailto:emmafoley@wirral.gov.uk)

Lisa Newman  
Senior Manager, Housing Strategy Standards & Renewal  
Telephone (0151 691 8197)  
Email. [lisanewman@wirral.gov.uk](mailto:lisanewman@wirral.gov.uk)

**APPENDICES**

*Appendix 1: Draft Policy for Discharging Wirral’s Statutory Homelessness Duty into the private rented sector.*

**REFERENCE MATERIAL**

*Draft Homelessness Strategy 2013-18*

**SUBJECT HISTORY (last 3 years)**

Council Meeting	Date